S.B. No. 8

AN ACT

relating to abortion, including abortions after detection of an

unborn child's heartbeat; authorizing a private civil right of

action.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Texas Heartbeat

Act.

SECTION 2. The legislature finds that the State of Texas

never repealed, either expressly or by implication, the state

statutes enacted before the ruling in Roe v. Wade, 410 U.S. 113

(1973), that prohibit and criminalize abortion unless the mother's

life is in danger.

SECTION 3. Chapter 171, Health and Safety Code, is amended

by adding Subchapter H to read as follows:

SUBCHAPTER H. DETECTION OF FETAL HEARTBEAT

Sec. 171.201. DEFINITIONS. In this subchapter:

(1) "Fetal heartbeat" means cardiac activity or the

steady and repetitive rhythmic contraction of the fetal heart

within the gestational sac.

(2) "Gestational age" means the amount of time that

has elapsed from the first day of a woman's last menstrual period.

(3) "Gestational sac" means the structure comprising

the extraembryonic membranes that envelop the unborn child and that

is typically visible by ultrasound after the fourth week of

pregnancy.

(4) "Physician" means an individual licensed to

practice medicine in this state, including a medical doctor and a

doctor of osteopathic medicine.

(5) "Pregnancy" means the human female reproductive

condition that:

(A) begins with fertilization;

(B) occurs when the woman is carrying the

developing human offspring; and

(C) is calculated from the first day of the

woman's last menstrual period.

(6) "Standard medical practice" means the degree of

skill, care, and diligence that an obstetrician of ordinary

judgment, learning, and skill would employ in like circumstances.

(7) "Unborn child" means a human fetus or embryo in any

stage of gestation from fertilization until birth.

Sec. 171.202. LEGISLATIVE FINDINGS. The legislature finds,

according to contemporary medical research, that:

(1) fetal heartbeat has become a key medical predictor

that an unborn child will reach live birth;

(2) cardiac activity begins at a biologically

identifiable moment in time, normally when the fetal heart is

formed in the gestational sac;

(3) Texas has compelling interests from the outset of

a woman's pregnancy in protecting the health of the woman and the

life of the unborn child; and

(4) to make an informed choice about whether to

continue her pregnancy, the pregnant woman has a compelling

interest in knowing the likelihood of her unborn child surviving to

full-term birth based on the presence of cardiac activity.

Sec. 171.203. DETERMINATION OF PRESENCE OF FETAL HEARTBEAT

REQUIRED; RECORD. (a) For the purposes of determining the

presence of a fetal heartbeat under this section, "standard medical

practice" includes employing the appropriate means of detecting the

heartbeat based on the estimated gestational age of the unborn

child and the condition of the woman and her pregnancy.

(b) Except as provided by Section 171.205, a physician may

not knowingly perform or induce an abortion on a pregnant woman

unless the physician has determined, in accordance with this

section, whether the woman's unborn child has a detectable fetal

heartbeat.

(c) In making a determination under Subsection (b), the

physician must use a test that is:

(1) consistent with the physician's good faith and

reasonable understanding of standard medical practice; and

(2) appropriate for the estimated gestational age of

the unborn child and the condition of the pregnant woman and her

pregnancy.

(d) A physician making a determination under Subsection (b)

shall record in the pregnant woman's medical record:

(1) the estimated gestational age of the unborn child;

(2) the method used to estimate the gestational age;

and

(3) the test used for detecting a fetal heartbeat,

including the date, time, and results of the test.

Sec. 171.204. PROHIBITED ABORTION OF UNBORN CHILD WITH

DETECTABLE FETAL HEARTBEAT; EFFECT. (a) Except as provided by

Section 171.205, a physician may not knowingly perform or induce an

abortion on a pregnant woman if the physician detected a fetal

heartbeat for the unborn child as required by Section 171.203 or

failed to perform a test to detect a fetal heartbeat.

(b) A physician does not violate this section if the

physician performed a test for a fetal heartbeat as required by

Section 171.203 and did not detect a fetal heartbeat.

(c) This section does not affect:

(1) the provisions of this chapter that restrict or

regulate an abortion by a particular method or during a particular

stage of pregnancy; or

(2) any other provision of state law that regulates or

prohibits abortion.

Sec. 171.205. EXCEPTION FOR MEDICAL EMERGENCY; RECORDS.

(a) Sections 171.203 and 171.204 do not apply if a physician

believes a medical emergency exists that prevents compliance with

this subchapter.

(b) A physician who performs or induces an abortion under

circumstances described by Subsection (a) shall make written

notations in the pregnant woman's medical record of:

(1) the physician's belief that a medical emergency

necessitated the abortion; and

(2) the medical condition of the pregnant woman that

prevented compliance with this subchapter.

(c) A physician performing or inducing an abortion under

this section shall maintain in the physician's practice records a

copy of the notations made under Subsection (b).

Sec. 171.206. CONSTRUCTION OF SUBCHAPTER. (a) This

subchapter does not create or recognize a right to abortion before a

fetal heartbeat is detected.

(b) This subchapter may not be construed to:

(1) authorize the initiation of a cause of action

against or the prosecution of a woman on whom an abortion is

performed or induced or attempted to be performed or induced in

violation of this subchapter;

(2) wholly or partly repeal, either expressly or by

implication, any other statute that regulates or prohibits

abortion, including Chapter 6-1/2, Title 71, Revised Statutes; or

(3) restrict a political subdivision from regulating

or prohibiting abortion in a manner that is at least as stringent as

the laws of this state.

Sec. 171.207. LIMITATIONS ON PUBLIC ENFORCEMENT.

(a) Notwithstanding Section 171.005 or any other law, the

requirements of this subchapter shall be enforced exclusively

through the private civil actions described in Section 171.208. No

enforcement of this subchapter, and no enforcement of Chapters 19

and 22, Penal Code, in response to violations of this subchapter,

may be taken or threatened by this state, a political subdivision, a

district or county attorney, or an executive or administrative

officer or employee of this state or a political subdivision

against any person, except as provided in Section 171.208.

(b) Subsection (a) may not be construed to:

(1) legalize the conduct prohibited by this subchapter

or by Chapter 6-1/2, Title 71, Revised Statutes;

(2) limit in any way or affect the availability of a

remedy established by Section 171.208; or

(3) limit the enforceability of any other laws that

regulate or prohibit abortion.

Sec. 171.208. CIVIL LIABILITY FOR VIOLATION OR AIDING OR

ABETTING VIOLATION. (a) Any person, other than an officer or

employee of a state or local governmental entity in this state, may

bring a civil action against any person who:

(1) performs or induces an abortion in violation of

this subchapter;

(2) knowingly engages in conduct that aids or abets

the performance or inducement of an abortion, including paying for

or reimbursing the costs of an abortion through insurance or

otherwise, if the abortion is performed or induced in violation of

this subchapter, regardless of whether the person knew or should

have known that the abortion would be performed or induced in

violation of this subchapter; or

(3) intends to engage in the conduct described by

Subdivision (1) or (2).

(b) If a claimant prevails in an action brought under this

section, the court shall award:

(1) injunctive relief sufficient to prevent the

defendant from violating this subchapter or engaging in acts that

aid or abet violations of this subchapter;

(2) statutory damages in an amount of not less than

$10,000 for each abortion that the defendant performed or induced

in violation of this subchapter, and for each abortion performed or

induced in violation of this subchapter that the defendant aided or

abetted; and

(3) costs and attorney's fees.

(c) Notwithstanding Subsection (b), a court may not award

relief under this section in response to a violation of Subsection

(a)(1) or (2) if the defendant demonstrates that the defendant

previously paid the full amount of statutory damages under

Subsection (b)(2) in a previous action for that particular abortion

performed or induced in violation of this subchapter, or for the

particular conduct that aided or abetted an abortion performed or

induced in violation of this subchapter.

(d) Notwithstanding Chapter 16, Civil Practice and Remedies

Code, or any other law, a person may bring an action under this

section not later than the fourth anniversary of the date the cause

of action accrues.

(e) Notwithstanding any other law, the following are not a

defense to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements of this

subchapter are unconstitutional or were unconstitutional;

(3) a defendant's reliance on any court decision that

has been overruled on appeal or by a subsequent court, even if that

court decision had not been overruled when the defendant engaged in

conduct that violates this subchapter;

(4) a defendant's reliance on any state or federal

court decision that is not binding on the court in which the action

has been brought;

(5) non-mutual issue preclusion or non-mutual claim

preclusion;

(6) the consent of the unborn child's mother to the

abortion; or

(7) any claim that the enforcement of this subchapter

or the imposition of civil liability against the defendant will

violate the constitutional rights of third parties, except as

provided by Section 171.209.

(f) It is an affirmative defense if:

(1) a person sued under Subsection (a)(2) reasonably

believed, after conducting a reasonable investigation, that the

physician performing or inducing the abortion had complied or would

comply with this subchapter; or

(2) a person sued under Subsection (a)(3) reasonably

believed, after conducting a reasonable investigation, that the

physician performing or inducing the abortion will comply with this

subchapter.

(f-1) The defendant has the burden of proving an affirmative

defense under Subsection (f)(1) or (2) by a preponderance of the

evidence.

(g) This section may not be construed to impose liability on

any speech or conduct protected by the First Amendment of the United

States Constitution, as made applicable to the states through the

United States Supreme Court's interpretation of the Fourteenth

Amendment of the United States Constitution, or by Section 8,

Article I, Texas Constitution.

(h) Notwithstanding any other law, this state, a state

official, or a district or county attorney may not intervene in an

action brought under this section. This subsection does not

prohibit a person described by this subsection from filing an

amicus curiae brief in the action.

(i) Notwithstanding any other law, a court may not award

costs or attorney's fees under the Texas Rules of Civil Procedure or

any other rule adopted by the supreme court under Section 22.004,

Government Code, to a defendant in an action brought under this

section.

(j) Notwithstanding any other law, a civil action under this

section may not be brought by a person who impregnated the abortion

patient through an act of rape, sexual assault, incest, or any other

act prohibited by Sections 22.011, 22.021, or 25.02, Penal Code.

Sec. 171.209. CIVIL LIABILITY: UNDUE BURDEN DEFENSE

LIMITATIONS. (a) A defendant against whom an action is brought

under Section 171.208 does not have standing to assert the rights of

women seeking an abortion as a defense to liability under that

section unless:

(1) the United States Supreme Court holds that the

courts of this state must confer standing on that defendant to

assert the third-party rights of women seeking an abortion in state

court as a matter of federal constitutional law; or

(2) the defendant has standing to assert the rights of

women seeking an abortion under the tests for third-party standing

established by the United States Supreme Court.

(b) A defendant in an action brought under Section 171.208

may assert an affirmative defense to liability under this section

if:

(1) the defendant has standing to assert the

third-party rights of a woman or group of women seeking an abortion

in accordance with Subsection (a); and

(2) the defendant demonstrates that the relief sought

by the claimant will impose an undue burden on that woman or that

group of women seeking an abortion.

(c) A court may not find an undue burden under Subsection

(b) unless the defendant introduces evidence proving that:

(1) an award of relief will prevent a woman or a group

of women from obtaining an abortion; or

(2) an award of relief will place a substantial

obstacle in the path of a woman or a group of women who are seeking

an abortion.

(d) A defendant may not establish an undue burden under this

section by:

(1) merely demonstrating that an award of relief will

prevent women from obtaining support or assistance, financial or

otherwise, from others in their effort to obtain an abortion; or

(2) arguing or attempting to demonstrate that an award

of relief against other defendants or other potential defendants

will impose an undue burden on women seeking an abortion.

(e) The affirmative defense under Subsection (b) is not

available if the United States Supreme Court overrules Roe v. Wade,

410 U.S. 113 (1973) or Planned Parenthood v. Casey, 505 U.S. 833

(1992), regardless of whether the conduct on which the cause of

action is based under Section 171.208 occurred before the Supreme

Court overruled either of those decisions.

(f) Nothing in this section shall in any way limit or

preclude a defendant from asserting the defendant's personal

constitutional rights as a defense to liability under Section

171.208, and a court may not award relief under Section 171.208 if

the conduct for which the defendant has been sued was an exercise of

state or federal constitutional rights that personally belong to

the defendant.

Sec. 171.210. CIVIL LIABILITY: VENUE.

(a) Notwithstanding any other law, including Section 15.002,

Civil Practice and Remedies Code, a civil action brought under

Section 171.208 shall be brought in:

(1) the county in which all or a substantial part of

the events or omissions giving rise to the claim occurred;

(2) the county of residence for any one of the natural

person defendants at the time the cause of action accrued;

(3) the county of the principal office in this state of

any one of the defendants that is not a natural person; or

(4) the county of residence for the claimant if the

claimant is a natural person residing in this state.

(b) If a civil action is brought under Section 171.208 in

any one of the venues described by Subsection (a), the action may

not be transferred to a different venue without the written consent

of all parties.

Sec. 171.211. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL

IMMUNITY PRESERVED. (a) This section prevails over any

conflicting law, including:

(1) the Uniform Declaratory Judgments Act; and

(2) Chapter 37, Civil Practice and Remedies Code.

(b) This state has sovereign immunity, a political

subdivision has governmental immunity, and each officer and

employee of this state or a political subdivision has official

immunity in any action, claim, or counterclaim or any type of legal

or equitable action that challenges the validity of any provision

or application of this chapter, on constitutional grounds or

otherwise.

(c) A provision of state law may not be construed to waive or

abrogate an immunity described by Subsection (b) unless it

expressly waives immunity under this section.

Sec. 171.212. SEVERABILITY. (a) Mindful of Leavitt v.

Jane L.

the severability of a state statute regulating abortion the United

States Supreme Court held that an explicit statement of legislative

intent is controlling, it is the intent of the legislature that

every provision, section, subsection, sentence, clause, phrase, or

word in this chapter, and every application of the provisions in

this chapter, are severable from each other.

(b) If any application of any provision in this chapter to

any person, group of persons, or circumstances is found by a court

to be invalid or unconstitutional, the remaining applications of

that provision to all other persons and circumstances shall be

severed and may not be affected. All constitutionally valid

applications of this chapter shall be severed from any applications

that a court finds to be invalid, leaving the valid applications in

force, because it is the legislature's intent and priority that the

valid applications be allowed to stand alone. Even if a reviewing

court finds a provision of this chapter to impose an undue burden in

a large or substantial fraction of relevant cases, the applications

that do not present an undue burden shall be severed from the

remaining applications and shall remain in force, and shall be

treated as if the legislature had enacted a statute limited to the

persons, group of persons, or circumstances for which the statute's

application does not present an undue burden.

(b-1) If any court declares or finds a provision of this

chapter facially unconstitutional, when discrete applications of

that provision can be enforced against a person, group of persons,

or circumstances without violating the United States Constitution

and Texas Constitution, those applications shall be severed from

all remaining applications of the provision, and the provision

shall be interpreted as if the legislature had enacted a provision

limited to the persons, group of persons, or circumstances for

which the provision's application will not violate the United

States Constitution and Texas Constitution.

(c) The legislature further declares that it would have

enacted this chapter, and each provision, section, subsection,

sentence, clause, phrase, or word, and all constitutional

applications of this chapter, irrespective of the fact that any

provision, section, subsection, sentence, clause, phrase, or word,

or applications of this chapter, were to be declared

unconstitutional or to represent an undue burden.

(d) If any provision of this chapter is found by any court to

be unconstitutionally vague, then the applications of that

provision that do not present constitutional vagueness problems

shall be severed and remain in force.

(e) No court may decline to enforce the severability

requirements of Subsections (a), (b), (b-1), (c), and (d) on the

ground that severance would rewrite the statute or involve the

court in legislative or lawmaking activity. A court that declines

to enforce or enjoins a state official from enforcing a statutory

provision does not rewrite a statute, as the statute continues to

contain the same words as before the court's decision. A judicial

injunction or declaration of unconstitutionality:

(1) is nothing more than an edict prohibiting

enforcement that may subsequently be vacated by a later court if

that court has a different understanding of the requirements of the

Texas Constitution or United States Constitution;

(2) is not a formal amendment of the language in a

statute; and

(3) no more rewrites a statute than a decision by the

executive not to enforce a duly enacted statute in a limited and

defined set of circumstances.

SECTION 4. Chapter 30, Civil Practice and Remedies Code, is

amended by adding Section 30.022 to read as follows:

Sec. 30.022. AWARD OF ATTORNEY'S FEES IN ACTIONS

CHALLENGING ABORTION LAWS. (a) Notwithstanding any other law, any

person, including an entity, attorney, or law firm, who seeks declaratory or injunctive relief to prevent this state, a political

subdivision, any governmental entity or public official in this

state, or any person in this state from enforcing any statute,

ordinance, rule, regulation, or any other type of law that

regulates or restricts abortion or that limits taxpayer funding for

individuals or entities that perform or promote abortions, in any

state or federal court, or that represents any litigant seeking

such relief in any state or federal court, is jointly and severally

liable to pay the costs and attorney's fees of the prevailing party.

(b) For purposes of this section, a party is considered a

prevailing party if a state or federal court:

(1) dismisses any claim or cause of action brought

against the party that seeks the declaratory or injunctive relief

described by Subsection (a), regardless of the reason for the

dismissal; or

(2) enters judgment in the party's favor on any such

claim or cause of action.

(c) Regardless of whether a prevailing party sought to

recover costs or attorney's fees in the underlying action, a

prevailing party under this section may bring a civil action to

recover costs and attorney's fees against a person, including an

entity, attorney, or law firm, that sought declaratory or

injunctive relief described by Subsection (a) not later than the

third anniversary of the date on which, as applicable:

(1) the dismissal or judgment described by Subsection

(b) becomes final on the conclusion of appellate review; or

(2) the time for seeking appellate review expires.

(d) It is not a defense to an action brought under

Subsection (c) that:

(1) a prevailing party under this section failed to

seek recovery of costs or attorney's fees in the underlying action;

(2) the court in the underlying action declined to

recognize or enforce the requirements of this section; or

(3) the court in the underlying action held that any

provisions of this section are invalid, unconstitutional, or

preempted by federal law, notwithstanding the doctrines of issue or

claim preclusion.

SECTION 5. Subchapter C, Chapter 311, Government Code, is

amended by adding Section 311.036 to read as follows:

Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A

statute that regulates or prohibits abortion may not be construed

to repeal any other statute that regulates or prohibits abortion,

either wholly or partly, unless the repealing statute explicitly

states that it is repealing the other statute.

(b) A statute may not be construed to restrict a political

subdivision from regulating or prohibiting abortion in a manner

that is at least as stringent as the laws of this state unless the

statute explicitly states that political subdivisions are

prohibited from regulating or prohibiting abortion in the manner

described by the statute.

(c) Every statute that regulates or prohibits abortion is

severable in each of its applications to every person and

circumstance. If any statute that regulates or prohibits abortion

is found by any court to be unconstitutional, either on its face or

as applied, then all applications of that statute that do not

violate the United States Constitution and Texas Constitution shall

be severed from the unconstitutional applications and shall remain

enforceable, notwithstanding any other law, and the statute shall

be interpreted as if containing language limiting the statute's

application to the persons, group of persons, or circumstances for

which the statute's application will not violate the United States

Constitution and Texas Constitution.

SECTION 6. Section 171.005, Health and Safety Code, is

amended to read as follows:

Sec. 171.005. COMMISSION [DEPARTMENT] TO ENFORCE;

EXCEPTION. The commission [department] shall enforce this chapter

except for Subchapter H, which shall be enforced exclusively

through the private civil enforcement actions described by Section

171.208 and may not be enforced by the commission.

SECTION 7. Subchapter A, Chapter 171, Health and Safety

Code, is amended by adding Section 171.008 to read as follows:

Sec. 171.008. REQUIRED DOCUMENTATION. (a) If an abortion

is performed or induced on a pregnant woman because of a medical

emergency, the physician who performs or induces the abortion shall

execute a written document that certifies the abortion is necessary

due to a medical emergency and specifies the woman's medical

condition requiring the abortion.

(b) A physician shall:

(1) place the document described by Subsection (a) in

the pregnant woman's medical record; and

(2) maintain a copy of the document described by

Subsection (a) in the physician's practice records.

(c) A physician who performs or induces an abortion on a

pregnant woman shall:

(1) if the abortion is performed or induced to

preserve the health of the pregnant woman, execute a written

document that:

(A) specifies the medical condition the abortion

is asserted to address; and

(B) provides the medical rationale for the

physician's conclusion that the abortion is necessary to address

the medical condition; or

(2) for an abortion other than an abortion described

by Subdivision (1), specify in a written document that maternal

health is not a purpose of the abortion.

(d) The physician shall maintain a copy of a document

described by Subsection (c) in the physician's practice records.

SECTION 8. Section 171.012(a), Health and Safety Code, is

amended to read as follows:

(a) Consent to an abortion is voluntary and informed only

if:

(1) the physician who is to perform or induce the

abortion informs the pregnant woman on whom the abortion is to be

performed or induced of:

(A) the physician's name;

(B) the particular medical risks associated with

the particular abortion procedure to be employed, including, when

medically accurate:

(i) the risks of infection and hemorrhage;

(ii) the potential danger to a subsequent

pregnancy and of infertility; and

(iii) the possibility of increased risk of

breast cancer following an induced abortion and the natural

protective effect of a completed pregnancy in avoiding breast

cancer;

(C) the probable gestational age of the unborn

child at the time the abortion is to be performed or induced; and

(D) the medical risks associated with carrying

the child to term;

(2) the physician who is to perform or induce the

abortion or the physician's agent informs the pregnant woman that:

(A) medical assistance benefits may be available

for prenatal care, childbirth, and neonatal care;

(B) the father is liable for assistance in the

support of the child without regard to whether the father has

offered to pay for the abortion; and

(C) public and private agencies provide

pregnancy prevention counseling and medical referrals for

obtaining pregnancy prevention medications or devices, including

emergency contraception for victims of rape or incest;

(3) the physician who is to perform or induce the

abortion or the physician's agent:

(A) provides the pregnant woman with the printed

materials described by Section 171.014; and

(B) informs the pregnant woman that those

materials:

(i) have been provided by the commission

[Department of State Health Services];

(ii) are accessible on an Internet website

sponsored by the commission [department];

(iii) describe the unborn child and list

agencies that offer alternatives to abortion; and

(iv) include a list of agencies that offer

sonogram services at no cost to the pregnant woman;

(4) before any sedative or anesthesia is administered

to the pregnant woman and at least 24 hours before the abortion or

at least two hours before the abortion if the pregnant woman waives

this requirement by certifying that she currently lives 100 miles

or more from the nearest abortion provider that is a facility

licensed under Chapter 245 or a facility that performs more than 50

abortions in any 12-month period:

(A) the physician who is to perform or induce the

abortion or an agent of the physician who is also a sonographer

certified by a national registry of medical sonographers performs a

sonogram on the pregnant woman on whom the abortion is to be

performed or induced;

(B) the physician who is to perform or induce the

abortion displays the sonogram images in a quality consistent with

current medical practice in a manner that the pregnant woman may

view them;

(C) the physician who is to perform or induce the

abortion provides, in a manner understandable to a layperson, a

verbal explanation of the results of the sonogram images, including

a medical description of the dimensions of the embryo or fetus, the

presence of cardiac activity, and the presence of external members

and internal organs; and

(D) the physician who is to perform or induce the

abortion or an agent of the physician who is also a sonographer

certified by a national registry of medical sonographers makes

audible the heart auscultation for the pregnant woman to hear, if

present, in a quality consistent with current medical practice and

provides, in a manner understandable to a layperson, a simultaneous

verbal explanation of the heart auscultation;

(5) before receiving a sonogram under Subdivision

(4)(A) and before the abortion is performed or induced and before

any sedative or anesthesia is administered, the pregnant woman

completes and certifies with her signature an election form that

states as follows:

"ABORTION AND SONOGRAM ELECTION

(1) THE INFORMATION AND PRINTED MATERIALS DESCRIBED BY

SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH AND SAFETY CODE, HAVE BEEN

PROVIDED AND EXPLAINED TO ME.

(2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF AN

ABORTION.

(3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM PRIOR

TO RECEIVING AN ABORTION.

(4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW THE

SONOGRAM IMAGES.

(5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR THE

HEARTBEAT.

(6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO HEAR AN

EXPLANATION OF THE SONOGRAM IMAGES UNLESS I CERTIFY IN WRITING TO

ONE OF THE FOLLOWING:

\_\_\_ I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT,

INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT HAS BEEN

REPORTED TO LAW ENFORCEMENT AUTHORITIES OR THAT HAS NOT BEEN

REPORTED BECAUSE I REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT

RISK OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

\_\_\_ I AM A MINOR AND OBTAINING AN ABORTION IN ACCORDANCE

WITH JUDICIAL BYPASS PROCEDURES UNDER CHAPTER 33, TEXAS FAMILY

CODE.

\_\_\_ MY UNBORN CHILD [FETUS] HAS AN IRREVERSIBLE MEDICAL

CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE DIAGNOSTIC

PROCEDURES AND DOCUMENTED IN MY MEDICAL FILE.

(7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND

WITHOUT COERCION.

(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE

NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER

245, TEXAS HEALTH AND SAFETY CODE, OR A FACILITY THAT PERFORMS MORE

THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100 MILES OR

MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED

UNDER CHAPTER 245 OR A FACILITY THAT PERFORMS MORE THAN 50 ABORTIONS

IN ANY 12-MONTH PERIOD, I WAIVE THE REQUIREMENT TO WAIT 24 HOURS

AFTER THE SONOGRAM IS PERFORMED BEFORE RECEIVING THE ABORTION

PROCEDURE. MY PLACE OF RESIDENCE IS:\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SIGNATURE DATE";

(6) before the abortion is performed or induced, the

physician who is to perform or induce the abortion receives a copy

of the signed, written certification required by Subdivision (5);

and

(7) the pregnant woman is provided the name of each

person who provides or explains the information required under this

subsection.

SECTION 9. Section 245.011(c), Health and Safety Code, is

amended to read as follows:

(c) The report must include:

(1) whether the abortion facility at which the

abortion is performed is licensed under this chapter;

(2) the patient's year of birth, race, marital status,

and state and county of residence;

(3) the type of abortion procedure;

(4) the date the abortion was performed;

(5) whether the patient survived the abortion, and if

the patient did not survive, the cause of death;

(6) the probable post-fertilization age of the unborn

child based on the best medical judgment of the attending physician

at the time of the procedure;

(7) the date, if known, of the patient's last menstrual

cycle;

(8) the number of previous live births of the patient;

[and]

(9) the number of previous induced abortions of the

patient;

(10) whether the abortion was performed or induced

because of a medical emergency and any medical condition of the

pregnant woman that required the abortion; and

(11) the information required under Sections

171.008(a) and (c).

SECTION 10. Every provision in this Act and every

application of the provision in this Act are severable from each

other. If any provision or application of any provision in this Act

to any person, group of persons, or circumstance is held by a court

to be invalid, the invalidity does not affect the other provisions

or applications of this Act.

SECTION 11. The change in law made by this Act applies only

to an abortion performed or induced on or after the effective date

of this Act.

SECTION 12. This Act takes effect September 1, 2021.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

President of the Senate Speaker of the House

I hereby certify that S.B. No. 8 passed the Senate on

March 30, 2021, by the following vote: Yeas 19, Nays 12; and that

the Senate concurred in House amendments on May 13, 2021, by the

following vote: Yeas 18, Nays 12.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary of the Senate

I hereby certify that S.B. No. 8 passed the House, with

amendments, on May 6, 2021, by the following vote: Yeas 83,

Nays 64, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chief Clerk of the House

Approved:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Governor