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 never repealed, either expressly or by implication, the state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.

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 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.

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 Chief Clerk of the House

 Approved:

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

 Date

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

 Governor