

By: Fletcher

H.B. No. 309

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting abortion when based on the sex of the unborn child; creating an offense.

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

SECTION 1. Chapter 170, Health and Safety Code, is amended by adding Sections 170.003 and 170.004 to read as follows:

Sec. 170.003. SEX-SELECTIVE ABORTION. (a) A person may not knowingly perform or attempt to perform an abortion on a pregnant woman knowing that the abortion is based on the sex of the pregnant woman's unborn child.

(b) A person who violates this section commits an offense. An offense under this section is a Class B misdemeanor.

(c) A physician who violates this section engages in unprofessional conduct for which the physician's license may be suspended or revoked under Chapter 164, Occupations Code.

(d) A woman on whom an abortion is performed or attempted in violation of this section may not be prosecuted under this section or for conspiracy to commit a violation of this section.

Sec. 170.004. CIVIL REMEDIES. (a) A civil action may be brought against a person who violates Section 170.003 by:

(1) the woman on whom an abortion was performed or attempted in violation of Section 170.003;

(2) the father of the unborn child of the woman on whom the abortion was performed or attempted in violation of Section

1 170.003, unless the pregnancy resulted from the father's criminal  
2 conduct; or

3 (3) a maternal grandparent of an unborn child if the  
4 woman on whom the abortion was performed or attempted in violation  
5 of Section 170.003 was less than 18 years of age at the time of the  
6 violation, unless the pregnancy resulted from the maternal  
7 grandparent's criminal conduct.

8 (b) A person who brings an action under this section may  
9 obtain:

10 (1) injunctive relief;

11 (2) damages incurred by the person, including:

12 (A) actual damages for all psychological,  
13 emotional, and physical injuries resulting from the violation of  
14 Section 170.003;

15 (B) court costs; and

16 (C) reasonable attorney's fees; or

17 (3) both injunctive relief and damages.

18 (c) An action for damages or injunctive relief under this  
19 section must be filed:

20 (1) in a district court in the county in which the  
21 woman on whom an abortion was performed or attempted in violation of  
22 Section 170.003 resides; and

23 (2) not later than six years after the date the  
24 abortion was performed or attempted in violation of Section  
25 170.003.

26 (d) The damages and injunctive relief authorized by this  
27 section are in addition to any other remedy available by law.

1           SECTION 2. The change in law made by this Act applies only  
2 to an abortion performed or attempted on or after the effective date  
3 of this Act. An abortion performed or attempted before the  
4 effective date of this Act is governed by the law in effect at the  
5 time the abortion was performed or attempted, and the former law is  
6 continued in effect for that purpose.

7           SECTION 3. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2013.