

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

This chapter takes effect according to the terms outlined in Section 3, Ch. 800 (H.B. 1280), Acts of the 87th Legislature, Regular Session, 2021.

CHAPTER 170A. PERFORMANCE OF ABORTION

Sec. 170A.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section 245.002.

(2) "Fertilization" means the point in time when a male human sperm penetrates the zona pellucida of a female human ovum.

(3) "Pregnant" means the female human reproductive condition of having a living unborn child within the female's body during the entire embryonic and fetal stages of the unborn child's development from fertilization until birth.

(4) "Reasonable medical judgment" means a medical judgment made by a reasonably prudent physician, knowledgeable about a case and the treatment possibilities for the medical conditions involved.

(5) "Unborn child" means an individual living member of the homo sapiens species from fertilization until birth, including the entire embryonic and fetal stages of development.

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. 1280), Sec. 2.

Sec. 170A.002. PROHIBITED ABORTION; EXCEPTIONS. (a) A person may not knowingly perform, induce, or attempt an abortion.

(b) The prohibition under Subsection (a) does not apply if:

(1) the person performing, inducing, or attempting the abortion is a licensed physician;

(2) in the exercise of reasonable medical judgment, the pregnant female on whom the abortion is performed, induced, or attempted has a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the female at risk of death or poses a serious risk of substantial impairment of a

major bodily function unless the abortion is performed or induced;  
and

(3) the person performs, induces, or attempts the abortion in a manner that, in the exercise of reasonable medical judgment, provides the best opportunity for the unborn child to survive unless, in the reasonable medical judgment, that manner would create:

(A) a greater risk of the pregnant female's death; or

(B) a serious risk of substantial impairment of a major bodily function of the pregnant female.

(c) A physician may not take an action authorized under Subsection (b) if, at the time the abortion was performed, induced, or attempted, the person knew the risk of death or a substantial impairment of a major bodily function described by Subsection (b)(2) arose from a claim or diagnosis that the female would engage in conduct that might result in the female's death or in substantial impairment of a major bodily function.

(d) Medical treatment provided to the pregnant female by a licensed physician that results in the accidental or unintentional injury or death of the unborn child does not constitute a violation of this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. [1280](#)), Sec. 2.

Sec. 170A.003. CONSTRUCTION OF CHAPTER. This chapter may not be construed to authorize the imposition of criminal, civil, or administrative liability or penalties on a pregnant female on whom an abortion is performed, induced, or attempted.

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. [1280](#)), Sec. 2.

Sec. 170A.004. CRIMINAL OFFENSE. (a) A person who violates Section [170A.002](#) commits an offense.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if an unborn child dies as a result of the offense.

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. [1280](#)), Sec. 2.

Sec. 170A.005. CIVIL PENALTY. A person who violates Section [170A.002](#) is subject to a civil penalty of not less than \$100,000 for each violation. The attorney general shall file an action to recover a civil penalty assessed under this section and may recover attorney's fees and costs incurred in bringing the action.

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. [1280](#)), Sec. 2.

Sec. 170A.006. CIVIL REMEDIES UNAFFECTED. The fact that conduct is subject to a civil or criminal penalty under this chapter does not abolish or impair any remedy for the conduct that is available in a civil suit.

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. [1280](#)), Sec. 2.

Sec. 170A.007. DISCIPLINARY ACTION. In addition to any other penalty that may be imposed under this chapter, the appropriate licensing authority shall revoke the license, permit, registration, certificate, or other authority of a physician or other health care professional who performs, induces, or attempts an abortion in violation of Section [170A.002](#).

Added by Acts 2021, 87th Leg., R.S., Ch. 800 (H.B. [1280](#)), Sec. 2.