Chapter 1272

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H.B. No. 16

2	relating to the enforcement of the rights of a living unborn child
3	after an abortion; providing a civil penalty; creating a criminal
4	offense.
5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
6	SECTION 1. The heading to Section 151.002, Family Code, is
7	amended to read as follows:
8	Sec. 151.002. RIGHTS OF A LIVING CHILD AFTER AN ABORTION OR
9	PREMATURE BIRTH; CIVIL PENALTY; CRIMINAL OFFENSE.
LO	SECTION 2. Section 151.002, Family Code, is amended by
1	adding Subsections (c), (d), (e), (f), and (g) to read as follows:
L2	(c) For purposes of this section, a physician-patient
L3	relationship is established between a child born alive after an
L4	abortion and the physician who performed or attempted to perform
l.5	the abortion. The physician must exercise the same degree of
L6	professional skill, care, and diligence to preserve the life and
L7	health of the child as a reasonably diligent and conscientious
L8	physician would render to any other child born alive at the same
L9	gestational age. In this subsection, "professional skill, care, and
20	diligence" includes a requirement that the physician who performed
21	or attempted the abortion ensure that the child born alive be
22	immediately transferred to a hospital.
23	(d) A woman on whom an abortion, as defined by Section
24	245.002, Health and Safety Code, is performed or attempted to be

AN ACT

- 1 performed may not be held liable under this section.
- 2 (e) A physician who violates Subsection (c) by failing to
- 3 provide the appropriate medical treatment to a child born alive
- 4 after an abortion or an attempted abortion is liable to the state
- 5 for a civil penalty of not less than \$100,000. The attorney general
- 6 may bring a suit to collect the penalty. In addition to the civil
- 7 penalty, the attorney general may recover reasonable attorney's
- 8 fees. The civil penalty described in this subsection is in addition
- 9 to any other recovery authorized under other law.
- (f) A person who has knowledge of a failure to comply with
- 11 this section shall report to the attorney general. The identity and
- 12 any personally identifiable information of the person reporting the
- 13 failure to comply with this section is confidential under Chapter
- 14 552, Government Code.
- 15 (g) A physician or health care practitioner who violates
- 16 Subsection (c) by failing to provide the appropriate medical
- 17 treatment to a child born alive after an abortion or an attempted
- 18 abortion commits an offense. An offense under this subsection is a
- 19 felony of the third degree.
- SECTION 3. Section 151.002, Family Code, as amended by this
- 21 Act, applies only to a child born alive on or after the effective
- 22 date of this Act.
- SECTION 4. The change in law made by this Act applies only
- 24 to the prosecution of an offense committed on or after the effective
- 25 date of this Act. The prosecution of an offense committed before
- 26 the effective date of this Act is governed by the law in effect on
- 27 the date the offense was committed, and the former law is continued

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- 1 in effect for that purpose. For purposes of this section, an
- 2 offense is committed before the effective date of this Act if any
- 3 element of the offense occurs before the effective date.
- 4 SECTION 5. This Act takes effect September 1, 2019.

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President of the Senate

Speaker of the House

I certify that H.B. No. 16 was passed by the House on April 17, 2019, by the following vote: Yeas 94, Nays 2, 49 present, not voting; and that the House concurred in Senate amendments to H.B. No. 16 on May 23, 2019, by the following vote: Yeas 84, Nays 57, 2 present, not voting.

Chief Clerk of the Hous

I certify that H.B. No. 16 was passed by the Senate, with amendments, on May 16, 2019, by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

APPROVED: 4

Date

Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE

16:00 and CLOCK

NUN 1 4 2019

Secretary of State