

BILL ANALYSIS

Senate Research Center
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S.B. 186
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since the United States Supreme Court issued its decision *Roe v. Wade* in 1973, Texas' statutory ban on abortion has been dormant in the Texas Civil Statutes. Currently, there is no mechanism that allows for Texas' ban on abortions to be automatically revived upon a reversal of *Roe v. Wade*. This bill will avoid a potential special session or a conflict in federal jurisprudence with Texas' policy on abortion.

As proposed, S.B. 186 provides for an automatic revival of Texas statutory ban on abortion upon a reversal of *Roe v. Wade*.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 170, Health and Safety Code, by adding Section 170.003, as follows:

Sec. 170.003. POLICY; CONTINGENT REPEALER. (a) Provides that notwithstanding certain codes and statutes, the policy of this state is that life and unborn life are protected from the point of fertilization

(b) Repealer: Sections 170.001 and 170.002, Health and Safety Code, Chapter 171, Health and Safety Code, Chapter 245 Health and Safety Code, Chapter 33, Family Code, and Sections 164.052(a)(18) and (19), Occupations Code, in the event that the Texas attorney general determines that the United States Constitution no longer prohibits a state from banning abortion.

SECTION 2. Reenacts Articles 4512.1, 4512.2, 4512.3, 4512.4, and 4512.6, Revised Statutes, transfers them to Title 10, Penal Code, designates them as Chapter 50, Penal Code, and amends, as follows:

CHAPTER 50. ABORTION

Sec. 50.01. EFFECT OF CHAPTER; DETERMINATION BY ATTORNEY GENERAL. (a) Provides that Sections 50.02-50.06 take effect only after the attorney general of Texas:

(1) determines based on a decision by the United States Supreme Court or a newly ratified amendment to the federal constitution that the United States Constitution no longer prohibits a state from banning abortion that is not procured on medical advice for the purpose of preventing the death of the mother; and

(2) publishes that determination in the Texas Register and contemporaneously widely publicizes that determination by a variety of means, including publication in a newspaper of general circulation in each county for which there is a newspaper of general circulation.

(b) Requires the attorney general to monitor federal legal developments for purposes of this section and act no later than the 60th day after a Supreme Court decision becomes final or constitutional amendment takes effect.

(c) Provides that Sections 50.02-50.06 take effect on the 60th day after the attorney general's determination is published in the Texas Register.

Sec. 50.02. DEFINITION. Redefines "abortion." Deletes Article 4512.1 regarding an offense for producing an abortion.

Sec. 50.03. ABORTION. (a) Provides that a person commits an offense if the person, with a woman's consent produces an abortion by certain acts.

(b) Provides that a person commits an offense if the person, without a woman's consent produces an abortion by certain acts.

(c) Provides that an offense under Subsection (a) is a third degree felony.

(d) Provides that an offense under Subsection (b) is a second degree felony. Deletes Article 4512.2 regarding furnishing the means for producing an abortion. Deletes Article 4512.3 regarding an attempt to commit an abortion.

Sec. 50.04. MURDER IN PRODUCING ABORTION. Redesignates Article 4512.4 as Section 50.04. (a) Provides that a person commits an offense if the person produces or attempts to produce an abortion that results in the death of the mother. Deletes the stipulation that it is murder if the death of the mother is occasioned by an abortion so produced or by an attempt to effect the same.

(b) Provides that an offense under this section is a first degree felony.

Sec. 50.05. BY MEDICAL ADVICE. Redesignates Article 4512.6 as Section 50.05. Provides an exception to the application of Sections 50.03 and 50.04 if the abortion was procured or attempted on medical advice for the purpose of preventing, rather than saving the life, of the mother. Makes nonsubstantive changes.

Sec. 50.06. CONFLICTS. Provides that this chapter controls over any statute or rule in conflict with this chapter.

SECTION 3. Makes application of Sections 50.02-50.06, Penal Code, prospective.

SECTION 4. Effective date: upon passage or September 1, 2007.