

BILL ANALYSIS

C.S.S.B. 8
By: Schwertner
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that federal laws banning partial-birth abortion and the sale or transfer of human fetal tissues and organs are inadequate because they do not give states the opportunity to enforce those laws and prosecute offenders operating solely within a state's territory. C.S.S.B. 8 seeks to enact state bans on partial-birth abortion and the sale of human fetal tissue, as well as regulate the disposition of embryonic and fetal tissue remains.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

ANALYSIS

C.S.S.B. 8 amends the Health and Safety Code to prohibit a licensed physician or other person from knowingly performing a partial-birth abortion unless the physician performs such an abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury. The bill defines "partial-birth abortion" as an abortion in which the person performing the abortion, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus, deliberately and intentionally vaginally delivers a living fetus until, for a head-first presentation, the entire fetal head is outside the body of the mother or, for a breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, and performs such an overt act, other than completion of delivery, that kills the partially delivered living fetus. The bill creates a state jail felony offense for a person who performs a partial-birth abortion in violation of the bill's prohibition.

C.S.S.B. 8 authorizes the father of the fetus or a parent of the mother of the fetus, if the mother is younger than 18 years of age at the time of the partial-birth abortion, to bring a civil action to obtain appropriate relief, including money damages for physical injury, mental anguish, and emotional distress and exemplary damages equal to three times the cost of the partial-birth abortion. The bill prohibits a person from bringing or maintaining such an action if the person consented to the partial-birth abortion or the person's criminally injurious conduct resulted in the pregnancy. The bill authorizes a physician who is the subject of a criminal or civil action for a violation of the bill's prohibition on partial-birth abortions to request a hearing before the Texas Medical Board on whether the physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury. The bill makes the board's findings admissible in any court proceeding against the physician arising from

that conduct and requires the court on the physician's motion to delay the beginning of the criminal or civil trial for not more than 60 days for the hearing to be held. The bill prohibits a woman on whom a partial-birth abortion is performed or attempted in violation of the bill's provisions regarding such abortions from being prosecuted under those provisions or for conspiracy to commit a violation of those provisions.

C.S.S.B. 8 prohibits a person from donating human fetal tissue but authorizes an authorized facility, defined by the bill as a licensed hospital, a hospital maintained or operated by the state or a state agency, a licensed ambulatory surgical center, or a licensed birthing center, to donate human fetal tissue to an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research. The bill defines "human fetal tissue" as any gestational human organ, cell, or tissue from an unborn child, excluding supporting cells or tissue derived from a pregnancy, associated maternal tissue that is not part of the unborn child, the umbilical cord, or the placenta. The bill makes its provisions regarding the donation of human fetal tissue inapplicable to human fetal tissue obtained for diagnostic or pathological testing or for a criminal investigation; human fetal tissue or human tissue obtained during pregnancy or at delivery of a child, provided the tissue is obtained by an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research; or cell lines derived from human fetal tissue or human tissue existing on September 1, 2017, that are used by such an accredited institution in research that is so approved. The bill prohibits an authorized facility from donating human fetal tissue obtained from an elective abortion. The bill prohibits an authorized facility from donating human fetal tissue unless the facility has obtained the written, voluntary, and informed consent of the woman from whose pregnancy the fetal tissue is obtained and requires that consent to be provided on a standard form prescribed by the Department of State Health Services (DSHS).

C.S.S.B. 8 creates a Class A misdemeanor offense punishable by a fine of not more than \$10,000 for a person who offers a woman monetary or other consideration to have an abortion for the purpose of donating human fetal tissue or to consent to the donation of human fetal tissue or who knowingly or intentionally solicits or accepts tissue from a fetus gestated solely for research purposes. The bill grants the attorney general, with the consent of the appropriate local county or district attorney, concurrent jurisdiction with that consenting local prosecutor to prosecute such an offense. The bill prohibits an authorized facility from disposing of any medical record relating to a woman who consents to the donation of human fetal tissue before the seventh anniversary of the date consent was obtained or, if the woman was younger than 18 years of age on the date consent was obtained, before the later of the woman's 23rd birthday or the seventh anniversary of the date consent was obtained, unless another law requires a longer period of record retention. The bill requires an authorized facility that donates human fetal tissue under the bill's provisions to submit an annual report to DSHS that includes for each donation the specific type of fetal tissue donated and the accredited public or private institution of higher education that received the donation and expressly does not require the authorized facility to make an initial report before January 1, 2019. The bill requires DSHS to prescribe the standard consent form not later than December 1, 2017, and requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt any rules necessary to implement the bill's provisions relating to the donation of human fetal tissue not later than December 1, 2017. The bill requires DSHS to enforce those bill provisions and authorizes the attorney general, on request of DSHS or a local law enforcement agency, to assist in the investigation of a violation of those provisions.

C.S.S.B. 8 requires a health care facility in Texas that provides health or medical care to a pregnant woman to dispose of the embryonic and fetal tissue remains from a pregnancy that terminates in the death of the embryo or fetus and for which the issuance of a fetal death certificate is not required by state law, excluding the umbilical cord, placenta, gestational sac, blood, or body fluids, that are passed or delivered at the facility by interment, cremation,

incineration followed by interment, or steam disinfection followed by interment. The bill authorizes the ashes resulting from the cremation or incineration of such embryonic and fetal tissue remains to be interred or scattered in any manner as authorized by law for human remains but prohibits those ashes from being placed in a landfill. The bill establishes that such embryonic and fetal tissue remains are not pathological waste under state law and exempts the disposition of the remains from Health and Safety Code provisions relating to crematories, general Health and Safety Code provisions relating to cemeteries, and Occupations Code provisions relating to cemetery and crematory services, funeral directing, and embalming.

C.S.S.B. 8 authorizes the umbilical cord, placenta, gestational sac, blood, or body fluids from a pregnancy terminating in the death of the embryo or fetus for which the issuance of a fetal death certificate is not required by state law to be disposed of in the same manner as and with the embryonic and fetal tissue remains from that same pregnancy. The bill requires DSHS to develop a grant program that uses private donations to provide financial assistance for the costs associated with disposing of embryonic and fetal tissue remains, requires DSHS to establish the program not later than October 1, 2017, and requires DSHS to begin to award grants under the program not later than February 1, 2018. The bill requires DSHS to establish and maintain a registry of participating funeral homes and cemeteries willing to provide free common burial or low-cost private burial and of private nonprofit organizations that register with DSHS to provide financial assistance for the costs associated with burial or cremation of embryonic and fetal tissue remains. The bill requires DSHS to make the registry information available on request to a physician, health care facility, or agent of a physician or health care facility. The bill authorizes a health care facility responsible for disposing of embryonic and fetal tissue remains to coordinate with an entity in the registry in an effort to offset the cost associated with burial or cremation of the remains.

C.S.S.B. 8 authorizes DSHS to suspend or revoke the license of a health care facility that violates the bill's provisions regarding the disposition of embryonic and fetal tissue remains or a rule adopted under those provisions. The bill makes a person who commits such a violation liable for a civil penalty in an amount of \$1,000 for each violation; authorizes the attorney general, at the request of DSHS, to sue to collect the civil penalty; and authorizes the attorney general to recover reasonable expenses incurred in collecting the civil penalty. The bill requires the executive commissioner of HHSC to adopt rules to implement the bill's provisions regarding the disposition of embryonic and fetal tissue remains and requires the executive commissioner, not later than December 1, 2017, to adopt any rules necessary to implement those provisions. Those bill provisions apply only to the disposition of embryonic and fetal tissue remains that occurs on or after February 1, 2018.

C.S.S.B. 8 amends the Occupations Code to include among the prohibited practices whose commission by a physician or an applicant for a license to practice medicine is grounds for disciplinary action or refusal to issue a license the performance or inducing of or the attempted performance or inducing of a partial-birth abortion in violation of the bill's provisions. The bill makes the criminal penalties imposed for practicing medicine in violation of the Medical Practice Act inapplicable to a violation of the bill's provisions regarding partial-birth abortions.

C.S.S.B. 8 amends the Penal Code to create a state jail felony offense for a person who knowingly offers to buy, offers to sell, acquires, receives, sells, or otherwise transfers any human fetal tissue for economic benefit and to grant the attorney general, with the consent of the appropriate local county or district attorney, concurrent jurisdiction with that consenting local prosecutor to prosecute such an offense. The bill establishes as a defense to prosecution for that offense that the actor is an employee of or under contract with an accredited public or private institution of higher education and acquires, receives, or transfers human fetal tissue solely for the purpose of fulfilling a donation authorized by the bill's provisions. The prohibition against purchasing or selling human fetal tissue does not apply to human fetal tissue acquired, received, or transferred solely for diagnostic or pathological testing, solely for the purposes of a criminal investigation, or solely for the purpose of disposing of the tissue in accordance with state law or

rules applicable to the disposition of human fetal tissue remains; human fetal tissue or human tissue acquired during pregnancy or at delivery of a child, provided the tissue is acquired by an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research; or cell lines derived from human fetal tissue or human tissue existing on September 1, 2017, that are used by such an accredited institution in research that is so approved. The bill excludes human fetal tissue from the definition of "human organ" for purposes of the statutory prohibition against purchasing or selling human organs.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 8 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Chapter 171, Health and Safety Code, is amended.

SECTION 2. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 173 to read as follows:

CHAPTER 173. DONATION OF HUMAN FETAL TISSUE

Sec. 173.001. DEFINITIONS.

Sec. 173.002. APPLICABILITY. This chapter does not apply to:

- (1) human fetal tissue obtained for diagnostic or pathological testing;
- (2) human fetal tissue obtained for a criminal investigation; or
- (3) human fetal tissue or human tissue obtained during pregnancy or at delivery of a child, provided the tissue is obtained by an accredited university for use in research approved by an institutional review board or another appropriate university board, committee, or body charged with oversight applicable to the research.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 173 to read as follows:

CHAPTER 173. DONATION OF HUMAN FETAL TISSUE

Sec. 173.001. DEFINITIONS.

Sec. 173.002. APPLICABILITY. This chapter does not apply to:

- (1) human fetal tissue obtained for diagnostic or pathological testing;
- (2) human fetal tissue obtained for a criminal investigation;
- (3) human fetal tissue or human tissue obtained during pregnancy or at delivery of a child, provided the tissue is obtained by an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research; or
- (4) cell lines derived from human fetal tissue or human tissue existing on September 1, 2017, that are used by an accredited public or private institution of higher education in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research.

Sec. 173.003. ENFORCEMENT.

Sec. 173.004. PROHIBITED DONATION.

Sec. 173.005. DONATION BY AUTHORIZED FACILITY. (a) Only an authorized facility may donate human fetal tissue. An authorized facility may donate human fetal tissue only to an accredited university for use in research approved by an institutional review board or another appropriate university board, committee, or body charged with oversight applicable to the research.

(b) An authorized facility may not donate human fetal tissue obtained from an elective abortion.

Sec. 173.006. INFORMED CONSENT REQUIRED.

Sec. 173.007. CRIMINAL PENALTY.

Sec. 173.008. RECORD RETENTION.

Sec. 173.009. ANNUAL REPORT. An authorized facility that donates human fetal tissue under this chapter shall submit an annual report to the department that includes for each donation:

- (1) the specific type of fetal tissue donated; and
- (2) the accredited university that received the donation.

No equivalent provision.

Sec. 173.003. ENFORCEMENT.

Sec. 173.004. PROHIBITED DONATION.

Sec. 173.005. DONATION BY AUTHORIZED FACILITY. (a) Only an authorized facility may donate human fetal tissue. An authorized facility may donate human fetal tissue only to an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research.

(b) An authorized facility may not donate human fetal tissue obtained from an elective abortion.

Sec. 173.006. INFORMED CONSENT REQUIRED.

Sec. 173.007. CRIMINAL PENALTY.

Sec. 173.008. RECORD RETENTION.

Sec. 173.009. ANNUAL REPORT. An authorized facility that donates human fetal tissue under this chapter shall submit an annual report to the department that includes for each donation:

- (1) the specific type of fetal tissue donated; and
- (2) the accredited public or private institution of higher education that received the donation.

SECTION 3. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 697 to read as follows:

CHAPTER 697. DISPOSITION OF EMBRYONIC AND FETAL TISSUE REMAINS

Sec. 697.001. PURPOSE. The purpose of this chapter is to express the state's profound respect for the life of the unborn by providing for a dignified disposition of embryonic and fetal tissue remains.

Sec. 697.002. DEFINITIONS. In this chapter:

- (1) "Cremation" means the irreversible process of reducing remains to bone fragments through direct flame, extreme heat, and evaporation.
- (2) "Department" means the Department of State Health Services.

(3) "Embryonic and fetal tissue remains" means an embryo, a fetus, body parts, or organs from a pregnancy that terminates in the death of the embryo or fetus and for which the issuance of a fetal death certificate is not required by state law. The term does not include the umbilical cord, placenta, gestational sac, blood, or body fluids.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Incineration" means the process of burning remains in an incinerator.

(6) "Interment" means the disposition of remains by entombment, burial, or placement in a niche.

(7) "Steam disinfection" means the act of subjecting remains to steam under pressure to disinfect the remains.

Sec. 697.003. APPLICABILITY OF OTHER LAW. Embryonic and fetal tissue remains are not pathological waste under state law. Unless otherwise provided by this chapter, Chapters 711 and 716 of this code and Chapter 651, Occupations Code, do not apply to the disposition of embryonic and fetal tissue remains.

Sec. 697.004. DISPOSITION OF EMBRYONIC AND FETAL TISSUE REMAINS. (a) Subject to Section 241.010, a health care facility in this state that provides health or medical care to a pregnant woman shall dispose of embryonic and fetal tissue remains that are passed or delivered at the facility by:

(1) interment;

(2) cremation;

(3) incineration followed by interment; or

(4) steam disinfection followed by interment.

(b) The ashes resulting from the cremation or incineration of embryonic and fetal tissue remains:

(1) may be interred or scattered in any manner as authorized by law for human remains; and

(2) may not be placed in a landfill.

(c) A health care facility responsible for disposing of embryonic and fetal tissue remains may coordinate with an entity in the registry established under Section 697.005 in an effort to offset the cost associated with burial or cremation of the embryonic and fetal tissue remains of an unborn child.

(d) Notwithstanding any other law, the umbilical cord, placenta, gestational sac, blood, or body fluids from a pregnancy terminating in the death of the embryo or fetus for which the issuance of a fetal death certificate is not required by state law may be disposed of in the same manner as and with the embryonic and fetal tissue remains from that same pregnancy as authorized by this chapter.

Sec. 697.005. BURIAL OR CREMATION ASSISTANCE REGISTRY. The department shall:

(1) establish and maintain a registry of:

(A) participating funeral homes and cemeteries willing to provide free common burial or low-cost private burial; and

(B) private nonprofit organizations that register with the department to provide financial assistance for the costs associated with burial or cremation of the embryonic and fetal tissue remains of an unborn child; and

(2) make the registry information available on request to a physician, health care facility, or agent of a physician or health care facility.

Sec. 697.006. ETHICAL FETAL REMAINS GRANT PROGRAM. The department shall develop a grant program that uses private donations to provide financial assistance for the costs associated with disposing of embryonic and fetal tissue remains.

Sec. 697.007. SUSPENSION OR REVOCATION OF LICENSE. The department may suspend or revoke the license of a health care facility that violates this chapter or a rule adopted under this chapter.

Sec. 697.008. CIVIL PENALTY. (a) A person that violates this chapter or a rule adopted under this chapter is liable for a civil penalty in an amount of \$1,000 for each violation.

(b) The attorney general, at the request of the department, may sue to collect the civil penalty. The attorney general may recover reasonable expenses incurred in collecting the civil penalty, including court costs, reasonable attorney's fees, investigation costs, witness fees, and disposition expenses.

Sec. 697.009. RULES. The executive commissioner shall adopt rules to

SECTION 3. Section 164.052(a), Occupations Code, is amended.

SECTION 4. Section 164.055(b), Occupations Code, is amended.

SECTION 5. Section 48.02(a), Penal Code, is amended.

SECTION 6. Chapter 48, Penal Code, is amended by adding Section 48.03 to read as follows:

Sec. 48.03. PROHIBITION ON PURCHASE AND SALE OF HUMAN FETAL TISSUE. (a) In this section, "human fetal tissue" has the meaning assigned by Section 173.001, Health and Safety Code.

(b) A person commits an offense if the person knowingly offers to buy, offers to sell, acquires, receives, sells, or otherwise transfers any human fetal tissue for economic benefit.

(c) An offense under this section is a state jail felony.

(d) It is a defense to prosecution under this section that the actor:

(1) is an employee of or under contract with an accredited university; and

(2) acquires, receives, or transfers human fetal tissue solely for the purpose of fulfilling a donation authorized by Section 173.005, Health and Safety Code.

(e) This section does not apply to:

(1) human fetal tissue acquired, received, or transferred solely for diagnostic or pathological testing;

(2) human fetal tissue acquired, received, or transferred solely for the purposes of a criminal investigation;

(3) human fetal tissue acquired, received, or transferred solely for the purpose of disposing of the tissue in accordance with state law or rules applicable to the disposition of human remains; or

(4) human fetal tissue or human tissue acquired during pregnancy or at delivery of a child, provided the tissue is acquired by an accredited university for use in research approved by an institutional review board or another appropriate university board, committee, or body charged with oversight

implement this chapter.

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version.

SECTION 7. Chapter 48, Penal Code, is amended by adding Section 48.03 to read as follows:

Sec. 48.03. PROHIBITION ON PURCHASE AND SALE OF HUMAN FETAL TISSUE. (a) In this section, "human fetal tissue" has the meaning assigned by Section 173.001, Health and Safety Code.

(b) A person commits an offense if the person knowingly offers to buy, offers to sell, acquires, receives, sells, or otherwise transfers any human fetal tissue for economic benefit.

(c) An offense under this section is a state jail felony.

(d) It is a defense to prosecution under this section that the actor:

(1) is an employee of or under contract with an accredited public or private institution of higher education; and

(2) acquires, receives, or transfers human fetal tissue solely for the purpose of fulfilling a donation authorized by Section 173.005, Health and Safety Code.

(e) This section does not apply to:

(1) human fetal tissue acquired, received, or transferred solely for diagnostic or pathological testing;

(2) human fetal tissue acquired, received, or transferred solely for the purposes of a criminal investigation;

(3) human fetal tissue acquired, received, or transferred solely for the purpose of disposing of the tissue in accordance with state law or rules applicable to the disposition of human fetal tissue remains;

(4) human fetal tissue or human tissue acquired during pregnancy or at delivery of a child, provided the tissue is acquired by an accredited public or private institution of higher education for use in research approved by an institutional review board or another appropriate board, committee, or

applicable to the research.

(f) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section.

SECTION 7. Not later than December 1, 2017:

(1) the Department of State Health Services shall prescribe the standard consent form required by Section 173.006, Health and Safety Code, as added by this Act; and

(2) the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Chapter 173, Health and Safety Code, as added by this Act.

SECTION 8. (a) Subchapter F, Chapter 171, Health and Safety Code, as added by this Act, applies only to an abortion performed on or after the effective date of this Act. An abortion performed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Sections 173.003, 173.004, 173.005, and 173.006, Health and Safety Code, as added by this Act, apply to a donation of human fetal tissue that occurs on or after the effective date of this Act, regardless of whether the human fetal tissue was acquired before, on, or after that date.

(c) An authorized facility is not required to

body charged with oversight applicable to the research; or

(5) cell lines derived from human fetal tissue or human tissue existing on September 1, 2017, that are used by an accredited public or private institution of higher education in research approved by an institutional review board or another appropriate board, committee, or body charged with oversight applicable to the research.

(f) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section.

SECTION 8. (a) Not later than December 1, 2017, the executive commissioner of the Health and Human Services Commission shall adopt any rules necessary to implement Chapters 173 and 697, Health and Safety Code, as added by this Act.

(b) The Department of State Health Services shall:

(1) not later than October 1, 2017, establish the grant program required by Section 697.006, Health and Safety Code, as added by this Act;

(2) not later than December 1, 2017, prescribe the standard consent form required by Section 173.006, Health and Safety Code, as added by this Act; and

(3) not later than February 1, 2018, begin to award grants under the grant program described by Subdivision (1) of this subsection.

SECTION 9. (a) Subchapter F, Chapter 171, Health and Safety Code, as added by this Act, applies only to an abortion performed on or after the effective date of this Act. An abortion performed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Sections 173.003, 173.004, 173.005, and 173.006, Health and Safety Code, as added by this Act, apply to a donation of human fetal tissue that occurs on or after the effective date of this Act, regardless of whether the human fetal tissue was acquired before, on, or after that date.

(c) An authorized facility is not required to

make an initial annual report under Section 173.009, Health and Safety Code, as added by this Act, before January 1, 2019.

(d) Chapter 48, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 9. This Act takes effect September 1, 2017.

make an initial annual report under Section 173.009, Health and Safety Code, as added by this Act, before January 1, 2019.

(d) Chapter 697, Health and Safety Code, as added by this Act, applies only to the disposition of embryonic and fetal tissue remains that occurs on or after February 1, 2018. The disposition of embryonic and fetal tissue remains that occurs before February 1, 2018, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(e) Chapter 48, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. Same as engrossed version.