

BILL ANALYSIS

Senate Research Center
77R2570 SGA-F

S.B. 815
By: Armbrister
Criminal Justice
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DIGEST AND PURPOSE

In Texas, current law does not provide for a wrongful death cause of action or criminal sanctions for the death of a fetus. As proposed, S.B. 815 amends the Wrongful Death Act to allow parents to sue for the wrongful death of a fetus. S.B. 815 also amends the Penal Code so that a third party can be prosecuted for the homicide, assault, and intoxication manslaughter of the fetus of a pregnant woman. This bill does not affect the status of legal abortion or other legal medical procedures to which the mother has consented.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

ARTICLE 1. CIVIL REMEDIES

SECTION 1.01. Amends Sections 71.001 and 71.003, Civil Practice and Remedies Code, as follows:

Sec. 71.001. DEFINITIONS. Defines “death” and “individual.”

Sec. 71.003. New heading: APPLICATION; CERTAIN CONDUCT EXCEPTED. Provides that this subchapter applies only if the individual injured would have been entitled to bring an action for the injury if the individual, rather than he, had lived or had been born alive. Provides that this subchapter does not apply to a claim for the death of an individual who is an unborn child that is brought against: the mother of the unborn; a physician or other licensed health care provider, if the death is the intended result of a lawful medical procedure performed by the physician or health care provider with the requisite consent; or a person who dispenses or administers a drug in accordance with law, if the death is the result of the dispensation or administration of the drug.

SECTION 1.02. Makes application of this Act prospective.

ARTICLE 2. CRIMINAL PENALTIES

SECTION 2.01. Amends Section 1.07(a), Penal Code, by making conforming changes.

SECTION 2.02. Amends Chapter 19, Penal Code, by adding Section 19.06, as follows:

Sec. 19.06. CERTAIN CONDUCT EXCEPTED. Provides that it is an exception to the application of this chapter that the death was the death of an unborn child and the conduct charged was committed by certain individuals.

SECTION 2.03. Amends Section 20.01. Penal Code, by making a conforming change.

SECTION 2.04. Amends Chapter 22, Penal Code, by adding Section 22.12, as follows:

Sec. 22.12. CERTAIN CONDUCT EXCEPTED. Makes a conforming change.

SECTION 2.05. Amends Chapter 49, Penal Code, by adding Section 49.12, as follows:

Sec. 49.12. CERTAIN CONDUCT EXCEPTED. Provides that it is an exception to the application of Section 49.07 or 49.08 that the injury or death was the injury or death of an unborn child and that the conduct charged is conduct committed by the mother of the unborn child.

SECTION 2.06. Makes application of this Act prospective.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date: September 1, 2001.