

BILL ANALYSIS

C.S.H.B. 434
By: Simmons
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised that state law establishing wrongful birth liability may encourage health care providers to promote abortion in an effort to avoid liability. C.S.H.B. 434 seeks to address these concerns by prohibiting a cause of action from arising due to wrongful birth.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 434 amends the Civil Practice and Remedies Code to prohibit a cause of action from arising and damages from being awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted. The bill prohibits that prohibition from being construed to eliminate any duty of a physician or other health care practitioner under any other applicable law.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 434 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 71A to read as follows:

CHAPTER 71A. PROHIBITED CAUSES OF ACTION

Sec. 71A.001. WRONGFUL BIRTH. A

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 71A to read as follows:

CHAPTER 71A. PROHIBITED CAUSES OF ACTION

Sec. 71A.001. WRONGFUL BIRTH. (a)

cause of action may not arise, and damages may not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

A cause of action may not arise, and damages may not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

(b) This section may not be construed to eliminate any duty of a physician or other health care practitioner under any other applicable law.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.