

By: Slaton

H.B. No. 3641

A BILL TO BE ENTITLED

1 AN ACT
2 relating to declaring void certain federal court decisions related
3 to abortion and prohibiting cooperation with the enforcement of
4 those decisions; creating a private cause of action; creating a
5 criminal offense.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. SHORT TITLE. This Act may be cited as the "*Roe v.*
8 *Wade* Is Unconstitutional Act."

9 SECTION 2. PURPOSE. The purpose of this Act is to exercise
10 the sovereign authority of this state, consistent with the
11 Constitution of the United States, to declare and treat as void the
12 opinions and judgments of the Supreme Court of the United States in
13 *Roe v. Wade*, 410 U.S. 113 (1973), and its judicial progeny that
14 claim to prohibit states from providing the equal protection of the
15 laws to people who have not yet been born.

16 SECTION 3. INTENT. The Legislature intends to act pursuant
17 to the following provisions, among others, of the Texas
18 Constitution:

19 (1) "Texas is a free and independent State, subject
20 only to the Constitution of the United States, and the maintenance
21 of our free institutions and the perpetuity of the Union depend upon
22 the preservation of the right of local self-government, unimpaired
23 to all the States" as provided under Section 1, Article I, Texas
24 Constitution;

1 (2) "All political power is inherent in the people,
2 and all free governments are founded on their authority, and
3 instituted for their benefit" as provided under Section 2, Article
4 I, Texas Constitution; and

5 (3) "No citizen of this State shall be deprived of
6 life, liberty, property, privileges or immunities, or in any manner
7 disfranchised, except by the due course of the law of the land" as
8 provided under Section 19, Article I, Texas Constitution.

9 SECTION 4. STATE AUTHORITY REGARDING ABORTION. Title 1,
10 Government Code, is amended by adding Chapter 2 to read as follows:

11 CHAPTER 2. STATE AUTHORITY

12 SUBCHAPTER A. AUTHORITY REGARDING ABORTION

13 Sec. 2.001. LEGISLATIVE FINDINGS. The legislature finds
14 the following:

15 (1) "The [United States] Constitution does not
16 constrain the States' ability to regulate or even prohibit
17 abortion" under *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103,
18 2149 (2020) (Thomas, J., dissenting);

19 (2) Section 2, Article VI, United States Constitution,
20 provides that "[The United States Constitution], and the Laws of
21 the United States which shall be made in Pursuance thereof. . .
22 shall be the supreme Law of the Land";

23 (3) the Tenth Amendment to the United States
24 Constitution affirms that "The powers not delegated to the United
25 States by the Constitution, nor prohibited by it to the States, are
26 reserved to the States respectively, or to the people";

27 (4) legislators, as elected officials, have solemnly

1 sworn to preserve, protect, and defend the Constitution and laws of
2 the United States and of this State, so help us God;

3 (5) though prudence dictates that states should not
4 declare actions of the federal judiciary void for light or
5 indefinite causes, the legislature does not concede that the
6 federal judiciary is infallible nor its powers unlimited;

7 (6) nothing in the United States Constitution provides
8 for a right to abortion of preborn human beings;

9 (7) the concept of the federal judiciary compelling
10 states to allow the practice of prenatal homicide runs completely
11 contrary to the text and principles of the United States
12 Constitution;

13 (8) the legislature denies that the power to authorize
14 the genocide of more than 62 million preborn human beings over the
15 last 48 years and counting is within the legitimate powers of the
16 federal judiciary; and

17 (9) actions of the federal judiciary purporting to
18 provide a right to abortion are not made in pursuance of the United
19 States Constitution and consequently are not the supreme law of the
20 land.

21 Sec. 2.002. DEFINITION. In this subchapter, "Roe v. Wade"
22 means the opinions and judgments of the United States Supreme Court
23 in *Roe v. Wade*, 410 U.S. 113 (1973), and its judicial progeny, past
24 and future, including *Planned Parenthood v. Casey*, 505 U.S. 833
25 (1992), and *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103
26 (2020).

27 Sec. 2.003. ROE V. WADE VOID. Texas exercises its authority

1 through this chapter, consistent with the United States
2 Constitution, to declare and treat as void the opinions and
3 judgments of the United States Supreme Court in *Roe v. Wade* that
4 claim to prohibit states from providing the equal protection of the
5 laws to people who have not yet been born.

6 Sec. 2.004. ENFORCING ABORTION RESTRICTIONS AND
7 PROHIBITIONS. This state and all political subdivisions of this
8 state shall enforce prohibitions and other restrictions of abortion
9 without regard to *Roe v. Wade*.

10 Sec. 2.005. RESTRICTION ON USE OF STATE AND LOCAL
11 RESOURCES. This state and all political subdivisions of this state
12 are prohibited from using any personnel or financial resources to
13 enforce, administer, or cooperate with *Roe v. Wade* to prevent this
14 state or its political subdivisions from protecting the lives of
15 people who have not yet been born.

16 Sec. 2.006. PROHIBITING COOPERATION WITH FEDERAL
17 GOVERNMENT TO ENFORCE *ROE V. WADE*. (a) No government agency or
18 official of this state or its political subdivisions, including any
19 sheriff, deputy sheriff, or other law enforcement officer, shall
20 give force or effect to any court order that conflicts with this
21 subchapter.

22 (b) Cooperative agreements with federal agencies
23 notwithstanding, no law enforcement agency or law enforcement
24 officer in this state shall assist or cooperate in any way with the
25 arrest or imprisonment of any government official or individual who
26 complies with this section and refuses to comply with any contrary
27 court order. Such contrary orders shall include any order to levy on

1 property, seize bank accounts, arrest the person, or serve process
2 for the purpose of causing any person to violate this section, or
3 for the purpose of punishing any person for the failure to comply
4 with an order contrary to this section.

5 (c) A federal officer or agent who arrests any state or
6 local government official for compliance with this section shall be
7 subject to arrest by state or local law enforcement.

8 Sec. 2.007. ATTORNEY GENERAL. The attorney general shall,
9 on a request of an employee or former employee of this state or a
10 political subdivision of this state, provide for the defense of any
11 action brought against the employee or former employee for an act or
12 omission in the scope of employment relating to this subchapter.

13 Sec. 2.008. CRIMINAL OFFENSE; CIVIL LIABILITY. (a) A
14 person who violates Section 2.005 or 2.006 commits an offense. An
15 offense under this subsection is a Class A misdemeanor.

16 (b) A person who commits a violation described in Subsection
17 (a) while acting in the person's official capacity is subject to
18 termination from employment to the extent allowable under state law
19 and, if the person is a public servant at the time of conviction,
20 shall forfeit the person's position or office.

21 (c) Any aggrieved party may bring a private cause of action
22 against a person who commits a violation described in Subsection
23 (a).

24 SECTION 5. APPEARANCE NOT REQUIRED. This state and its
25 political subdivisions, and agents of this state and its political
26 subdivisions, are not required to enter an appearance, special or
27 otherwise, in any federal suit challenging this Act.

1 SECTION 6. EFFECTIVE DATE. This Act takes effect
2 immediately if it receives a vote of two-thirds of all the members
3 elected to each house, as provided by Section 39, Article III, Texas
4 Constitution. If this Act does not receive the vote necessary for
5 immediate effect, this Act takes effect September 1, 2021.