

By: Shaheen

H.J.R. No. 104

A JOINT RESOLUTION

1 urging the Congress of the United States to propose for
2 ratification an amendment to the United States Constitution which
3 would prohibit, with one exception, the practice of abortion within
4 the United States or in any place subject to their jurisdiction or,
5 in the alternative, applying to Congress to call a convention,
6 pursuant to Article V of that Constitution, for the specific and
7 limited purpose of proposing such an amendment to that Constitution
8 for ratification.

9 WHEREAS, Innocent human life in the United States is entitled
10 to the protection of American laws which ought not to be abridged by
11 act of any legislative body or by any court's so-called
12 "interpretation" of the Constitution of the United States; and

13 WHEREAS, On January 22, 1973, the United States Supreme
14 Court, in the case of *Roe v. Wade* (410 U.S. 113), legalized abortion
15 on demand throughout the United States; and

16 WHEREAS, The actions of judicial bodies in this nation have
17 placed innocent human life in jeopardy by reason of age, biologic
18 development, or status as not yet born; and

19 WHEREAS, In the aforementioned *Roe v. Wade* decision, the
20 U.S. Supreme Court nullified the laws of Texas--and numerous other
21 states--relative to abortion and has misconstrued the
22 U.S. Constitution in a way that permits the destruction of unborn
23 human life; and

24 WHEREAS, Of the 27 amendments thus far incorporated into our

1 federal Constitution, four of them unmistakably were offered to
2 reverse decisions of the U.S. Supreme Court:

3 (1) The 11th Amendment invalidated *Chisholm v. Georgia*
4 (1793) by guaranteeing the immunity of states from lawsuits by
5 citizens of another state or a foreign country;

6 (2) The 14th Amendment voided *Dred Scott v. Sandford*
7 (1857) by guaranteeing the civil rights and citizenship of
8 African-Americans;

9 (3) The 16th Amendment overrode *Pollock v. Farmers'*
10 *Loan and Trust Co.* (1895) by expressly giving Congress the power to
11 levy an income tax; and

12 (4) The 26th Amendment abrogated *Oregon v. Mitchell*
13 (1970) by permitting individuals aged as young as 18 years to vote,
14 in all federal, state, or local elections--uniformly nationwide;
15 and

16 WHEREAS, Article V of the U.S. Constitution allows the
17 legislatures of the several states to apply to Congress for the
18 calling of a convention to propose an amendment to that
19 Constitution which amendment, if proposed and then ratified, would
20 put an end to indiscriminate abortion on demand; and

21 WHEREAS, Thus far, the legislatures of a number of states
22 have already applied to Congress for the calling of such a
23 convention to propose for ratification a federal constitutional
24 amendment that would reverse *Roe v. Wade*, and its progeny, and those
25 still-pending convention applications have been officially
26 received by Congress as follows:

27 (1) The General Assembly of the State of Indiana in

1 1973 (Senate Joint Resolution No. 8--Public Law No. 352) found with
2 its verbatim text published in the *Congressional Record* of January
3 21, 1974, at page 14, and duly referred to the United States
4 Senate's Committee on the Judiciary;

5 (2) The General Assembly of the State of Missouri in
6 1975 (Senate Concurrent Resolution No. 7) found with its verbatim
7 text published in the *Congressional Record* of May 5, 1975, at page
8 12867, and duly referred to the U.S. Senate's Committee on the
9 Judiciary;

10 (3) The General Assembly of the State of Arkansas in
11 1977 (House Joint Resolution No. 2) found with its verbatim text
12 published in the *Congressional Record* of May 20, 1977, at pages
13 15808 and 15809, and duly referred to the U.S. Senate's Committee
14 on the Judiciary;

15 (4) The General Court of the Commonwealth of
16 Massachusetts in 1977 (unnumbered resolution) found with its
17 verbatim text published in the *Congressional Record* of July 1,
18 1977, at page 22002, and duly referred to the U.S. Senate's
19 Committee on the Judiciary;

20 (5) The Legislature of the State of New Jersey in 1977
21 (Senate No. 1271) found with its verbatim text published in the
22 *Congressional Record* of April 5, 1977, at page 10481, and duly
23 referred to the U.S. Senate's Committee on the Judiciary;

24 (6) The General Assembly of the State of Rhode Island
25 and Providence Plantations in 1977 (H-5159) found with its verbatim
26 text published in the *Congressional Record* of May 20, 1977, at pages
27 15808 (POM-188) and 15809 (POM-190), and duly referred to the

1 U.S. Senate's Committee on the Judiciary;

2 (7) The General Assembly of the Commonwealth of
3 Kentucky in 1978 (House [Concurrent] Resolution No. 7) found with
4 its verbatim text published in the *Congressional Record* of March
5 23, 1978, at page 8266, and duly referred to the U.S. Senate's
6 Committee on the Judiciary;

7 (8) The unicameral Legislature of the State of
8 Nebraska in 1978 (Legislative Resolution No. 152) found with its
9 verbatim text published in the *Congressional Record* of May 4, 1978,
10 at page 12694, and duly referred to the U.S. Senate's Committee on
11 the Judiciary;

12 (9) The General Assembly of the Commonwealth of
13 Pennsylvania in 1978 (House Bill No. 71 described as a "Joint
14 Resolution") found with its verbatim text published in the
15 *Congressional Record* of April 25, 1978, at page 11438, and duly
16 referred to the U.S. Senate's Committee on the Judiciary;

17 (10) The Legislature of the State of Mississippi in
18 1979 (House Concurrent Resolution No. 3) found with its verbatim
19 text published in the *Congressional Record* of February 26, 1979, at
20 page 3196, and duly referred to the U.S. Senate's Committee on the
21 Judiciary;

22 (11) The Legislature of the State of Nevada in 1979
23 (Senate Joint Resolution No. 27--File No. 117) found with its
24 verbatim text published in the *Congressional Record* of June 25,
25 1979, at page 16350, and duly referred to the U.S. Senate's
26 Committee on the Judiciary; and

27 (12) The Legislature of the State of Alabama in 1980

1 (Senate Joint Resolution No. 9--Act No. 80-281) found with its
2 verbatim text published in the *Congressional Record* of May 8, 1980,
3 at page 10650, and duly referred to the U.S. Senate's Committee on
4 the Judiciary; and

5 WHEREAS, While such amendatory proposals have been offered
6 over the years by some of its members, Congress has nevertheless not
7 acted upon the earnestly sought-after federal constitutional
8 amendment--and further prodding in that regard is obviously needed;
9 and

10 WHEREAS, In *The Federalist No. 85*, Alexander Hamilton
11 advised that "[w]e may safely rely on the disposition of the State
12 legislatures to erect barriers against the encroachments of the
13 national authority" and the calling of a convention, as envisioned
14 in Article V of the U.S. Constitution, would be an example of what
15 Hamilton alluded to; now, therefore, be it

16 RESOLVED, By the 85th Legislature of the State of Texas,
17 Regular Session, 2017, that the Congress of the United States be
18 respectfully urged to propose, and submit for ratification, an
19 amendment to the United States Constitution that would overturn *Roe*
20 *v. Wade* and clearly prohibit the practice of abortion on
21 demand--with the exception of saving the life of the
22 mother--uniformly throughout the United States and in any place
23 subject to their jurisdiction; and, be it further

24 RESOLVED, That if Congress does not propose such an amendment
25 on its own initiative by December 31, 2018, then, in the
26 alternative, the 85th Texas Legislature, pursuant to Article V of
27 the U.S. Constitution, does hereby apply to Congress to call a

1 convention for the purpose of proposing just such a constitutional
2 amendment for ratification; and, be it further

3 RESOLVED, That Congress--or delegates to the convention, if
4 called--be encouraged to consider, ponder, mull over, and
5 contemplate the following recommended text, among any other
6 possibilities, for such a proposed federal constitutional
7 amendment:

8 "ARTICLE ____

9 "SECTION 1. With respect to the right to life, the
10 word 'person' as used in this Article and in the Fifth and
11 Fourteenth Articles of Amendment to this Constitution applies to
12 all human beings, irrespective of age, health, function, or
13 condition of dependency, including their unborn offspring at every
14 stage of such unborn offspring's biological development.

15 "SECTION 2. No unborn person shall be deprived of life by
16 any person; provided, however, that nothing in this Article shall
17 prohibit a law permitting only those medical procedures necessary
18 to prevent the death of the mother, as a result of the pregnancy,
19 and as determined by the opinions of at least two competent and
20 credentialed medical professionals.

21 "SECTION 3. The Congress, and the several states, shall
22 have power to enforce this Article by appropriate legislation.";
23 and, be it further

24 RESOLVED, That the convention application component of this
25 joint resolution be automatically rescinded if:

26 (1) Congress itself proposes for ratification the
27 desired federal constitutional amendment, either prior to, or

1 within 90 calendar days after, the legislatures of two-thirds of
2 the several states have made similar application requesting a
3 convention for the exclusive purpose of proposing such an
4 amendment;

5 (2) The U.S. Supreme Court officially rules that a
6 convention of this type cannot be limited exclusively to
7 consideration of only one particular proposed amendment covering
8 only one specific topic; or

9 (3) A convention assembled pursuant, in part, to this
10 joint resolution in some way, form, or fashion, strays from or
11 transcends the confined purpose and restricted subject matter as
12 specified in this joint resolution; and, be it further

13 RESOLVED, That, except as otherwise provided in this joint
14 resolution, its convention application component is hereby
15 established as a continuous and ongoing such application, in
16 accordance with Article V of the federal Constitution, until such
17 time as:

18 (1) The Texas Legislature deems fit to rescind it; or

19 (2) At least two-thirds of the legislatures of the
20 several states shall have similarly applied for a convention
21 strictly to propose a federal constitutional amendment limited to
22 the same subject matter and Congress shall have fully performed its
23 constitutionally-obligated duty to actually call that convention
24 when Congress is presented with valid applications from the
25 requisite number of state legislatures demanding that Congress do
26 so; and, be it further

27 RESOLVED, That, in a manner which would furnish confirmation

1 of delivery and tracking while en route, the Secretary of State of
2 the State of Texas shall transmit properly certified copies of this
3 joint resolution--pursuant to the Standing Rules of the United
4 States Senate, namely, Rule VII, paragraphs 4, 5, and 6--to the
5 Vice-President of the United States (in his capacity as presiding
6 officer of the U.S. Senate and addressed to him at Suite No. S-212
7 of the United States Capitol Building); to the Secretary and
8 Parliamentarian of the U.S. Senate; and to both United States
9 Senators representing Texas; accompanied by a cover letter to each
10 addressee drawing attention to the fact that it is the 85th Texas
11 Legislature's courteous, yet firm, request that the full and
12 complete verbatim text of this joint resolution be duly published
13 in the U.S. Senate's portion of the *Congressional Record*, as an
14 official memorial to the U.S. Senate, and that this joint
15 resolution be referred to whichever committee(s) of the U.S. Senate
16 that would have appropriate jurisdiction over this joint
17 resolution's subject matter; and, be it further

18 RESOLVED, That, in a manner which would furnish confirmation
19 of delivery and tracking while en route, the Secretary of State of
20 the State of Texas shall likewise transmit properly certified
21 copies of this joint resolution--pursuant to the Rules of the
22 United States House of Representatives, namely, Rule XII, clauses 3
23 and 7--to the Speaker, Clerk, and Parliamentarian of the U.S. House
24 of Representatives; and to all members of the U.S. House of
25 Representatives who represent districts in Texas; likewise
26 accompanied by a cover letter to each addressee drawing attention
27 to the fact that it is the 85th Texas Legislature's courteous, yet

H.J.R. No. 104

1 firm, request that the substance of this joint resolution be duly
2 entered in the U.S. House of Representatives' portion of the
3 *Congressional Record*, as an official memorial to the U.S. House of
4 Representatives, and that this joint resolution be referred to
5 whichever committee(s) of the U.S. House of Representatives that
6 would have appropriate jurisdiction over this joint resolution's
7 subject matter.