87R12078 SCL-F

By:  Slaton H.B. No. 3641

A BILL TO BE ENTITLED

AN ACT

relating to declaring void certain federal court decisions related to abortion and prohibiting cooperation with the enforcement of those decisions; creating a private cause of action; creating a criminal offense.

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

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

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

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

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

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

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

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

CHAPTER 2. STATE AUTHORITY

SUBCHAPTER A. AUTHORITY REGARDING ABORTION

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

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

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

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

(4)  legislators, as elected officials, have solemnly sworn to preserve, protect, and defend the Constitution and laws of the United States and of this State, so help us God;

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

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

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

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

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

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

Sec. 2.003.  *ROE V. WADE* VOID. Texas exercises its authority through this chapter, consistent with the United States Constitution, to declare and treat as void the opinions and judgments of the United States Supreme Court in *Roe v. Wade* that claim to prohibit states from providing the equal protection of the laws to people who have not yet been born.

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

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

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

(b)  Cooperative agreements with federal agencies notwithstanding, no law enforcement agency or law enforcement officer in this state shall assist or cooperate in any way with the arrest or imprisonment of any government official or individual who complies with this section and refuses to comply with any contrary court order. Such contrary orders shall include any order to levy on property, seize bank accounts, arrest the person, or serve process for the purpose of causing any person to violate this section, or for the purpose of punishing any person for the failure to comply with an order contrary to this section.

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

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

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

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

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

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

SECTION 6.  EFFECTIVE DATE. 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, 2021.