

Please consider co-authoring [HB 948](#):

The Abolition of Abortion in Texas Act

Equal protection and justice for all innocent Texans.

Background

- Current Texas law already defines a person to include, “an unborn child at every stage of gestation from fertilization until birth.” Penal Code (PC) § 1.07(a)(26) and (38).
- PC § 19.02 makes it murder to intentionally kill an unborn child. However, PC § 19.06 says that such laws against murder do not apply to certain people.
- PC § 19.06 exists because Texas has surrendered to a federal court ruling which violates the [Texas Declaration of Independence](#), the [Texas Constitution](#), the [U.S. Declaration of Independence](#), and the [U.S. Constitution](#), all of which affirm the duty of our government to protect the God-given right to life.
- As a result, for the last 44 years--since the 1973 ruling by the U.S. Supreme Court in *Roe v. Wade*--unborn children in Texas have lacked protection and justice. Many efforts have been made to overturn *Roe*. Nevertheless, the murder of unborn children has continued with impunity.
- Last May, the Republican Party of Texas, with the support of nearly 90% of its delegates, issued a [legislative priority](#) (pg. 32) calling on the Texas Legislature to: “*Abolish abortion by enacting legislation to stop the murder of unborn children; And to ignore and refuse to enforce any and all federal statutes, regulations, executive orders, and court rulings which would deprive an unborn child of the right to life.*”
- [HB 948](#) answers that call and provides equal protection and justice for all innocent Texans, without regard for any federal action which would purport to prohibit us from fulfilling our most basic duty.

Why Abolition?

- All humans are created in the image of God.
- Intentionally killing an innocent human being is murder. Murder is a crime, not an industry. Governments regulate industries. We should not regulate the who, what, when, and where of crime. We should outlaw it.
- Since abortion is a crime, then legislating it as such is just. Abolition opposes the treatment of abortion as anything less than a crime. Denying equal protection to--or the humanity of--unborn children is unjust.

Common Objections

- “*What about the Supremacy Clause?*”
The “[Supremacy Clause](#)” of the U.S. Constitution says, “*This Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land...*” The decision of the U.S. Supreme Court in *Roe v. Wade* is neither a “law” nor was it made “in pursuance of” the Constitution. The U.S. Constitution is the “supreme Law of the Land,” not the Court’s interpretation of it.
- “*The Supreme Court disagrees.*”
The Supreme Court is not the Supreme Being. If we are unwilling to say no to it, what have we made it? If we are unwilling to say no to evil, what does that make us? We call on our Texas legislators to obey God rather than man.
- “*This will never work.*”
All authority in heaven and on earth belongs to Jesus Christ ([Matthew 28:18](#)). With Him, all things are possible, even changing the hearts of men.

Section-by-Section Overview of [HB 948](#)

SECTION 1. Provides a short title: “This Act may be cited as the Abolition of Abortion in Texas Act.”

SECTION 2. Fam. Code § 151.002(a) currently states, “A living human child born alive after an abortion or premature birth is entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive after the normal gestation period.” This bill would extend these rights, powers, and privileges to children before birth.

SECTION 3. Creates new Gov’t Code § 402.0375, which would add to the list of the AG’s responsibilities a duty to ensure that the State and its agencies are enforcing Penal Code (PC) homicide provisions in relation to abortion, “regardless of any contrary or conflicting federal statutes, regulations, executive orders, or court decisions.”

SECTION 4. Creates new Loc. Gov’t Code § 370.007, which applies the same responsibilities to political subdivisions.

SECTION 5. PC Ch. 19 [Criminal Homicide] currently provides penalties for anyone who “intentionally, knowingly, recklessly, or with criminal negligence causes the death of an individual.” “Individual” is already defined, in PC § 1.07(26), to include unborn children:

“Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

Consequently, if there were no exception to this general rule, abortion would already be illegal in Texas. However, at the same time the definition of “individual” was clarified to include unborn children, § 19.06 was added to the Penal Code, which provides that Ch. 19 [Criminal Homicide] does not apply in certain instances:

This chapter does not apply to the death of an unborn child if the conduct charged is:

- (1) conduct committed by the mother of the unborn child;*
- (2) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent, if the death of the unborn child was the intended result of the procedure;*
- (3) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent as part of an assisted reproduction as defined by Section 160.102, Family Code; or*
- (4) the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.*

Rather than repealing § 19.06 and leaving the question of applicability unaddressed, this section of the bill instead reverses the language of the existing § 19.06 to explicitly state that our homicide laws apply even to those situations listed which were previously excepted.

SECTION 6. When PC § 19.06 was added, § 22.12 was also added to PC Ch. 22 [Assaultive Offenses] to create exceptions to the crime of assault of unborn children. Section 6 of the bill takes the same approach as Section 5.

SECTION 7. Clean-up provision added by Legislative Council.

SECTION 8. This section of the bill contains several repeals.

(1) Civ. Prac. & Rem. Code 71.003(c). In order to prevent wrongful death suits against mothers, abortion providers, and others, Civ. Prac. & Rem. Code 71.003(c) was added at the same time as PC § 19.06 with similar exceptions to those in § 19.06 (discussed above). This subsection of the bill repeals those exceptions to wrongful death suits.

(2) Fam. Code 151.002(b). Subsection (a) of this statute is amended by Section 2 of the bill (discussed above). That amendment would render this current subsection (b) superfluous, which is why it is repealed.

(3) Occ. Code 103.002(b). This subsection of this current statute prohibits a hospital or health care facility from discriminating “against a physician, nurse, staff member, or employee because of the person’s willingness to participate in an abortion procedure at another facility.” Because the remainder of the bill criminalizes abortion, this statute is repealed.

(4) PC 20.01(5). This subsection of this current statute provides its own definition of “individual,” which does not include unborn children, for PC Chapter 20 [Kidnapping, Unlawful Restraint, and Smuggling of Persons]. The subsection is repealed so that the definition in PC § 1.07(26), which does include unborn children, applies to PC Chapter 20.

(5) PC 49.12. This current statute provides that PC §§ 49.07 [Intoxication Assault] and 49.08 [Intoxication Manslaughter] “do not apply to injury to or the death of an unborn child if the conduct charged is conduct committed by the mother of the unborn child.” Because the purpose of the bill is to provide equal justice for unborn children, this statute is repealed.

SECTION 9. The bill is not retroactive.

SECTION 10. The first sentence of this section of the bill states the position of the State that any “federal statute, regulation, executive order, or court decision which purports to supersede, stay, or overrule this Act is in violation of the Texas Constitution and the Constitution of the United States of America and is therefore void.” Consequently, any federal action that purports to decriminalize abortion and enforce *Roe v. Wade* and its progeny is considered by the State of Texas to be void.

The second sentence of this section applies the position articulated in the first by prohibiting the State and its political subdivisions from entering an appearance “in any federal suit challenging this Act.” Through this bill, the State would be denying that the federal government has any authority or jurisdiction to order the State of Texas to decriminalize abortion within our jurisdiction. Appearing in federal court would implicitly recognize federal jurisdiction which does not exist, and would waste state resources.

SECTION 11. This section provides for the earliest possible effective date.