



## ABOLISH ABORTION TEXAS

Please support [HB 3326](#):

# THE ABOLITION OF ABORTION THROUGH EQUAL PROTECTION FOR ALL UNBORN CHILDREN ACT

### 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](#) creates an exception for abortion.
- PC § 19.06 exists because Texas has surrendered to an unconstitutional federal court ruling that is not binding on this state.
- The [Abolition of Abortion legislative priority of the Republican Party of Texas](#) (RPT) calls upon the 87th Legislature to “Abolish abortion by ensuring the right to life and equal protection of the laws to all preborn children from the moment of fertilization.”
- [RPT principles](#) state, “We believe in the sanctity of innocent human life, created in the image of God, which should be equally protected from fertilization to natural death.”
- The [RPT platform](#) states, “Since life begins at conception, we urge the Texas Legislature to abolish abortion through enacting legislation that would immediately secure the rights to life and would ignore or refuse to enforce any and all federal statutes, regulations, orders, and court rulings that would deny these rights” (Plank 325).
- HB 3326 is the only bill filed this session that fulfills the legislative priority, platform plank, and principles of the Republican Party of Texas.

### End 48+ Years of False Hope

- Since 1973, the main strategy to end abortion has been to elect pro-life presidents to appoint Supreme Court justices to overturn *Roe*. However, [this strategy has not worked](#). In 1973 and since, the Court has been under Republican control, yet *Roe* has not been overturned.

### Stop Denying Equal Protection

- The 14th Amendment of the U.S. Constitution provides, “No state shall... deny to any person within its jurisdiction the equal protection of the laws.”
- The failure of Texas’ pre-1973 laws to provide equal protection is the leading reason why we lost *Roe v. Wade*. As the Court said, “When Texas urges that a fetus is entitled to Fourteenth Amendment protection as a person, it faces a dilemma... If the fetus is a person, why is the woman not a principal or an accomplice?... If the fetus is a person, may the penalties be different?” 410 U.S. 113, 157-58 n. 54 (1973).
- If we truly believe that a fetus is a person, then the laws which protect born human beings must equally protect those not yet born. Ultimately, those who oppose equal protection either do not believe that a fetus a person or do not want to follow the Constitution.

### Follow the Constitution

- As Supreme Court Justice Clarence Thomas wrote last year, “The Constitution does not constrain the States’ ability to regulate or even prohibit abortion.” *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103, 2149 (2020) (Thomas, J., dissenting).
- Though prudence dictates that states should not declare actions of the federal judiciary void for light or indefinite causes, we must not concede that the federal judiciary is infallible nor its powers unlimited. **Do we not have a line which, if crossed, we would stand and say no? And if not for this, then what?**
- **Please draw a line in the sand by supporting HB 3326.**

## FREQUENTLY ASKED QUESTIONS

### What about the Supremacy Clause of the U.S. Constitution?

It 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...” U.S. Const. Art VI, Clause 2. *Roe* was not made “in pursuance of” the Constitution, so it is not the supreme law of the land and states are not bound by it.

**Would HB 3326 put abortive mothers in jail?** The bill would not put anyone in jail. The bill would simply remove the abortion exception from our laws so that the same laws protecting people after they are born would protect people before they are born. The bill is not retroactive and does not apply to abortions before the bill’s effective date. The bill also does not apply to miscarriages, emergency medical treatment for ectopic pregnancies, persons granted immunity by prosecutors, or persons subject to duress or mistake of fact.

**Why don’t we just enforce the pre-*Roe* statutes that prohibited abortions?** Tex. Rev. Civ. Stat. Art. 4512.1 through 4512.4 and 4512.6 helped lead to the *Roe* decision because they did not provide equal protection. Nevertheless, they should be enforced right now until better statutes are enacted. Regardless, this also requires ignoring *Roe*.

**What about the new justices on the Supreme Court?** Today, only one sitting justice (Thomas) has ever publicly indicated he would vote to overturn *Roe*.

**Is HB 3326 promoting lawlessness?** Absolutely not. To the contrary, lawlessness is the situation we have right now. As John Adams wrote, we are to be “a government of laws and not of men.” HB 3326 promotes a return to the law—the Constitution—and an end to following an opinion of men which violates it. The law is king, not the Court; and the Court is subject to—not master of—that law.

**If HB 3326 were enacted, wouldn’t it cause chaos?** Chaos is over 55,000 babies murdered a year in this state right now. Orderly murder is no virtue. Those promoting the current “orderly situation” are like those who cry “Peace, Peace,” when there is no peace (Jer. 6:14; 8:11).

**As a Christian, what about Romans 13?** We should of course obey Romans 13, but our application is different than ancient Rome. We do not live in a dictatorship. We live in a constitutional republic where we the people elect our representatives. In the United States, the Constitution is the “governing authority,” and “every soul,” including those on the Supreme Court, should be “subject” to it (under God).

**What if the federal government cut funding or tried to enforce *Roe*?** If a Biden administration tried to bring sanctions against Texas, there could be a cost. But is our “peace” so sweet as to be purchased at the price of permitting the massacre of these innocents? If protecting them isn’t worth making sacrifices for, what is?

## WHAT ABOUT THE CURRENT PRO-LIFE STRATEGY?

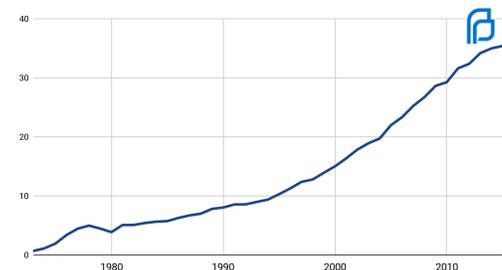
**Isn’t the pro-life strategy winning?** Ask this: “*Do the laws we enforce permit anyone who gets pregnant to get an abortion?*” The answer is yes. An abortionist may need to have a certain license and perpetrate the murder by a certain time, in a certain way, after giving certain information, and in a certain place, but from the moment of conception, every person in Texas may be murdered under such laws. That is not winning. It is not “winning” when, for most of the pro-life bills this state passes, the courts just strike them down and order Texas to pay the attorney’s fees of the abortion industry?

HB 3326 is an abolitionist bill that would completely outlaw abortion. Texas could refuse to appear in any federal court challenge. Alternatively, Texas could appear in court, but refuse to comply with any unconstitutional order made pursuant to *Roe* (e.g. an order to pay the abortion industry).

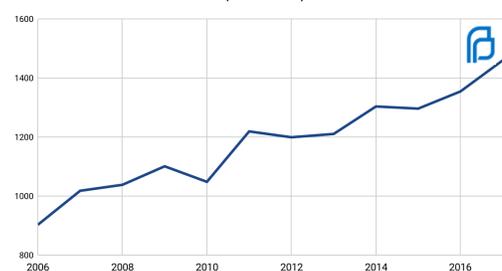
**But aren’t abortion numbers going down?** Pro-life bills appear to have only a small effect on this, if any. For example, while defending the 2017 dismemberment ban in court, Texas even stated that the plaintiffs had presented no evidence that the ban, even if enforced, “would bar a single woman in Texas from getting an abortion. Not one.” Most of the decline seems to be in spite of such legislation—abortion rates are falling across the country, including New York and California. Contraceptive use is also up, as is abortifacient birth control and emergency “contraception,” which leads to a large number of abortions going unreported.

**We’re beating Planned Parenthood, though, right?** Sadly, the pro-life bills we keep passing end up helping eliminate their competition and boost their revenues.

Planned Parenthood Market Share



Planned Parenthood Revenue (in millions)



Ultimately, [most pro-life bills do more harm than good](#). We need to pursue the abolitionist approach instead of continuing to legitimize *Roe* and deny equal protection.