



Texas Right to Life

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October 29th, 2020
Mayor Dan Pope and Lubbock City Council Members
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

Mayor Dan Pope and Members of the Lubbock City Council,

Recently, the City of Lubbock published a statement outlining the legal issues that attorneys from Olson & Olson LLP identified as sufficiently problematic to prevent the Lubbock City Council from bringing the Sanctuary City for the Unborn ordinance to a vote. These concerns arise out of a misunderstanding of both the ordinance and Texas law, and we hope that the following analysis will help correct the record on this important issue. Texas Right to Life encourages you, as elected representatives of the citizens of Lubbock, to pass this ordinance to protect your community and your constituents without delay.

First and foremost, the proposed ordinance does not contradict state or federal law. In passing this ordinance, your city would be taking the most decisive and extensive action possible while still recognizing the limits imposed on municipalities by *Roe v. Wade* and other Supreme Court decisions. No Texas laws prohibit municipalities from protecting preborn children within city limits. In fact, there are actually state laws prohibiting abortion still on the books that have never been repealed after *Roe v. Wade*, which has merely prevented specific enforcement of those laws.

Sanctuary Cities for the Unborn Ordinances are not seeking to break or refuse to enforce the law. Instead, these cities are merely taking the greatest action possible where the federal and state legislatures have not spoken while still respecting the bounds of current Supreme Court precedent. The ordinance recognizes that no city officials may attempt to prosecute the abortion industry until permitted by federal courts. For this reason, the ordinance language delays enforcement of the criminal provisions and relies on civil liability to act as an immediate deterrent to the abortion industry.

The ordinance is explicitly written to work within, not violate, current Supreme Court abortion jurisprudence. The language acknowledges the limitations placed on municipalities by Supreme Court decisions from *Roe* onward, but simultaneously enables cities to take a bold stance for Life and protect their communities. Because the ordinance does not violate any U.S. Supreme Court rulings, City Council members who pass the measure are in no way violating their oaths of office.

Finally, the proposed ordinance does not suggest regulations inconsistent with state regulations. The fact is that where the state legislature and its agencies are silent, cities can and

must step in. This initiative highlights what Pro-Life Texans can do at the local level of government to advance the cause of Life. Indeed, an amendment included in Senate Bill 22, passed during the Regular Session of the 86th Legislature and effective September 1, 2019, explicitly clarifies that the recent Texas Legislative Pro-Life policies do not bar cities from prohibiting abortion within their jurisdictions. The ordinance only governs conduct within your city limits, and your City Council members are well within their constitutional right to pass a measure which only applies within the jurisdiction of Lubbock.

Once again, Texas Right to Life invites Mayor Pope, any Member of the Lubbock City Council, or any Lubbock City staff to reach out to us with any further questions or to request further resources examining the constitutionality of the proposed ordinance. Our goal is to support Pro-Life citizens and city officials across Texas who seek to protect their preborn neighbors from the unconscionable violence of abortion by passing enforceable and lawful city ordinances. We are continually working with legal experts to carefully examine the legal consequences of cities passing this ordinance because we do not take these concerns lightly. However, we believe that while some risk is inevitable, your city has firm ground on which to stand in taking this action to protect families and preborn children in your community.

Thank you.

A handwritten signature in black ink, reading "John Seago". The signature is fluid and cursive, with the first name "John" and last name "Seago" clearly distinguishable.

John Seago
Legislative Director
Texas Right to Life
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Texas Right to Life is the oldest and largest statewide Pro-Life organization in Texas. The members, directors, staff, and affiliated chapters of Texas Right to Life seek to articulate and protect the Right to Life of defenseless human beings, born and preborn, through legal, peaceful, and prayerful means.