Introducing this simple resolution will start vital public education, even if it never gets out of subcommittee; of course the farther it gets, the more public education it will facilitate. This lays out the legally recognized facts that will court-proof an anti-abortion law in more detail than will fit in a law's "findings of facts". There is no funnel/deadline for a simple resolution.

# Model Simple Resolution

***Whereas,*** *Roe v. Wade* invites *fact finders* to "establish" "when life begins". Had this been established *as a matter of law,* as several state supreme courts claim in abortion prevention trials, the world's experts on American law would not have said "We...are...not in a position to speculate [about] when life begins [since doctors and preachers, who know more about this than we do] are unable to arrive at any consensus." *Roe v. Wade* 410 US 113, 159. SCOTUS doesn't think the top experts on American law are doctors and preachers! Nor would SCOTUS have said "IF this suggestion of personhood is established....", id. at 156, painting a future scenario in which "personhood" might be "established" by some authority besides itself which is competent enough to "establish" what SCOTUS cannot.

***Whereas,*** SCOTUS must accept facts "found" [established] in federal law [by Congress] that are not obviously irrational. "..the existence of facts supporting the legislative judgment is to be presumed...not to be pronounced unconstitutional unless in the light of the facts made known or generally assumed it is of such a character as to preclude the assumption that it rests upon some rational basis within the knowledge and experience of the legislators....the constitutionality of a statute predicated upon the existence of a particular state of facts may be challenged by showing to the court that those facts have ceased to exist. ...But by their very nature such inquiries, where the legislative judgment is drawn in question, must be restricted to the issue whether any state of facts either known or which could reasonably be assumed affords support for it." *U.S. v. Carolene Products*, 304 U.S. 144, 152 (1938)

***Whereas,*** Congress established in 2004 that: *" 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species Homo Sapiens, at any stage of development, who is carried in the womb",* 18 U.S.C. § 1841(d). This fact is not undermined by clause (c) which does not *"permit [authorize] the prosecution of any person for...an abortion for which the consent of the pregnant woman...has been obtained...."* Failure to outlaw a harm in a particular situation does not prevent the outlawing of it later, and 18 U.S.C. § 1841(c) has no power to

prevent states from criminalizing abortion as the 14th Amendment requires once the humanity of the unborn is established by 18 U.S.C. § 1841(d). And

***Whereas***, all precedent including *Roe* agrees that all humans are persons. *Roe v. Wade* 410 U.S. 113 (1973) equates the time an unborn child becomes "recognizably human" with the time the child becomes a "person", to wit: *"These disciplines variously approached the question in terms of the point at which the embryo or fetus became 'formed' or recognizably human, or in terms of when a 'person' came into being, that is, infused with a 'soul' or 'animated.' "* (See also *United States v. Palme*, 14- 17 U.S. 607, (1818), *"The words 'any person or persons,' are broad enough to comprehend every human being." Wong Wing v. United States,* 163 U.S.228, 242 (1896), *"The term 'person' is broad enough to include any and every human being within the jurisdiction of the republic…This has been decided so often that the point does not require argument." Steinberg v. Brown* 321 F. Supp. 741 (N.D. Ohio, 1970) *"a new life comes into being with the union of human egg and sperm cells,"* Id at 746, and *"[o]nce human life has commenced, the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the state a duty of safeguarding it,"* Id 746-47. And

***Whereas***, *Roe v. Wade* spells out the conditions for *Roe's* own "collapse", to wit: *"[Texas argues] that the 'fetus' is a person.* ***If this suggestion of personhood is established, the case [for legal abortion], of course, collapses, for the right to life would then be guaranteed specifically by the [14th] Amendment****…"* And

***Whereas***, not only Congress, but all legal authorities, and all five categories of court-recognized fact finders – juries[1], expert witnesses[2],

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1 Every judge addresses juries as "finders of fact". Every judge tells every jury some version of "If the question is one of fact, it should be decided by the jury at trial." But as if to reach the favored result no matter the cost to Due Process, even when the only contested issue of aborticide prevention trials (mostly sitting in front of abortionist doors) is whether the preborn are human beings, and that is the defendant's only defense, courts haven't allowed juries to even know the existence of the defense, much less decide it, ever since courts discovered that when juries are shown this fact question, aborticide loses.

"After the court ruled that it would allow the [Necessity] Defense to go to the jury, the Women for Women Clinic dropped the prosecution. If the defense is permitted, evidence is introduced that life begins at conception. This evidence is rarely contradicted by the prosecution, which is merely proving the elements of criminal trespass. Rather than risk such a precedent, many clinics prefer to dismiss. In fact, defense counsel have admitted that their intent is to bring the abortion issue back before the United States Supreme Court to consider the very question of when life begins, an issue on which the Court refused to rule in Roe... ("Necessity as a Defense to a Charge of Criminal Trespass in an Abortion Clinic", 48 U.Cin.L.Rev. 501 (1979), in a footnote on page 502. The Cincinnati Law Review footnote analyzes the case of Ohio v. Rinear, No. 78999CRB-3706 (Mun. Ct. Hamilton County, Ohio, dismissed May 2, 1978)

"Suppression of the evidence ought always to be taken for the strongest evidence" is the principle that won Freedom of the Press in the 1735 trial of Peter Zenger. Thus, suppression of the evidence of "when life begins" tells us that to the scandalously limited extent judges have allowed juries to weigh this fact question, juries have "established" unanimously that fertilization is "when life begins".

2 It was typical of aborticide prevention trials to bring in a doctor to testify that fully distinct human life begins from fertilization. "If the [Necessity] defense is permitted evidence [from doctors or scientists] is introduced [by the prolife defendants] that life begins at conception. This evidence is rarely contradicted by the prosecution...." Necessity as a

individual judges[3], and state legislatures[4] as well as Congress – to the extent they have taken a position on the subject, find unanimously that all unborn babies are humans/persons from fertilization. No American legal authority has ever said any unborn baby of a human is *not* a human/person, or that protectable "life begins" any *later* than fertilization, including Roe which said "we are not in a position to speculate", which is the closest SCOTUS has ever come to ruling on the humanity/personhood of the unborn, nor has SCOTUS ever reversed its position in Roe that if the fact is "established" that "when life begins" is at fertilization, then "of course" the 14th Amendment requires states to outlaw abortion. And

***Whereas***, *Planned Parenthood v. Casey,* 505 U.S. 833, 945, 954 (1992) did *not* replace *Roe's* constitutional basis for legal abortion – inability to tell "when life begins" – with *Casey's* new basis: how much moms had gotten used to killing their babies. *Casey* never said "when life begins" no longer matters, much less that even after everyone knows aborticide is murder, women have gotten so used to it that their "right to murder" must continue! In fact, *Casey* removed constitutional protection from abortion. *"We have since rejected Roe' s holding that regulations of abortion must be narrowly tailored to serve a compelling state interest, see Planned Parenthood v. Casey, 505 U.S., at 876,....-and thus, by logical implication, Roe' s holding that the right to abort an unborn child is a 'fundamental right.' "* Justice Scalia's dissent in *Lawrence v. Texas* 539 U.S. 558, 595, 123 S. Ct. 2472, 2493 (U.S., 2003). Roe's alleged inability to know babies of humans are humans was described as an *"outer shell"* of constitutionality. *"The joint opinion...retains the outer shell of Roe v. Wade...but beats a wholesale retreat from the substance of that case.... Roe continues to exist, but only in the way a storefront on a western movie set exists: a mere facade to give the illusion of reality."* Planned Parenthood v. Casey, 505 U.S. 833, 945, 954 (1992)

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Defense to a Charge of Criminal Trespass in an Abortion Clinic", 48 U.Cin.L.Rev. 501 (1979), in a footnote on page 502 A striking example of such a case is when the world's top genetic experts flew in from as far as France to testify before Sedgwick County Judge Paul Clark. Judge Clark said their DNA evidence established that life begins at fertilization, so killing life before birth is a great harm: "I will find Mrs. Tilson's evidence proffered through witnesses Lejeune, Hilgers, McMillan and Rue relevant to the issue here. The entire evidence of her experts is admitted. The evidence proves that the medical and scientific communities dealing with the subject matter on a daily basis are of opinion that life in homo sapiens begins at conception; and harm is the result of termination of life under most circumstances. That opinion—as a proposition based on intuition in earlier years—has always been foundation for the public policy in Kansas" (State vs. Harris, Supra; Joy vs. Brown, Supra). "Memorandum of Opinion Following Bench Trial" p. 22.

3 For example, Judge Clark, see footnote 2

4 "At least 38 states have enacted fetal-homicide statutes, and 28 of those statutes protect life from conception." *Hamilton v. Scott,* 97 So. 3d 728 (Ala. 2012) (Source: the Nat. Conference of State Legislatures, Fetal Homicide Laws.) Several states explicitly affirm that all preborn babies are humans/persons. 28 protect as many preborn babies as SCOTUS will let them, as seriously as they protect adults, leaving obsolete Roe's claim that babies are protected less in law. Most of the state preborn victims of violence laws survived constitutional challenges brought by murderers. The issue was whether Roe nullified them. Apparently no one asked if their findings nullified the premise of *Roe*.

(Concurrence/dissent of Rehnquist, White, Scalia, Thomas) Once Roe's "outer shell" has "collapsed", smashed by legally recognized certainty that the unborn are human, that "reliance interests" sophistry can't stand all alone. Once aborticide is "established" as genocide, "women's schedules" are exposed as a barbarically trivial excuse for genocide. And

***Whereas***, *Webster v. Reproductive Health Services* (492 U.S. 490), 1989 did *not* say personhood laws have no power to topple Roe, but only *"It will be time enough for federal courts to address the meaning of the [Personhood law] should it be applied to restrict the activities of [the abortionists] in some concrete way."* Id at 506. In fact, clear state penalties for abortion would trigger SCOTUS review of Roe: *"there will be time enough to reexamine Roe, and to do so carefully... When the constitutional invalidity of a State's abortion statute actually turns upon the constitutional validity of Roe"*, Concurrence by O'Conner, Id. at 526. AND

***Whereas***, No subsequent case, nor any future case, nor any philosophical argument outside the courtroom, has changed or can change how obvious it is that the knowledge that aborticide is in fact murder renders legal aborticide profoundly criminal and unconstitutional. The 14th Amendment "equal protection of the laws" is for all who are in fact humans/persons. Had it been only for those who are *legally* recognized as human, every deprivation of fundamental rights by any state law, including slavery of illegal immigrants, would automatically be "constitutional" so long as the law questions whether its victims are "persons in the whole sense". It is just as obvious today as when Roe's "collapse" clause began with "of course", that SCOTUS can't decide who lives and dies as a question so exclusively of law as to render irrelevant the now "established" fact that aborticide is murder. Even if Roe had not said it, it would be so. There can be no reason for courts or laws to exist, if not to punish crimes. No act merits the designation "crime", if murder doesn't. When the evidence is clear of mass murder, it can't be nullified by any court or law without chopping away the very reason for courts and laws. And

***Whereas***, the authority of U.S. law is superior to the authority of the U.S. Supreme Court, in the sense that up until such time as courts declare laws unconstitutional, courts must conform their rulings to them. No court has declared 18 U.S.C. § 1841 or the many similar state laws unconstitutional, in the course of dozens of challenges. To do so would require the Court to positively affirm that human life does *not* begin until birth, a position which no legal authority has ever taken, in contrast to a number of America's highest legal authorities which have taken the position that human life *does* begin at conception (See Missouri #1.205, R.S.Mo.1986,

Louisiana LSA-R.S. 40:1299,35.0, Nebraska 28-325. R.R.S. 1943, besides various proclamations of Presidents and Governors). And

***Whereas***, "(I)f the law recognizes that a fetus is a legal person from the moment of conception.....then the law must recognize and protect the rights of that person on a legal basis with the rights of the adult pregnant woman. If our laws recognize that, then there can be no right to choose, because, logically, terminating a pregnancy even in its earliest stages would be killing a fully legal person." (Mr. Nadler, opposing the *UNBORN VICTIMS OF VIOLENCE ACT OF 2003 150 Cong. Rec. H637-05, *H640.) [For the record with analysis, see www.Saltshaker.US/SLIC/CongressionalRecord.htm].* And

***Whereas***, [the consequence of 18 U.S.C. § 1841 is that] "....unborn children whether viable or not, will be considered as human beings, and therefore, whole as persons as victims of crime.... [Laci's Law's] extension of legal personhood to a[n] [unborn child] is entirely unprecedented in the history of federal law... .[The Court] could be forced to do what it has avoided for over thirty years: determine the ultimate value of the life interest and decide when that life begins." (Amanda Bruchs, *Clash of Competing Interests: Can the Unborn Victims of Violence Act and Over Thirty Years of Settled Abortion Law Co-Exist Peacefully?*, 55 Syracuse L. Rev. 133 (2004). See also: Wilmering, R.R., Note, *Federalism, The Commerce* Clause 80 Tns . L_J. 1989 (2005); Speizer, E., *Recent Developments in Reproduction Health Law*....41 Cal. W.L. Rev. 507 (2005); Kole, T. and Kadetsky, L., *Recent Developments,* 39 Harvard Journal Legislation 215 (2002))]. And

***Whereas***, there is no conflict between 18 U.S.C. § 1841 and 18 U.S.C. §248 (FACE, Freedom of Access to Clinic Entrances, 1992). 18 U.S.C. §248 merely prevents *individuals* from saving the lives of the unborn; it asserts no jurisdiction over states, to prevent *states* from protecting the unborn in compliance with 18 U.S.C. § 1841;

**Therefore, be it resolved, that:**

Legal Abortion technically and legally "collapsed" on April Fool's Day, 2004. 18 U.S.C. § 1841(d) precisely meets the conditions laid out in Roe's "collapse" clause; AND

This state has no further legal obligation to refrain from criminalizing abortion, or to support or protect abortion in any way; AND

After 18. U.S.C. §1841 it is impossible to treat ex-utero and intra-utero children differently without violating the 14th Amendment rights of one or the other: therefore this state is legally obligated to protect unborn children with the same criminal laws that protect born children; AND

Criminal laws against abortion by this state, or a Personhood Amendment in this state defining the unborn as "persons", or amending this state's Necessity Defense law to clarify that abortion is a "harm" to which it applies and "imminence" means "nearness in time to the closing of the window of opportunity to prevent harm", are not bold, legally dubious attempts by one state to rewrite the legal landscape for the entire nation, but will merely bring state law into conformity with federal law, including the requirements of *Roe v. Wade* itself; AND

Any judge or court which attempts to block this state's effort to bring its laws into conformity with these federal laws will, in so doing, violate *Roe v. Wade,* interfere with this state's compliance with federal law, and be an accessory to genocide according to federal law; AND

Should any state judge interfere with this state's obligation to obey the 14th Amendment obligation to protect its unborn citizens from abortion, this legislature will consider such exercise of the legislative function, in order to perpetuate genocide, through an unconstitutional ruling, to be exceeding the judicial powers given by the Iowa Constitution, which is Malfeasance in Office, a ground of impeachment; AND

Should any federal judge so interfere, this legislature urges its congressional delegation to pursue disciplinary action such as that outlined in "Bringing the Courts Back Under the Constitution". (https://newt.org/ wp-content/uploads/2013/04/Courts.pdf)

For 40 pages of detail, see
www.saltshaker.us/SLIC/CourtProofingStateLawAgainstAbortion.pdf

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# A way to court-proof prolife law is an answer to prayer

Chuck Hurley at 06:15: There are bills drafted and ready to file in both House and Senate ...Life is our #1 priority, we think it's God's #1 priority. If you're dead it doesn't matter what the tax rates are. We think we've got a shot at saving some babies' lives this year. 6:35 **Of course looming large over that whole discussion is 'What will the courts do?' So we are reaching out and praying for our judges** in hopes that even if during 2018 Republicans seize the day, and protect unborn life with legislation, **that it doesn't just get overturned in court.**
http://thefamilyleader.com/tfls-capitol-connection-ep-1-life-looms-large/

Chuck Hurley at 10:45: Well, Danny [Carroll, Family Leader lobbyist] and I have had literally dozens of – not to sound trifle, but dozens of high level meetings with top leaders in the legislature over the life issue. And it's a struggle. It's a spiritual struggle. It's a legislative struggle. **It's a legal struggle because of all the court cases out there.** So suffice it to say that there is great momentum and desire among the prolifers to pass meaningful legislation, hopefully that will be held up in court and that will save thousands and thousands of unborn babies' lives. But because of the milleau, because of the difficulties, **we're begging you to please stop right now and say a prayer that life would be protected this session in the legislature.** http://thefamilyleader.com/tfls-capitol-connection-ep-2-prayer-doesnt-only-move-mountains/
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