

2022 Regular Session

HOUSE BILL NO. 344

BY REPRESENTATIVE MCCORMICK

ABORTION: Prohibits the state and its political subdivisions from enforcing, administering, or cooperating with the decision and judgments of the United States Supreme Court in Roe v. Wade

1 AN ACT

2 To enact Chapter 1-B of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 49:200.61 through 200.65, relative to state administration; to provide relative

4 to the authority of the state and its political subdivisions to enforce prohibitions

5 against abortion; to prohibit the state and its political subdivisions from using any

6 personnel or financial resources to enforce, administer, or cooperate with the

7 decision and judgments of the Supreme Court of the United States in the case known

8 as Roe v. Wade; to require enforcement of prohibitions against abortion without

9 regard to Roe v. Wade; to provide for enforcement actions; to provide for penalties;

10 to authorize civil actions for certain purposes; to provide for an effective date; and

11 to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Chapter 1-B of Title 49 of the Louisiana Revised Statutes of 1950,

14 comprised of R.S. 49:200.61 through 200.65, is hereby enacted to read as follows:

15 CHAPTER 1-B. PROHIBITIONS AGAINST ABORTION: ENFORCEMENT BY

16 STATE AND POLITICAL SUBDIVISIONS REQUIRED

17 §200.61. Short title

18 This Chapter shall be known and may be cited as the "Roe v. Wade Is

19 Unconstitutional Act".

1        §200.62. Purpose

2                The purpose of this Chapter is to exercise the sovereign authority of this state,  
3        consistent with the Constitution of the United States, to declare and treat as void the  
4        opinions and judgments of the Supreme Court of the United States in Roe v. Wade,  
5        410 U.S. 113 (1973), and its judicial progeny that claim to prohibit states from  
6        providing the equal protection of laws to people who have not yet been born.

7        §200.63. Use of public resources to enforce, administer, or cooperate with Roe v.

8                Wade; prohibition

9                A. For purposes of this Section, "Roe v. Wade" means the opinions and  
10        judgments of the Supreme Court of the United States in Roe v. Wade, 410 U.S. 113  
11        (1973), and its judicial progeny, past and future, including but not limited to Planned  
12        Parenthood v. Casey, 505 U.S. 833 (1992), and June Med. Servs. L.L.C. v. Russo,  
13        140 S. Ct. 2103 (2020).

14                B. This state, pursuant to its sovereign authority, and all political  
15        subdivisions of this state are hereby prohibited from using any personnel or financial  
16        resources to enforce, administer, or cooperate with Roe v. Wade to prevent this state  
17        or its political subdivisions from protecting the lives of people who have not yet been  
18        born.

19                C. No government agency or official of this state or its political subdivisions,  
20        including any sheriff, deputy sheriff, or other law enforcement officer, shall give  
21        force or effect to any court order that conflicts with this Section. Cooperative  
22        agreements with federal agencies notwithstanding, no law enforcement agency or  
23        law enforcement officer in this state shall assist or cooperate in any way with the  
24        arrest or imprisonment of any government official or individual who complies with  
25        this Section and refuses to comply with any contrary court order. Such contrary  
26        orders shall include but not be limited to any order to levy upon property, seize bank  
27        accounts, arrest the person, or serve process for the purpose of causing any person  
28        to violate this Section, or for the purpose of punishing any person for the failure to  
29        comply with an order contrary to this section. A federal officer or agent who arrests

1 any Louisiana government official for compliance with this Section shall be subject  
2 to arrest by Louisiana law enforcement.

3 D. This state and all political subdivisions thereof shall enforce prohibitions  
4 against abortion without regard to Roe v. Wade.

5 E. The attorney general shall, upon a request of an employee or former  
6 employee of the state or a political subdivision thereof, provide for the defense of  
7 any action brought against such employee or former employee on account of an act  
8 or omission in the scope of employment relating to this Section.

9 §200.64. Penalties

10 A. Whoever violates R.S. 49:200.63(B) or (C) shall be fined not more than  
11 two thousand five hundred dollars per incidence or occurrence, or imprisoned for not  
12 more than six months, or both.

13 B. Whoever violates any provision of this Chapter while acting in his official  
14 capacity shall be subject to termination from employment if allowable under state  
15 law. If such person is a public servant at the time of his conviction, he shall forfeit  
16 his office.

17 §200.65. Civil actions authorized; special exemption for state and political  
18 subdivisions in certain federal proceedings

19 A. Any aggrieved party may bring a civil action against any person who  
20 violates or attempts to violate any provision of this Chapter.

21 B. This state and its political subdivisions, and agents thereof, shall not be  
22 required to enter an appearance, special or otherwise, in any federal suit challenging  
23 the provisions of this Chapter.

24 Section 2. In enacting this Act, it is the intent of the legislature to act in accordance  
25 with the following provisions, among others, of the Constitution of Louisiana:

26 (A) "We, the people of Louisiana, grateful to Almighty God for the civil, political,  
27 economic, and religious liberties we enjoy, and desiring to protect individual rights to life,  
28 liberty, and property; afford opportunity for the fullest development of the individual; assure  
29 equality of rights; promote the health, safety, education, and welfare of the people; maintain

1 a representative and orderly government; ensure domestic tranquility; provide for the  
2 common defense; and secure the blessings of freedom and justice to ourselves and our  
3 posterity, do ordain and establish this constitution." (Preamble.)

4 (B) "All government, of right, originates with the people, is founded on their will  
5 alone, and is instituted to protect the rights of the individual and for the good of the whole.  
6 Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and  
7 promote the happiness and general welfare of the people. The rights enumerated in this  
8 Article are inalienable by the state and shall be preserved inviolate by the state." (Article  
9 I, Section 1.)

10 (C) "No person shall be deprived of life, liberty, or property, except by due process  
11 of law." (Article I, Section 2.)

12 (D) "To protect human life, nothing in this constitution shall be construed to secure  
13 or protect a right to abortion or require the funding of abortion." (Article I, Section 20.1.)

14 Section 3. To protect the people's freedom and to preserve the checks and balances  
15 of the United States Constitution, this state may exercise its sovereign authority to restrict  
16 the actions of its personnel and the use of its financial resources to purposes that are  
17 consistent with the Constitution of Louisiana by passing a bill in accordance with Article III,  
18 Section 15 of the Constitution of Louisiana and through pursuing any available legal remedy.

19 Section 4. The legislature hereby finds and declares all of the following:

20 (A) "The Constitution [of the United States] does not constrain the States' ability to  
21 regulate or even prohibit abortion." *June Med. Servs. L.L.C. v. Russo*, 140 S. Ct. 2103, 2149  
22 (2020) (Thomas, J., dissenting).

23 (B) The members of this legislature have solemnly sworn to support the constitution  
24 and laws of the United States and the constitution and laws of this state and to faithfully and  
25 impartially discharge and perform all the duties incumbent upon us, according to the best of  
26 our ability and understanding, so help us God.

27 (C) "This [United States] Constitution, and the Laws of the United States which shall  
28 be made in Pursuance thereof . . . shall be the supreme Law of the Land . . ." (Article VI,  
29 Section 2. Constitution of the United States of America.)

1 (D) "The powers not delegated to the United States by the Constitution, nor  
2 prohibited by it to the States, are reserved to the States respectively, or to the people."  
3 (Tenth Amendment. Constitution of the United States of America.)

4 (E) Though prudence dictates that states should not declare actions of the federal  
5 judiciary void for light or indefinite causes, the federal judiciary is not infallible nor are its  
6 powers unlimited.

7 (F) Nothing in the Constitution of the United States of America provides for a right  
8 to abortion of preborn human beings.

9 (G) The concept of the federal judiciary compelling states to allow the practice of  
10 prenatal homicide runs completely contrary to the text and principles of the Constitution of  
11 the United States.

12 (H) The power to authorize the genocide of more than sixty-two million preborn  
13 human beings over the last forty-eight years is not within the legitimate powers of the federal  
14 judiciary.

15 (I) Actions of the federal judiciary purporting to provide a right to abortion are not  
16 made in pursuance of the Constitution of the United States of America, are consequently not  
17 the supreme law of the land, and are therefore not binding upon this state.

18 Section 5. This Act shall become effective upon signature by the governor or, if not  
19 signed by the governor, upon expiration of the time for bills to become law without signature  
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
22 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 344 Original

2022 Regular Session

McCormick

**Abstract:** Requires enforcement of prohibitions against abortion and prohibits the state and its political subdivisions from using any personnel or financial resources to enforce, administer, or cooperate with the decision and judgments of the U.S. Supreme Court in the Roe v. Wade case.

Proposed law provides that it shall be known and may be cited as the "Roe v. Wade Is Unconstitutional Act". Provides for legislative findings and intent.

Proposed law establishes that its purpose 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 and its judicial progeny that claim to prohibit states from providing the equal protection of laws to people who have not yet been born. Provides that for purposes of proposed law, "Roe v. Wade" means 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, past and future, including, but not limited to, Planned Parenthood v. Casey, 505 U.S. 833 (1992), and June Med. Servs. L.L.C. v. Russo, 140 S. Ct. 2103 (2020).

Proposed law prohibits the state and all political subdivisions thereof from using any personnel or financial resources to enforce, administer, or cooperate with Roe v. Wade.

Proposed law prohibits all state and local government agencies and officials from giving force or effect to any court order that conflicts with proposed law. Provides that, 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 proposed law and refuses to comply with any contrary court order. Provides further that any federal officer or agent who arrests any La. government official for compliance with proposed law shall be subject to arrest by La. law enforcement.

Proposed law requires the state and all of its political subdivisions to enforce prohibitions against abortion without regard to Roe v. Wade.

Proposed law requires the attorney general, upon a request of an employee or former employee of the state or a political subdivision thereof, to provide for the defense of any action brought against such employee or former employee on account of an act or omission in the scope of employment relating to proposed law.

Proposed law provides that whoever violates proposed law shall be fined not more than \$2,500 per incidence or occurrence, or imprisoned for not more than six months, or both. Provides further that whoever violates proposed law while acting in his official capacity shall be subject to termination from employment if allowable under present law. Requires that if a person who violates proposed law is a public servant at the time of his conviction, he shall forfeit his office.

Proposed law authorizes any aggrieved party to bring a civil action against any person who violates or attempts to violate any provision of proposed law.

Proposed law stipulates that the state and its political subdivisions shall not be required to enter an appearance in any federal suit challenging the provisions of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 49:200.61-200.65)