

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT: MAYOR AND COUNCIL

AGENDA DATE: January 31, 2023

CONTACT PERSON NAME AND PHONE NUMBER:

City Representative Alexsandra Annello, 915-212-0002

City Representative Chris Canales, 915-212-0008

City Representative Henry Rivera, 915-212-0007

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: (Goal 2 - Set the Standard for a Safe and Secure City)
(Goal 8 - Nurture and Promote a Healthy, Sustainable Community)

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and Action to approve a resolution to create the appropriate City Policy which honors and protects the right of pregnant people, to include the following:

1. Taxpayer Dollars shall not be used frivolously for programs or efforts to criminalize people who seek or aid abortion.
2. City funds shall not be used to solicit, catalog, report, or investigate reports of abortion.
3. Police shall make investigating abortion their lowest priority.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

N/A

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

N/A

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

*****REQUIRED AUTHORIZATION*****

RESOLUTION

WHEREAS, the El Paso City Council honors the right of pregnant persons to bodily autonomy and control over their private medical decisions; and

WHEREAS, access to safe and legal abortion is a major factor in the long-term health, safety, and quality of life of pregnant people; and

WHEREAS, the Supreme Court of the United States has overturned the landmark ruling, *Roe v. Wade*, which previously prevented individual states from directly banning such care; and

WHEREAS, on June 16, 2021, Texas Governor Greg Abbott signed into law HB 1280, which took effect statewide 30 days after *Roe v. Wade* was overturned; and

WHEREAS, said Act criminalizes abortion at the level of a first-degree felony, carrying a sentence of up to 99 years in prison, with no exceptions for rape and incest; and

WHEREAS, people have a basic human right to medical treatment, up to and including abortion; and

WHEREAS, eliminating legal access to abortion has been empirically proven to dramatically increase the risk of death, bodily injury, and infertility, while doing little to reduce the incidence of abortion; and

WHEREAS, the resources of the City must always be dedicated to the health and wellbeing of its residents; and

WHEREAS, in the 1973 *Roe v. Wade* majority opinion, Supreme Court Justice Harry Blackmun stated, “[The] right of privacy, whether it be founded in the Fourteenth Amendment’s concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment’s reservation of rights to the people, is broad enough to encompass a woman’s decision whether or not to terminate her pregnancy”; and

WHEREAS, the right to privacy should protect doctors, patients, and all others involved in care from any criminal investigation, as long as those decisions occur without coercion, force, or negligence; and

WHEREAS, equitable access to abortion care requires financial and logistical support, most often provided by abortion funds and practical support organizations who have been targeted for providing these services; and

WHEREAS, the City has a responsibility to protect its residents from any violation of their human rights and any prosecution for the free exercise thereof.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF EL PASO HEREBY RESOLVES:

The El Paso City Council formally condemns any action intended to abrogate the fundamental liberties of its people and affirms its commitment to protecting people’s right to make reproductive health decisions for themselves and their families, including abortion care.

BE IT FURTHER RESOLVED:

It is the policy of the City that, except to the extent otherwise required by state or federal law, City resources, including, for example, funds, personnel, or hardware, will not be used to:

- Create any record of any information related to an individual seeking abortion, miscarriage, or any other event that could be prosecuted as a violation of state law criminalizing or creating civil liability for pregnancy outcomes;
- Provide information to any other governmental body or agency about pregnancy outcomes, unless such information is provided to defend the patient's right to reproductive care, including abortion care, or the healthcare provider's right to provide such care; and
- Conduct surveillance or use any electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, behavioral, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software for the purpose of determining whether an abortion has occurred, except for the collection of aggregated data without personal identifying information or personal health information for purposes unrelated to criminal investigation, enforcement, or prosecution.

It is the intention of the City of El Paso that this policy does not apply in cases of conduct that is criminally negligent to the health of the pregnant person seeking care or where coercion or force is used against the pregnant person.

BE IT FURTHER RESOLVED:

It is the further policy of the City that investigation of or support for the prosecution of any allegation, charge, or information relating to a pregnancy outcome or any party thereto will be the lowest priority for enforcement and the use or assignment of resources and personnel, except in cases of conduct that is criminally negligent to the health of the pregnant person seeking care, where coercion or force is used against the pregnant person, or where the pregnancy outcome is not the crime being investigated but evidence of another crime, such as sexual assault.

BE IT FURTHER RESOLVED:

That the City Manager is directed and permitted to take appropriate steps to implement this resolution and to provide an oral presentation and written report to Council on the implementation of this resolution, including changes to policies and procedures, by March 27, 2023, and to provide a written report to Council on the implementation of this resolution by May 23, 2023. The City Manager may return to the council for authorization of any needed policy clarifications or changes in the event of future changes to federal law, state law, or technology that affect this resolution.

(Signatures on the following page)

APPROVED this ____ day of January, 2023.

CITY OF EL PASO

Oscar Leaser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Evy A. Sotelo
Assistant City Attorney