

Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.



GRACE ACT UPDATE

3/28/2023

Peter Pacillas
Interim Chief



Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.

Goal 2 – Safe & Beautiful Neighborhoods

Set the Standard for a Safe and Secure City



BACKGROUND

Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.

- June 24, 2022, the Supreme Court of the United States overturned *Roe v. Wade*
- June 16, 2021, Texas Governor Greg Abbott signed into law HB 1280 from the 87th Regular Legislative Session, which took effect statewide 30 days after *Roe v. Wade* was overturned; and criminalizes abortion at the level of a first-degree felony.
- January 31, 2023, City Council passed the GRACE Act Resolution.

HB1280 / HEALTH & SAFETY CODE CHAPTER 170A

H.B. No. 1280

7 SECTION 2. Subtitle H, Title 2, Health and Safety Code, is
8 amended by adding Chapter 170A to read as follows:

9 CHAPTER 170A. PERFORMANCE OF ABORTION

10 Sec. 170A.001. DEFINITIONS. In this chapter:

11 (1) "Abortion" has the meaning assigned by Section
12 245.002.

13 (2) "Fertilization" means the point in time when a
14 male human sperm penetrates the zona pellucida of a female human
15 ovum.

16 (3) "Pregnant" means the female human reproductive
17 condition of having a living unborn child within the female's body
18 during the entire embryonic and fetal stages of the unborn child's
19 development from fertilization until birth.

20 (4) "Reasonable medical judgment" means a medical
21 judgment made by a reasonably prudent physician, knowledgeable
22 about a case and the treatment possibilities for the medical
23 conditions involved.

24 (5) "Unborn child" means an individual living member

1

1 of the homo sapiens species from fertilization until birth,
2 including the entire embryonic and fetal stages of development.

3 Sec. 170A.002. PROHIBITED ABORTION; EXCEPTIONS. (a) A
4 person may not knowingly perform, induce, or attempt an abortion.

5 (b) The prohibition under Subsection (a) does not apply if:

6 (1) the person performing, inducing, or attempting the
7 abortion is a licensed physician;

8 (2) in the exercise of reasonable medical judgment,
9 the pregnant female on whom the abortion is performed, induced, or
10 attempted has a life-threatening physical condition aggravated by,
11 caused by, or arising from a pregnancy that places the female at
12 risk of death or poses a serious risk of substantial impairment of a
13 major bodily function unless the abortion is performed or induced;
14 and

15 (3) the person performs, induces, or attempts the
16 abortion in a manner that, in the exercise of reasonable medical
17 judgment, provides the best opportunity for the unborn child to
18 survive unless, in the reasonable medical judgment, that manner
19 would create:

20 (A) a greater risk of the pregnant female's
21 death; or

22 (B) a serious risk of substantial impairment of a
23 major bodily function of the pregnant female.

24 (c) A physician may not take an action authorized under
25 Subsection (b) if, at the time the abortion was performed, induced,
26 or attempted, the person knew the risk of death or a substantial
27 impairment of a major bodily function described by Subsection

Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.

Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.

1 (b)(2) arose from a claim or diagnosis that the female would engage
2 in conduct that might result in the female's death or in substantial
3 impairment of a major bodily function.

4 (d) Medical treatment provided to the pregnant female by a
5 licensed physician that results in the accidental or unintentional
6 injury or death of the unborn child does not constitute a violation
7 of this section.

8 Sec. 170A.003. CONSTRUCTION OF CHAPTER. This chapter may
9 not be construed to authorize the imposition of criminal, civil, or
10 administrative liability or penalties on a pregnant female on whom
11 an abortion is performed, induced, or attempted.

12 Sec. 170A.004. CRIMINAL OFFENSE. (a) A person who
13 violates Section 170A.002 commits an offense.

14 (b) An offense under this section is a felony of the second
15 degree, except that the offense is a felony of the first degree if
16 an unborn child dies as a result of the offense.



CITY COUNCIL RESOLUTION

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:

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:

23-1019-391 | PL#1223804 | Resolution – Grace Act | EAS

- 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.


Space reserved for the ASL interpreter

Do not move, modify, or add any information on this box.



POLICY:



 El Paso Police Department Procedures Manual	Chapter 4: Incident and Investigation Guidelines
438 GRACE Act	Effective Date: 03/20/2023 Previous Version: N/A

438 GRACE ACT GUIDELINES

The purpose of this policy is to provide the guidelines for the GRACE (Guarding the Rights to Abortion Care for Everyone) for the El Paso Police Department.

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

- A. 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
- B. 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
- C. 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.
- D. It is the intention of the El Paso Police Department 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.
- E. In instances where a possible violation of Texas Health and Safety Code Chapter 170A.002 is reported to an officer, the officer will contact a supervisor. The supervisor will make notification to executive staff through the chain of command.

Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.



Space reserved for the ASL
interpreter

Do not move, modify, or add
any information on this box.

Questions?



Mission

Deliver exceptional services to support a high quality of life and place for our community



Vision

Develop a vibrant regional economy, safe and beautiful neighborhoods and exceptional recreational, cultural and educational opportunities powered by a high performing government



Values

Integrity, Respect, Excellence, Accountability, People

Space reserved for the ASL interpreter

Do not move, modify, or add any information on this box.