

## EXHIBIT A

### FINDINGS

The Celina City Council finds that:

- (1) Human life begins at conception.
- (2) Abortion is a violent act which purposely and knowingly terminates an unborn human life which is distinctly separate from the mother and dependent upon the mother as his or her life support system.
- (3) Unborn human beings are entitled to the full and equal protection of the laws that prohibit violence against other human beings.
- (4) Many in the city of Celina believe the Supreme Court's decision in *Roe v. Wade*, 410 U.S. 113 (1973), was wrongly decided and are in agreement with statements made in Justice Clarence Thomas' dissent in *June Medical Services v. Russo*, 591 U.S. (2020) which accused the Supreme Court of creating "the right to abortion" and called the Supreme Court's ruling in *Roe v. Wade* "illegitimate," "grievously wrong," "farcical," "utterly deficient," and without "basis in the Constitution."
- (5) Many Constitutional scholars have excoriated *Roe v. Wade*, 410 U.S. 113 (1973), for its lack of reasoning and its decision to concoct a constitutional right to abortion that has no textual foundation in the Constitution or any source of law. See John Hart Ely, *The Wages of Crying Wolf: A Comment on Roe v. Wade*, 82 Yale L.J. 920, 947 (1973) ("*Roe v. Wade* . . . is *not* constitutional law and gives almost no sense of an obligation to try to be."); Richard A. Epstein, *Substantive Due Process By Any Other Name: The Abortion Cases*, 1973 Sup. Ct. Rev. 159, 182 ("It is simple fiat and power that gives [*Roe v. Wade*] its legal effect."); Mark Tushnet, *Red, White, and Blue: A Critical Analysis of Constitutional Law* 54 (1988) ("We might think of Justice Blackmun's opinion in *Roe* as an innovation akin to Joyce's or Mailer's. It is the totally unreasoned judicial opinion.").
- (6) The city council of Celina finds it necessary to supplement the Ohio Human Rights and Heartbeat Protection Act with this ordinance, which will ensure that abortion at all stages of pregnancy will be regarded as an unlawful act in Celina, and that the state's criminal prohibitions on post-heartbeat abortion are enforced to the maximum possible extent.

## B. DECLARATIONS

(1) We declare Celina, Ohio to be a Sanctuary City for the Unborn.

(2) We declare that abortion at all times and at all stages of pregnancy is an unlawful act if performed in Celina, Ohio, unless the abortion was in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(3) We declare abortion-inducing drugs to be contraband, and we declare the possession of abortion-inducing drugs within city limits to be an unlawful act.

(4) We also declare that abortion after fetal heartbeat remains a criminal act under section 2919.195 of the Ohio Revised Code, unless the abortion is needed to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function.

(5) We declare that the Ohio Human Rights and Heartbeat Protection Act remains fully enforceable against any person whose criminal prosecution will not result in an “undue burden” on women seeking abortions, such as individuals who aid or abet abortions by providing financial assistance, transportation to an abortion clinic, or other forms of logistical support, including employers and insurance companies who pay for abortions, and we urge the County Prosecutor of Mercer County—and all County Prosecutors throughout the state of Ohio—to criminally prosecute these individuals under the Ohio Human Rights and Heartbeat Protection Act and the accomplice-liability provisions in section 2923.03 of the Ohio Revised Code.

(6) We declare that any abortion provider or other individual who violates the Ohio Human Rights and Heartbeat Protection Act can be prosecuted for their crimes as soon as the injunction preventing the enforcement of that statute is vacated on appeal or in response to a Supreme Court ruling that overrules *Roe v. Wade*, 410 U.S. 113 (1973), as permitted by law.

(7) We urge County Prosecutors throughout the state of Ohio to announce that they will prosecute every person who has violated the Ohio Human Rights and Heartbeat Protection Act, and every person who has aided or abetted a violation of the Ohio Human Rights and Heartbeat Protection Act, as soon as any injunction against the enforcement of that law is vacated on appeal or in response to a Supreme Court ruling that overrules *Roe v. Wade*, 410 U.S. 113 (1973), as permitted by law.

who performs or assists a post-heartbeat abortion as criminals and felons, consistent with the law of Ohio, and to report their criminal activities to County Prosecutors and state and local authorities.

### C. AMENDMENTS TO CITY CODE

The Celina Code of Ordinances is amended by adding section 537.19 to read as follows:

#### Sec. 537.19. Abortion.

(A) It shall be unlawful for any person to procure or perform an abortion of any type and at any stage of pregnancy in the city of Celina, Ohio.

(B) It shall be unlawful for any person to knowingly aid or abet an abortion that occurs in the city of Celina, Ohio. This section does not prohibit referring a patient to have an abortion which takes place outside the city limits of Celina, Ohio. The prohibition in this section includes, but is not limited to, the following acts within the city limits of the city of Celina Ohio:

(1) Knowingly providing transportation to or from an abortion provider which is located within the city of Celina, Ohio;

(2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion taking place within the city of Celina, Ohio;

(3) Providing money with the knowledge that it will be used to pay for an abortion or the costs associated with procuring an abortion within the city of Celina, Ohio;

(4) Providing "abortion doula" services within the city of Celina, Ohio; and

(5) Coercing or pressuring a pregnant mother to have an abortion against her will within the city of Celina, Ohio.

(C) It shall be an affirmative defense to the unlawful acts described in Subsections (A) and (B) if the abortion was in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(D) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the city of Celina, Ohio.

(E) No provision of this section may be construed to prohibit any action which occurs outside of the jurisdiction of the city of Celina, Ohio and no provision of this section may be construed to prohibit any action occurring within the city

occurs outside of the jurisdiction of the city of Celina, Ohio and no provision of this section may be construed to prohibit any action occurring within the city of Celina, Ohio that aids or abets an action which occurs outside of the city of Celina, Ohio.

(F) No provision of this section may be construed to prohibit any conduct protected by the First Amendment of the U.S. Constitution, as made applicable to state and local governments through the Supreme Court's interpretation of the Fourteenth Amendment, or by Article 1, Section 11 of the Ohio Constitution.

(G) Under no circumstance may the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(H) For purposes of this section, the following definitions shall apply:

(1) "Abortion" means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. An act is not an abortion if the act is done with the intent to:

(a) save the life or preserve the health of an unborn child;

(b) remove a dead, unborn child whose death was caused by accidental miscarriage; or

(c) remove an ectopic pregnancy.

(2) "Unborn child" means a natural person from the moment of conception who has not yet left the womb.

(3) "Abortion-inducing drugs" include mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception.

(I) Mindful of *Leavitt v. Jane L.*, 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court held that an explicit statement of legislative intent is controlling, the provisions and applications of this section shall be severable as follows:

(1) It is the intent of the city council that every provision, subsection, sentence, clause, phrase, or word in this section, and every application

of the provisions in this section, are severable from each other. If any application of any provision in this section to any person, group of persons, or circumstances is found by a court to be invalid or unconstitutional, then the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of this section shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the city council's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this section to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining applications and shall remain in force, and shall be treated as if the city council had enacted an ordinance limited to the persons, group of persons, or circumstances for which the section's application do not present an undue burden. The city council further declares that it would have enacted this section, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this section, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this section were to be declared unconstitutional or to represent an undue burden.

(2) If any court declares or finds a provision in this section facially unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or circumstances without violating the Constitution, then those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted as if the city council had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the Constitution.

(3) If any provision of this section is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the declarations of the city council's intent in Subsections (I)(1) and (I)(2).

(4) No court may decline to enforce the severability requirements in Subsections (I)(1), (I)(2), and (I)(3) on the ground that severance would "rewrite" the ordinance or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a locality or government official from enforcing a subset of an ordinance's applications is never "rewriting" an ordinance, as the ordinance

continues to say exactly what it said before. A judicial injunction or declaration of unconstitutionality is nothing more than a non-enforcement edict that can always be vacated by later courts if they have a different understanding of what the Constitution requires; it is not a formal amendment of the language in a statute or ordinance. A judicial injunction or declaration of unconstitutionality no more "rewrites" an ordinance than a decision by an executive official not to enforce a duly enacted statute or ordinance in a limited and defined set of circumstances.

(J) Whoever violates this section is guilty of a misdemeanor in the first degree.

#### **D. EMERGENCY MEASURE**

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, morals and welfare of the City of Celina, Ohio; and for the further reason that the immediate passage of this ordinance is necessary to preserve the lives of unborn children in Celina, Ohio then this ordinance shall take effect at the earliest date allowed by law.

PASSED, ADOPTED, SIGNED and APPROVED,

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Mayor of the City of Celina, Ohio

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Clerk of Council of the City of Celina, Ohio