

Policy Questions

Why is your resolution called the GRACE Act?

The GRACE Act stands for Guarding the Right to Abortion Care for Everyone. Austin wants to be a source of safety and grace for the people suffering under the Texas trigger ban and other laws criminalizing reproductive health choices.

What is the GRACE Act?

The GRACE Act is a policy recommendation in 2 parts:

1. City funds shouldn't be used to solicit, catalog, report, or investigate reports of abortion.
2. Police should make investigating abortion their lowest priority.

Why just a policy recommendation?

Under Texas law and the Austin City Charter, the City Council cannot dictate to city employees how to handle a criminal case. We can declare the policy preferences of the Council and *recommend* that staff not use city funding, and we can *recommend* that they place it very low on their list of priorities. City executives, under the direct authority of the City Manager, decide whether and how to implement Council policy.

How does it help if it's just a policy recommendation?

City executives, under the direction of City Manager Spencer Cronk, will implement the GRACE Act's recommendations once it passes.

Who supports the GRACE Act?

Mayor Steve Adler and Council Members Vanessa Fuentes, Paige Ellis, and Kathie Tovo are our co-sponsors. Texas open meeting laws prevent us from talking to more than 4 fellow voting members about any resolution, but I can confirm everyone we have spoken with is in support. The population of Austin has demonstrated repeatedly that we are a city that supports reproductive health choices.

Will the GRACE Act pass?

I am confident that the City Council wants to protect abortion in Austin. CM Vanessa Fuentes's resolution banning reproductive discrimination passed 10-1 with no discussion. There is significant support for actions like the GRACE Act on the Council and among our constituents.

Legal Questions

How does the GRACE Act supersede state law?

The GRACE Act does not supersede state law. It is a statement of policy that provides guidelines for the city on how to prioritize enforcement of the abortion ban among hundreds of more important crimes, and it determines the amount of funds which can be dedicated to the project. It does not conflict with the state's designation of abortion as a crime, and it does not prohibit or limit the investigation of any crime.

Does the GRACE Act stop the State of Texas from investigating alleged abortions?

No. But state police and prosecutors often rely on municipal police to perform the actual investigations. We are establishing a policy of deprioritizing these cases, therefore Austin's police should not be conducting investigations. Additionally, we are saying the city will not collect or save any information pertaining to alleged abortion crimes. This limits the tools available to the state for a criminal prosecution.

Won't Texas just overturn the GRACE Act?

We are confident the GRACE Act is legal under current law and the Texas Constitution. That means the state legislature must pass a law specifically tailored to our protections. They may also attempt to circumvent the Act by taking abortion enforcement jurisdiction from local DAs and giving it to the Attorney General. That's why we need national attention on Texas once Roe is overturned - we need political pressure to keep people safe and informed.

Will the GRACE Act protect both providers and seekers of abortions?

The GRACE Act is designed to protect everyone involved in an abortion, but the abortion will still be an illegal act under state law. There will still be significant legal risk involved in any abortion procedure in Texas – we can only try to mitigate legal risk, not eliminate it completely. The GRACE Act targets the harshest and most draconian impacts of criminalization.

Are there any exceptions to the GRACE Act?

Yes. Abortions that are coerced, forced, or criminally negligent to the health of the mother can be criminally investigated, as well as abortions which may be evidence of other crimes such as sexual assault. There are also exceptions for data collection and reporting required by state or federal law.

Does the GRACE Act protect residents from SB 8, the “Heartbeat Bill”?

No. SB 8 allows for private citizens to sue people who perform abortions after 6 weeks of gestation, and Texas cities don't have the power to decide who gets to file what lawsuits. The GRACE Act addresses the Texas trigger ban, the “Human Life Protection Act,” which establishes extreme criminal penalties for all abortion, as well as any other similar criminal laws, such as SB 4 restricting medication abortions.

The Texas trigger ban has an exception that protects the person receiving an abortion from prosecution. Why does the city need a policy to protect women from prosecution if state law already does so?

We agree that, under the current laws on the books, those receiving abortions cannot be prosecuted. However, nobody involved with a consensual abortion should be subject to prosecution, including those who perform them or assist in some other way. Our law protects everyone involved with an abortion, as long as that abortion is not criminal in other ways.

Additionally, elected officials with extreme anti-choice beliefs will try to stretch the law for their own agendas. The language of the exception is ambiguous – women receiving abortions are protected, but that exception is in the passive voice. The trigger ban is silent on whether a woman who self-manages her own abortion is “performing” an abortion and therefore at risk of prosecution. Additionally, Texas never repealed its pre-Roe statutes which criminalize both the performer and receiver of an abortion. Ultimately, reproductive choice shouldn't be left up to the interpretation of district attorneys and the Attorney General. We refuse to take chances with the safety of Austin residents.