



Written by [Peter Rykowski](#) on April 16, 2021

## Arizona Bill Would End Abortion Through Nullification

Members of the Arizona State Legislature are seeking to pass legislation that would use the constitutional principle of nullification to end abortion in their state.

House Bill 2877 ([H.B. 2877](#)), aptly titled the “*Roe v. Wade Is Unconstitutional Act*,” is sponsored by Representative Walter Blackman (R-Payson). If passed, the bill would prohibit all state or local officials from taking any action to enforce federal court rulings mandating legalized abortion, including *Roe v. Wade* (1973), *Planned Parenthood v. Casey* (1992), *June Medical Services LLC. v. Russo* (2020), and “any [other] court order that conflicts with” the bill.



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H.B. 2877 would also require officials to enforce state and local prohibitions on abortion “without regard to” federal court rulings to the contrary. Furthermore, H.B. 2877 would punish state employees and public officials acting to enforce abortion mandates by terminating their positions. Violations of the bill would also become a Class 1 misdemeanor.

In addition to including protections for individuals who refuse to enforce *Roe v. Wade* and related rulings, the bill states that federal officials who arrest state officials are themselves subject to arrest. In essence, H.B. 2877 nullifies the entire federal abortion regime and allows Arizona to “[protect] the lives of people who have not yet been born” under the Constitution as properly interpreted.

### Legal Basis and Importance

H.B. 2877 explains its legal basis in the bill’s “Legislative Findings” section. It notes that [Article VI](#) of the U.S. Constitution states that “this Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land.” As the bill notes, the Constitution does not contain any right to abort preborn children. As such, court rulings such as *Roe v. Wade* are not “in Pursuance” of the Constitution and, thus, are unconstitutional. Even liberal legal scholars, including Ruth Bader Ginsberg, John Hart Ely, and Lawrence Tribe, [have admitted](#) as much.

If federalized abortion is unconstitutional, this means the [10th Amendment](#) applies. The amendment states that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Abortion is an issue properly left to the states. Furthermore, H.B. 2877 notes that Arizona legislators “have solemnly sworn to support” the U.S. and Arizona Constitutions. As such, they have a duty to enforce the Constitution “against all enemies, foreign and domestic.” This includes nullifying the lawless abortion regime imposed upon the states by activist judges.

It is imperative that officials at all levels of government enforce the Constitution and only those laws “made in Pursuance thereof.” With courageous leaders and an educated citizenry, this is both possible



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and realistic. In fact, some states [are already doing it](#). An excellent place to start is for Arizona legislators to pass H.B. 2877 and for other states to follow suit.

*To urge your state legislators to enforce the Constitution by nullifying unconstitutional federal laws and edicts, visit The John Birch Society's legislative alert [here](#). Additionally, you can find legislative alerts supporting specific nullification bills in state legislatures [here](#).*



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