

**FILED**

JAN 27 2016

OKLAHOMA SECRETARY  
OF STATE

**BALLOT TITLE**

This measure adds a new section to Article 2 of the Oklahoma Constitution. The measure prohibits abortion. The measure would not prohibit contraception that merely prevents fertilization, but does not cause the death of an unborn human being. The measure would prohibit contraception that causes the death of an unborn human being. The measure would also prohibit the deliberate destruction of unborn human beings created in a laboratory. The measure would not prohibit practices such as in vitro fertilization, but any unborn human beings created as a result of such procedures could not be deliberately destroyed.

Shall the proposal be approved?

For the proposal – YES

Against the proposal – NO

A “YES” vote is a vote in favor of this measure. A “NO” vote is against this measure.

**FILED**

JAN 27 2016

State Question No. 782 Initiative Petition No. 406 OKLAHOMA SECRETARY  
OF STATE

**WARNING**

**IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITION WHEN HE IS NOT A LEGAL VOTER.**

**INITIATIVE PETITION**

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma respectfully order that the following proposed amendment to the constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the 8<sup>th</sup> day of November, 2016, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following proposed amendment to the Constitution be approved?

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT THE FOLLOWING SECTION BE ADDED TO ARTICLE 2 OF THE OKLAHOMA CONSTITUTION:**

A. As used in this section:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill an unborn human being;
2. "Unborn human being" means the offspring of human beings from the moment of conception until either live birth or death, including the human conceptus, zygote, morula, blastocyst, embryo and fetus, whether conceived and/or located inside or outside the body of a human female;
3. "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual.

B. It shall be unlawful for any person to perform, procure, or attempt to perform an abortion.

C. Any person who performs or procures an abortion shall be guilty of homicide.

**Name and Address of Proponent(s):**

Thomas R. Hunter  
P.O. Box 68  
Noble, OK, 73068

**SIGNATURES**

This measure adds a new section to Article 2 of the Oklahoma Constitution. The measure abolishes the practice of human abortion. The measure would not prohibit contraception that merely prevents fertilization, but does not cause the death of an unborn human being. The measure would prohibit contraception that causes the death of an unborn human being. The measure would also prohibit the deliberate destruction of unborn human beings created in a laboratory. The measure would not prohibit practices such as in vitro fertilization, but any unborn human beings created as a result of such procedures could not be deliberately destroyed.

- 1. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY
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- 20. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY

**AFFIDAVIT**

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

I, \_\_\_\_\_, being first duly sworn, say: That I am at least eighteen (18) years old and that all signatures on the signature sheet were signed in my presence; I believe that each has stated his or her name, mailing address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and the County of his residence as stated.

\_\_\_\_\_  
Circulator's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2016.

\_\_\_\_\_  
Notary Public

(Affix Seal Here)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

My Commission Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Chris Bengé  
Secretary of State



Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

January 27, 2016

**FILED**

JAN 27 2016

OKLAHOMA SECRETARY  
OF STATE

Thomas R. Hunter  
P.O. Box 68  
Noble, Oklahoma 73068

This acknowledges receipt of the petition submitted to our office, which has been designated as **State Question Number 782, Initiative Petition Number 406**, and filed accordingly this January 27, 2016.

Per Title 34 O.S. Section 8, subsequent to the publication of the notice of filing of said petition, the apparent sufficiency or insufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or [executivelegislative@sos.ok.gov](mailto:executivelegislative@sos.ok.gov)).

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs

Chris Bengé  
Secretary of State  
and  
Native American Affairs



Mary Fallin  
Governor

January 27, 2016

RECEIVED

JAN 28 2016

OFFICE OF THE  
GOVERNOR

The Honorable Mary Fallin  
Governor, State of Oklahoma  
Room 212, State Capitol  
Oklahoma City, Oklahoma 73105

Dear Governor Fallin:

Please be advised that an initiative petition, designated as **State Question 782, Initiative Petition 406**, was sufficiently filed with the Office of the Secretary of State on Wednesday, January 27, 2016. Proponent of record for said petition is as follows;

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Please find enclosed a true and exact copy of State Question 782, Initiative Petition 406 on record with the Office of the Secretary of State.

Per Title 34 O.S. Section 8, subsequent to the publication of notice of filing of said petition, the apparent sufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,



Chris Bengé  
Secretary of State and  
Native American Affairs

Chris Bengé  
Secretary of State  
and  
Native American Affairs

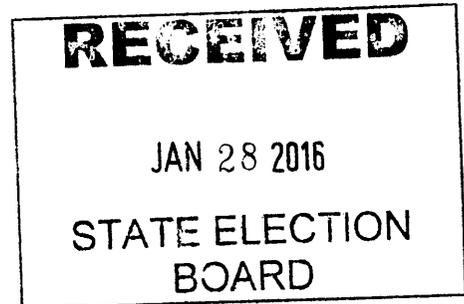


SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

Mary Fallin  
Governor

January 27, 2016

Secretary Paul Ziriaux  
Oklahoma State Election Board  
Room 3, State Capitol  
Oklahoma City, Oklahoma 73105



Dear Secretary Ziriaux:

Please be advised that an initiative petition, designated as **State Question 782, Initiative Petition 406**, was sufficiently filed with the Office of the Secretary of State on Wednesday, January 27, 2016. Proponent of record for said petition is as follows;

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Please find enclosed a true and exact copy of State Question 782, Initiative Petition 406 on record with the Office of the Secretary of State.

Per Title 34 O.S. Section 8, subsequent to the publication of notice of filing of said petition, the apparent sufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Chris Bengé  
Secretary of State and  
Native American Affairs



Chris Benge  
Secretary of State  
and  
Native American Affairs

Mary Fallin  
Governor

SECRETARY OF STATE  
AND  
NATIVE AMERICAN AFFAIRS

**FILED**

JAN 28 2016

OKLAHOMA SECRETARY  
OF STATE

January 27, 2016

*Hand Delivered*

Ms. Cindy Shea  
Oklahoma Press Service  
3601 N. Lincoln  
Oklahoma City, OK 73105

Dear Ms. Shea:

Please find enclosed the following for publication;

- **Notice of Filing for State Question 780, Initiative Petition 404**
- **Notice of Filing for State Question 781, Initiative Petition 405**
- **Notice of Filing for State Question 782, Initiative Petition 406**

Per Title 34 O.S. § 8, the publications must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish the enclosed notices in *The Oklahoman*, *Tulsa World*, and the *Journal Record* as soon as possible.

Also, upon the completion of publication, please provide our office with the corresponding Affidavits of Publication. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Chris Benge  
Secretary of State and  
Native American Affairs

**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406,  
THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE  
STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID  
PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS  
AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

**NOTICE** is hereby given that on January 27, 2016, State Question 782, Initiative Petition 406 was filed in the Office of the Oklahoma Secretary of State.

**NOTICE** is also hereby given that State Question 782, Initiative Petition 406 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

**NOTICE** is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponent of record for State Question 782, Initiative Petition 406:

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

**Chris Bengé**  
**Oklahoma Secretary of State and**  
**Native American Affairs**

# Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, February 04, 2016 12:09 PM

Page 1

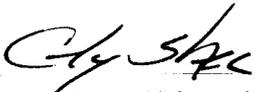
## Proof of Publication Order Number 16-01-60

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 01/31/2016

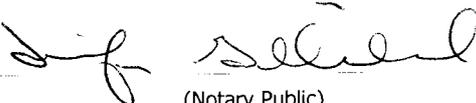
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$54.21

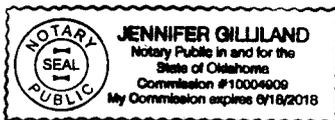


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
4 day of February 2016.



(Notary Public)



**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

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Proponents of record for State Question 782, Initiative Petition 406:

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Chris Bengel  
Oklahoma Secretary of State and Native American Affairs

# Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, February 04, 2016 12:09 PM

Page 1

## Proof of Publication Order Number 16-01-60

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 01/31/2016

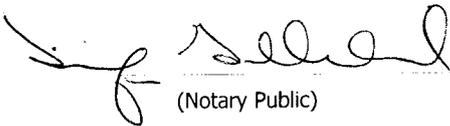
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$903.81



(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
4 day of February 2016.



(Notary Public)



**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

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Proponents of record for State Question 782, Initiative Petition 406:

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Chris Bengé  
Oklahoma Secretary of State and Native American Affairs

# Oklahoma Press Service

3601 North Lincoln Blvd.

Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, February 04, 2016 12:09 PM

Page 1

## Proof of Publication Order Number 16-01-60

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-JOURNAL RECORD, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-JOURNAL RECORD in consecutive issues on the following dates-to-wit:

Insertion: 02/01/2016

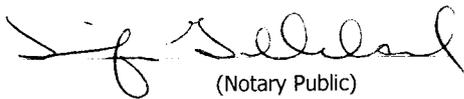
That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$36.75



(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
4 day of February 2016.



(Notary Public)



**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

NOTICE is hereby given that on January 27, 2016, State Question 782, Initiative Petition 406 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 782, Initiative Petition 406 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 782, Initiative Petition 406:

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Chris Bengel  
Oklahoma Secretary of State and Native American Affairs

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
FEB 12 2016  
MICHAEL S. RICHIE  
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )  
)  
INITIATIVE PETITION NO. 782 )  
)  
STATE QUESTION NO. 406 )

Case No. **#114704**

PROTEST TO THE INITIATIVE PETITION

To: THE SUPREME COURT OF OKLAHOMA

-and-

THOMAS R. HUNTER  
P.O. Box 68  
Noble, OK 73068

The Hon. CHRIS BENGE  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

**RECEIVED**

FEB 12 2016

OKLAHOMA SECRETARY  
OF STATE

Karo Chowning, Priya Desai, Marion Homier, and Rev. Shannon Speidel, all of whom are citizens of the State of Oklahoma, protest the legal sufficiency of Initiative Petition No. 782, State Question No. 406 ("IP 782"), and in support of this protest, further state the following:

Initiative Petition 782

1. On January 27, 2016, the proponent of IP 782 filed that petition with the Secretary of State. See Letter from Sec'y of State Chris Benge to Thomas R. Hunter (January 27, 2016), attached hereto as Exhibit A.

2. IP 782 proposes an amendment adding a new section to the Oklahoma Constitution. The proposed amendment states:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT THE FOLLOWING SECTION BE ADDED TO ARTICLE 2 OF THE OKLAHOMA CONSTITUTION:

A. As used in this section:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill an unborn human being;

2. "Unborn human being" means the offspring of human beings from the moment of conception until either live birth or death, including the human conceptus, zygote, morula, blastocyst, embryo and fetus, whether conceived and/or located inside or outside the body of a human female;

3. "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual.

B. It shall be unlawful for any person to perform, procure, or attempt to perform an abortion.

C. Any person who performs or procures an abortion shall be guilty of homicide.

*See State Question No. 782, Initiative Petition No. 406 (Filed January 27, 2016), attached hereto as Exhibit B.*

3. On January 31 and February 1, 2016, notice of the filing of IP 782 was published in three newspapers of record in Oklahoma. *See Oklahoma Press Services Proofs of Publication, attached hereto as Exhibit C.*

**IP 782 Violates the Fourteenth Amendment to the U.S. Constitution.**

4. By its plain and unambiguous language, the amendment to the Oklahoma Constitution proposed by IP 782 would criminalize abortion in all circumstances, without exception. It would subject any woman who obtains or attempts to obtain an abortion, as well as any physician who provides an abortion, to criminal prosecution for homicide. As such, the amendment proposed by IP 782 violates the rights at the heart of more than four decades of unbroken U.S. Supreme Court precedent protecting the fundamental constitutional right to abortion. *See e.g., Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 849-51 (1992); *Roe v. Wade*, 410 U.S. 113 (1973).

5. Oklahoma's process of constitutional amendment by initiative petition is subject to the limitation that any such amendments "be not repugnant to the Constitution of the United States." Okla. Const. Art. 2 §1. *See also In re Initiative Petition No. 395, State Question No. 761*, 2012 OK 42, 286 P.3d 42 (Okla. 2012).

6. This Court has explicitly and repeatedly held that an initiative whose enforcement would violate federal constitutional protections for reproductive liberty is invalid and cannot appear on the ballot. *In re Initiative Petition No. 349, State Question No. 642*, 1992 OK 122, 838 P.2d 1 (Okla. 1992); *In re Initiative Petition 395, State Question No. 761*, 2012 OK 42, at ¶1. *See also* Okla. Const. Art. 1, §1 ("The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.").

7. Today, no less than when this Court addressed similar initiative petitions in 2012 and 1992, "[t]he issue of the constitutionality of [an] initiative petition [that bans abortion] is governed by the United States Supreme Court's pronouncement in *Casey*." Thus, "[t]he only course available to this Court is to follow what the United States Supreme Court, the final arbiter of the United States Constitution has decreed." *In re Initiative Petition No. 395*, 2012 OK 42, at ¶1.

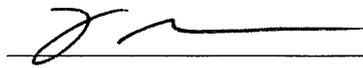
8. Because it bans abortion in direct violation the United States Constitution, as interpreted by longstanding U.S. Supreme Court precedent, and therefore offends this Court's repeated declaration that Oklahoma's initiative process of constitutional

amendment may not be invoked for that purpose, IP 782 is void on its face and must be stricken from the ballot. *See In re. Initiative Petition No. 395*, 2012 OK 42, at ¶2.

WHEREFORE, the Protestants respectfully request that this Court declare IP 782 unconstitutional, insufficient as a matter of law, and invalid for all purposes, for the reasons set forth above, and that this Court order IP 782 stricken from the ballot.

Dated: February 12, 2016.

Respectfully submitted,



Brady R. Henderson, OBA No. 21212  
Ryan D. Kiesel, OBA No. 21254  
ACLU OF OKLAHOMA FOUNDATION  
3000 Paseo Dr.  
Oklahoma City, OK 73103  
Phone: (405) 524-3831  
Fax: (405) 524-2296  
Email: bhenderson@acluok.org,  
rkiesel@acluok.org.

and

Alexa Kolbi-Molinas\*  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad St.  
New York, NY 10004  
Phone: (212) 549-2633  
Email: akolbi-molinas@aclu.org

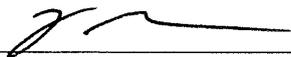
*\*Not licensed in Oklahoma; Out-of-State Attorney  
Application in Progress.*

ATTORNEYS FOR PROTESTANTS

## CERTIFICATE OF SERVICE AND MAILING

The undersigned hereby certifies that on the 12<sup>th</sup> day of February, 2016, a true and correct copy of the above and foregoing PROTEST TO THE INITIATIVE PETITION is being filed with the Secretary of State via hand delivery, at 2300 N. Lincoln Blvd., Ste. 101, Oklahoma City, Oklahoma, 73105.

In addition, the undersigned further certifies that on the 12<sup>th</sup> day of February, 2016, a true and correct copy of the above and foregoing PROTEST TO THE INITIATIVE PETITION is being served on Thomas R. Hunter, Proponent of the Initiative Petition under protest, at P.O. Box 68, Noble, Oklahoma, 73069, via certified United States Mail, postage prepaid.



---

Brady R. Henderson



Chris Bengé  
Secretary of State

Mary Fallin  
Governor

## OKLAHOMA SECRETARY OF STATE

**FILED**

JAN 27 2016

OKLAHOMA SECRETARY  
OF STATE

January 27, 2016

Thomas R. Hunter  
P.O. Box 68  
Noble, Oklahoma 73068

This acknowledges receipt of the petition submitted to our office, which has been designated as **State Question Number 782, Initiative Petition Number 406**, and filed accordingly this January 27, 2016.

Per Title 34 O.S. Section 8, subsequent to the publication of the notice of filing of said petition, the apparent sufficiency or insufficiency thereof and notice that any citizen(s) of the state may file a protest as to the constitutionality of the petition, the Secretary of State will provide a notification to the proponent(s) setting the date to begin circulation for signatures. The date set shall not be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or the period for filing such has expired.

If we may provide any further assistance or should you have any questions, please do not hesitate to contact our office (405-522-4565 or [executivelegislative@sos.ok.gov](mailto:executivelegislative@sos.ok.gov)).

Sincerely,

A handwritten signature in cursive script that reads "Chris Bengé".

Chris Bengé  
Secretary of State and  
Native American Affairs

**Exhibit A**

**FILED**

JAN 27 2016

State Question No. 782 Initiative Petition No. 406 OKLAHOMA SECRETARY  
OF STATE

**WARNING**

**IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITION WHEN HE IS NOT A LEGAL VOTER.**

**INITIATIVE PETITION**

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma respectfully order that the following proposed amendment to the constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the 8<sup>th</sup> day of November, 2016, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following proposed amendment to the Constitution be approved?

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT THE FOLLOWING SECTION BE ADDED TO ARTICLE 2 OF THE OKLAHOMA CONSTITUTION:**

A. As used in this section:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill an unborn human being;
2. "Unborn human being" means the offspring of human beings from the moment of conception until either live birth or death, including the human conceptus, zygote, morula, blastocyst, embryo and fetus, whether conceived and/or located inside or outside the body of a human female;
3. "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual.

B. It shall be unlawful for any person to perform, procure, or attempt to perform an abortion.

C. Any person who performs or procures an abortion shall be guilty of homicide.

**Name and Address of Proponent(s):**

Thomas R. Hunter  
P.O. Box 68  
Noble, OK, 73068

**Exhibit B**

**SIGNATURES**

This measure adds a new section to Article 2 of the Oklahoma Constitution. The measure abolishes the practice of human abortion. The measure would not prohibit contraception that merely prevents fertilization, but does not cause the death of an unborn human being. The measure would prohibit contraception that causes the death of an unborn human being. The measure would also prohibit the deliberate destruction of unborn human beings created in a laboratory. The measure would not prohibit practices such as in vitro fertilization, but any unborn human beings created as a result of such procedures could not be deliberately destroyed.

1. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY
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16. \_\_\_\_\_  
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17. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY
18. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY
19. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY
20. \_\_\_\_\_  
SIGNATURE OF LEGAL VOTER      PRINT NAME      ADDRESS      CITY      ZIP      COUNTY

**AFFIDAVIT**

STATE OF OKLAHOMA )  
 )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn, say: That I am at least eighteen (18) years old and that all signatures on the signature sheet were signed in my presence; I believe that each has stated his or her name, mailing address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and the County of his residence as stated.

\_\_\_\_\_  
Circulator's Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2016.

\_\_\_\_\_  
Notary Public

(Affix Seal Here)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

My Commission Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**FILED**

JAN 27 2016

OKLAHOMA SECRETARY  
OF STATE

**BALLOT TITLE**

This measure adds a new section to Article 2 of the Oklahoma Constitution. The measure prohibits abortion. The measure would not prohibit contraception that merely prevents fertilization, but does not cause the death of an unborn human being. The measure would prohibit contraception that causes the death of an unborn human being. The measure would also prohibit the deliberate destruction of unborn human beings created in a laboratory. The measure would not prohibit practices such as in vitro fertilization, but any unborn human beings created as a result of such procedures could not be deliberately destroyed.

Shall the proposal be approved?

For the proposal – YES

Against the proposal – NO

A “YES” vote is a vote in favor of this measure. A “NO” vote is against this measure.

# Oklahoma Press Service

3601 North Lincoln Blvd.  
Oklahoma City, OK 73105-  
Voice (405) 499-0020 Fax (405) 499-0048

Thursday, February 04, 2016 12:09 PM

Page 1

## Proof of Publication Order Number 16-01-60

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 01/31/2016

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$54.21



(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
4 day of February 2016.



(Notary Public)



**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

NOTICE is hereby given that on January 27, 2016, State Question 782, Initiative Petition 406 was filed in the Office of the Oklahoma Secretary of State.

NOTICE is also hereby given that State Question 782, Initiative Petition 406 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

NOTICE is likewise, hereby given, as provided in Title 34 Section 8 of the Oklahoma Statutes, that any citizen or citizens of the state may file a protest as to the constitutionality of said petition, by a written notice to the Supreme Court and to the proponents or proponents filing the petition. Any such protest must be filed within ten (10) business days after publication of this notice. Also, a copy of any such protest shall be filed with the Office of the Oklahoma Secretary of State.

Proponents of record for State Question 782, Initiative Petition 406:  
Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Chris Bengé  
Oklahoma Secretary of State and Native American Affairs

Exhibit C

# Oklahoma Press Service

3601 North Lincoln Blvd.  
Oklahoma City, OK 73105-  
Voice (405) 499-0020 Fax (405) 499-0048

Thursday, February 04, 2016 12:09 PM

Page 1

## Proof of Publication Order Number 16-01-60

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 01/31/2016

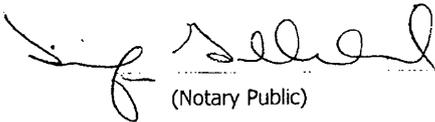
That said newspaper has been published continuously and uninterrupted in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$903.81

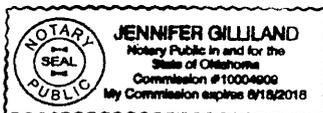


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
4 day of February 2016.



(Notary Public)



**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

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Proponents of record for State Question 782, Initiative Petition 406:

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Chris Bengt  
Oklahoma Secretary of State and Native American Affairs

# Oklahoma Press Service

3601 North Lincoln Blvd.  
Oklahoma City, OK 73105-

Voice (405) 499-0020 Fax (405) 499-0048

Thursday, February 04, 2016 12:09 PM

Page 1

## Proof of Publication Order Number 16-01-60

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OK-JOURNAL RECORD, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is here unto attached, was published in said OK-JOURNAL RECORD in consecutive issues on the following dates-to-wit:

Insertion: 02/01/2016

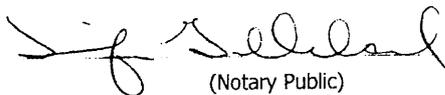
That said newspaper has been published continuously and uninterrupted in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE \$36.75

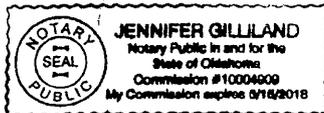


(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this  
4 day of February 2016.



(Notary Public)



**NOTICE OF THE FILING OF STATE QUESTION 782, INITIATIVE PETITION 406, THE APPARENT SUFFICIENCY THEREOF, AND NOTICE TO CITIZENS OF THE STATE THAT ANY SUCH PROTEST, AS TO THE CONSTITUTIONALITY OF SAID PETITION, MUST BE FILED ACCORDINGLY WITHIN TEN (10) BUSINESS DAYS AFTER THIS NOTICE (Okla. Stat. tit. 34, § 8)**

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NOTICE is also hereby given that State Question 782, Initiative Petition 406 is SUFFICIENT for filing with the Office of the Oklahoma Secretary of State.

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Proponents of record for State Question 782, Initiative Petition 406:

Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

Chris Bengé  
Oklahoma Secretary of State and Native American Affairs



FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
FEB 12 2016

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MICHAEL S. RICHIE  
CLERK

#114704

In re: )  
          ) )  
INITIATIVE PETITION NO. 782 )  
          ) )  
STATE QUESTION NO. 406 )

Case No. \_\_\_\_\_

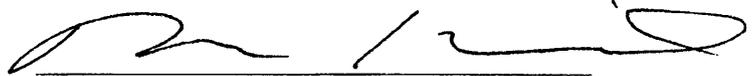
RECEIVED

FEB 12 2016

OKLAHOMA SECRETARY  
OF STATE

ENTRY OF APPEARANCE

The undersigned attorney, Ryan Kiesel, of the American Civil Liberties of Oklahoma Foundation, hereby appears as counsel for all Protestants herein.



\_\_\_\_\_  
Ryan Kiesel, OBA# 21254

\_\_\_\_\_  
ACLU of Oklahoma Foundation

Firm

3000 Paseo Drive  
Oklahoma City, OK 73103

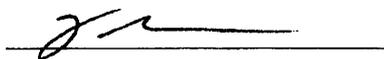
\_\_\_\_\_  
Address

\_\_\_\_\_  
(405) 525-3831, (405) 524-2296 (fax)

\_\_\_\_\_  
Telephone

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 12<sup>th</sup> day of February, 2016, a true and correct copy of the above Entry is being filed with the Secretary of State via hand delivery, at 2300 N. Lincoln Blvd., Ste. 101, Oklahoma City, Oklahoma, 73105, and is being served on Thomas R. Hunter, at P.O. Box 68, Noble, Oklahoma, 73069, via certified United States Mail, postage prepaid.



\_\_\_\_\_  
Brady Henderson

P. O. Box 890343  
Oklahoma City, Oklahoma 73108  
February 12, 2016

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
FEB 12 2016

To: Oklahoma Supreme Court  
  
Oklahoma Secretary of State  
  
Thomas R. Hunter  
P.O. Box 68  
Noble, OK 73068

MICHAEL S. RICHIE  
CLERK

RECEIVED

FEB 12 2016

#114704

OKLAHOMA SECRETARY  
OF STATE

Re: Citizen protest to Oklahoma State Question 782, Initiative Petition 406 regarding  
constitutionality of petition.

Greetings,

Please accept this protest, in accordance with 34 O.S. § 8, as to the constitutionality of Initiative  
Petition 406, State Question 782, published first on January 31, 2016.

The United States Constitution, as interpreted by the United States Supreme Court in *Roe v. Wade* (1973), prohibits states from regulating any aspect of abortion in the first trimester of pregnancy, allows state regulation only as reasonably related to maternal health in the second and third trimesters, and allows states to enact abortion laws protecting the life of the fetus only in the third trimester.

The protested initiative petition makes it unlawful for any person to perform, procure, or attempt to perform an abortion, from conception through either live birth or death, and makes the act a criminal act for both those performing and procuring the procedure, thus regulating abortion outside the conditions authorized by the United States Constitution in *Roe v. Wade* (1973).

The Supremacy Clause of the United States (Article VI, Clause 2) establishes that the U.S. Constitution, and federal laws made pursuant to it, and treaties made under its authority, constitute the supreme law of the land. It provides that state courts are bound by the supreme law. In the case of conflict between federal and state law, the federal law must be applied.

Thus, the protested initiative petition violates the United States Constitution and I request the initiative petition process be terminated prior to more state tax funds being paid.

To date, the state has spent \$994.77 simply to publish the required notice of the petition. This does not include the value of employee time spent in dealing with the unconstitutional petition, only amounts paid for publication in three newspapers. To allow this proposed unconstitutional petition to move further in the initiative petition process would be to require the state to make more expenditures when Oklahoma already has a large current year revenue shortfall, and a huge budget gap for FY-2017. Costs incurred, even if the petition does not meet

Oklahoma Supreme Court  
Oklahoma Secretary of State  
Thomas R. Hunter

February 12, 2016

Page 2

Re: Citizen protest to Oklahoma State Question 782, Initiative Petition 406 regarding constitutionality of petition.

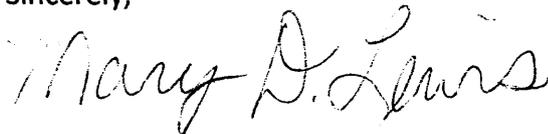
its minimum required signatures, but is filed for counting, include either hiring temporary staff at the Secretary of State's Office to count signatures, or devoting time of current staff to do so, when their time is needed for other duties.

Other costs incurred if sufficient signatures are obtained would include review of the ballot title by the Attorney General's office to determine if it is written at the appropriate reading level, Supreme Court review of objections to the validity or number of signatures or a challenge to the ballot title after signatures are counted, publication of the ballot title by the Secretary of State, and the costs of the election itself. If taken to a vote of the people and passed by the people, the Oklahoma Constitutional Amendment proposed by this petition is bound to be challenged in the United States Supreme Court, with the attendant costs of staff and travel of the Oklahoma Attorney General personally, as well as staff of the office, to defend the amendment.

None of these costs are necessary to make the political statement made by the petition, and are especially egregious when the state is so short on funds to continue essential functions such as taking care of children, schools and roads.

I believe in the Oklahoma initiative petition process for issues which have been left to the discretion of the states, but do not believe it should be used to further a political agenda when that agenda is clearly unconstitutional under the United States Constitution, and will simply result in the waste of significant state resources in a futile attempt to contest the federal law at a time when those resources are severely limited. I strongly object to my state tax dollars being used for this frivolous purpose.

Sincerely,

A handwritten signature in black ink that reads "Mary D. Lewis". The signature is written in a cursive, flowing style.

Mary D. Lewis



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

IN RE: )  
INITIATIVE PETITION NO. 782, )  
STATE QUESTION NO. 406. )

No. 114,704

FILED  
SUPREME COURT  
STATE OF OKLAHOMA  
FEB 22 2016  
MICHAEL S. RICHIE  
CLERK

ORDER

Pursuant to 34 O.S.2015 Supp. § 8(C), this matter is scheduled for oral presentation before a Referee of this Court on March 2, 2016, at 1:00 p.m.

DONE BY ORDER OF THE SUPREME COURT THIS 22d DAY OF FEBRUARY, 2016.

  
VICE CHIEF JUSTICE

RECEIVED  
FEB 26 2016  
OKLAHOMA SECRETARY  
OF STATE



IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

**FILED**  
**SUPREME COURT**  
**STATE OF OKLAHOMA**

FEB 23 2016

**MICHAEL S. RICHIE**  
**CLERK**

\_\_\_\_\_  
IN RE: )  
)  
INITIATIVE PETITION NO. 406, )  
) No. 114,704  
)  
STATE QUESTION NO. 782. )

CORRECTED ORDER

Pursuant to 34 O.S.2015 Supp. § 8(C), this matter is scheduled for oral presentation before a Referee of this Court on March 2, 2016, at 1:00 p.m.

Responsive paperwork should be filed no later than March 1, 2016.

DONE BY ORDER OF THE SUPREME COURT THIS 23<sup>rd</sup> DAY OF  
FEBRUARY, 2016.

  
\_\_\_\_\_  
VICE CHIEF JUSTICE

**RECEIVED**

FEB 26 2016

OKLAHOMA SECRETARY  
OF STATE

*am*

2016 OK 34  
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA



In re Initiative Petition No. 406, State ) No. 114,704  
Question 782. ) For Official Publication

STATE OF OKLAHOMA  
OFFICE OF THE CLERK

MEMORANDUM OPINION

MAR 22 2016

MICHAEL S. SUDDIE  
CLERK OF THE COURT  
THE APPELLATE BUILDING

PER CURIAM

¶ 1 Protestants challenge the legal sufficiency of Initiative Petition 406 which proposes to amend the Oklahoma Constitution by adding the following section to

Article II:

A. As used in this section:

1. "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally kill an unborn human being;

2. "Unborn human being" means the offspring of human beings from the moment of conception until either live birth or death, including the human conceptus, zygote, morula, blastocyst, embryo and fetus, whether conceived and/or located inside or outside the body of a human female;

3. "Conception" means the fertilization of the ovum of a female individual by the sperm of a male individual.

B. It shall be unlawful for any person to perform, procure, or attempt to perform an abortion.

C. Any person who performs or procures an abortion shall be guilty of homicide.

Rec'd (date)	3-22-16
Posted	RE
Mailed	RE
Distrib	RE
Publish	X yes no

Upon review of the Protest and the Response to the proposed amendment, this Court determines this matter is controlled by the United States Supreme Court in Planned Parenthood v. Casey, 505 U.S. 833 (1992).

¶ 2 Because the United States Supreme Court has previously determined the dispositive issue presented in this matter, this Court is not free to impose its own view of the law. The Supremacy Clause of the United States Constitution provides:

This Constitution and the Laws of the United States shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Const. Art. VI, cl. 2. The Oklahoma Constitution reaffirms the effect of the Supremacy Clause by providing: "The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land." Okla. Const. Art. 1, § 1. Thus, this Court is duty bound by the United States and the Oklahoma Constitutions to "follow the mandate of the United States Supreme Court on matters of federal constitutional law." In re Initiative Petition No. 349, State Question 642, 1992 OK 122, ¶ 1.

¶ 3 The proposed amendment to the Oklahoma Constitution is facially unconstitutional pursuant to Casey. The mandate of Casey remains binding on this Court until and unless the United States Supreme Court holds to the contrary. The Initiative is hereby stricken.

ALL JUSTICES CONCUR.