

## Summary of the “Whereas” Clauses

<p>Paragraphs 1 to 11</p>	<ol style="list-style-type: none"> <li>1. Summarizes the two types of testimony heard: The “Court-Prediction School of Law” camp, who argue it is best to know you have five votes to overturn <i>Roe</i> before directly challenging the constitutional rationale for <i>Roe</i> and those in the “Rule of Law” camp, who argue that it is now time to make a direct challenge to <i>Roe’s</i> rationale.</li> <li>2. Notes that the Predictive School of Law camp predicted they had 7 votes to overturn <i>Roe</i> in <i>Planned Parenthood v. Casey</i> (1992) and only got 4 votes.</li> <li>3. Rejects the Court-Prediction School of Law approach for the Rule of Law approach.</li> </ol>
<p>Paragraphs 12 to 28</p>	<ol style="list-style-type: none"> <li>1. Lays out the basis for the legal argument that is made under the Ninth Amendment.</li> <li>2. Explains that the Ninth Amendment reflects the constitutional idea that rights do not come from laws enacted by civil government institutions; that civil government’s first duty is to secure the rights that human beings/persons naturally have apart from civil government.</li> <li>3. Demonstrates that the U.S. Supreme Court regularly uses the common law and William Blackstone’s <i>Commentaries</i> to interpret the U.S. Constitution.</li> </ol>
<p>Paragraphs 29 to 41</p>	<ol style="list-style-type: none"> <li>1. Explains that Blackstone and the common law divide “persons” into “natural persons,” human beings, and “artificial persons,” like corporations, trusts, etc.</li> <li>2. Explains that human “life” was an “absolute right” at common law that the common law protected, and it included “the child in the mother’s womb.”</li> </ol>
<p>Paragraphs 42 to 54</p>	<ol style="list-style-type: none"> <li>1. Explains that the states did not directly challenge <i>Roe’s</i> premise in <i>Planned Parenthood v. Casey</i> (1992)</li> <li>2. Explains that in <i>Gonzales v. Carhart</i> (2007), a case those opposed to this legislation totally ignored, the Court             <ol style="list-style-type: none"> <li>a) undermined “previability and postviability” abortion standard in <i>Casey</i>,</li> <li>b) referred to a “living fetus” as an “unborn child,” and</li> </ol> </li> <li>3. Notes that Justice Ginsburg was livid in her <i>Carhart</i> dissent about the majority’s decision, because it undermined <i>Casey</i></li> <li>3. Explains that Justice O’Connor said viability outside the womb</li> </ol>

	<p>was an arbitrary standard even prior to her opinion in <i>Casey</i></p> <p>4. Explains that “arbitrary law” is the exact opposite of the principles behind the rule of law and TN’s Constitution says “arbitrary” law should be resisted</p>
Paragraphs 55 to 60	<p>1. Explains that:</p> <ul style="list-style-type: none"> <li>a) the <i>Gonzales</i> case (above) detailed the reasons for the law that it upheld,</li> <li>b) that <i>Gonzales</i> is still good “law,” and</li> <li>c) the Court, in the post-<i>Gonzales</i> case, <i>Hellerstedt</i> (2016), relied on by opponents of the Bill, noted that the state in <i>Hellerstedt</i> has failed to give the reasons for its law and that left the Court free “to infer” what it wanted about those reasons.</li> </ul> <p>2. Note: the <i>Hellerstedt</i> “mistake” is avoided by this bill’s many “whereas” clauses and the findings in Section 2 of the bill.</p>
Paragraphs 61 to 64	<p>Explains how the 6<sup>th</sup> Circuit’s decision this year upholding KY’s ultrasound law supports a direct attack on <i>Roe</i> by:</p> <ul style="list-style-type: none"> <li>a) referring to the unborn as a “whole, separate, unique, living human being” and referring to the fetus as an “unborn human being,” and</li> <li>b) noting that the mother has an already-“existing “relationship” with the unborn child that the mother has a <i>constitutional</i> right to protect and maintain.</li> </ul>
Paragraphs 64 to 70	<p>Explains how Ambassador Alan Keyes’ testimony tied the pre-Civil War <i>Dred Scott</i> decision denying citizenship to slaves to <i>Roe/Casey</i> denying personhood to the unborn.</p>
Paragraphs 71 to 75	<p>Notes that the <i>Gonzales</i> Court noted the brutality of partial birth abortion in upholding that law and highlights Ginsburg’s dissent noting that the standard D&amp;E is even more brutal because it “rips apart” the unborn</p>
Paragraphs 76 to 81	<p>Explains how the <i>Roe</i>’s failure to interpret the word “person” to include the unborn violates well-established principles of judicial interpretation and makes the word “person” in the 14<sup>th</sup> Amendment have two different meanings in the same sentence, a grammarian mistake of the first order.</p>
Paragraphs 82 to 88	<p>1. Explains that:</p> <ul style="list-style-type: none"> <li>a) un-rebutted testimony showed that life begins at conception</li> <li>b) the unborn child has rights in every other area of law except for abortion law</li> </ul> <p>2. Explains that this “double standard” and arbitrary basis for</p>

	<p>interpreting “person” violates the principles of permanency, uniformity, and universality that constitute the bedrock meaning of the rule of law</p> <p>3. Reminds the Court that it is to uphold the rule of law</p>
Paragraphs 89 to 96	<p>Explains how the canon of judicial construction urged by pro-life lawyers opposed to the bill is in conflict with and does not apply to the Ninth Amendment grounding given for the legislation</p>
Paragraphs 97 to 112	<ol style="list-style-type: none"> <li>1. Explains how Supreme Court precedent regarding the intersection of “life” and “liberty” in cases involving the alleged right to assisted suicide and the right to be present at one’s criminal trial support a restriction on liberty when life is at issue or the right to be protected pertains to and affects the whole body of citizens</li> <li>2. References pro-abortion lawyer’s position that the mother gets to unilaterally decide when an unborn child has rights</li> <li>3. Notes key Supreme Court precedent from 1938 stating that, no matter how old “an unconstitutional assumption of powers by the courts of the United States” may be, it must be reversed.</li> </ol>
Paragraphs 113 to 115	<p>Notes that Tennessee is a common law state and the people spoke on the balance between liberty to abort and the life of the unborn by its adoption of the amendment regarding abortion in our state constitution in 2014, and this confirms to the legislature the assertion of “rights retained by the people” under the Ninth Amendment in regard to life.</p>
Paragraphs 116 to 121	<p>Reminds the Court that, according to its own opinions, it must consider “all” of its opinions, and thus, it can’t ignore all the opinions cited in the whereas clauses wherein the Court’s looked to common law to construe the original meaning of the words in the U.S. Constitution.</p>