

A DRAFT RESOLUTION

Presented to the Executive Director for the State Bar of Texas to Support a Constitutional Amendment Affirming Freedom of Political Expression.

WHEREAS, the Texas Constitution has established a republican form of government; and

WHEREAS, the Texas Constitution provides that all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and

WHEREAS, technological innovation and social media have blurred the lines between private and public communication, impacting the ability of citizens to exercise their freedom of speech and political expression free from fear of professional retaliation; and

WHEREAS, social media giants Facebook, YouTube, Twitter and others formerly neutral public forums have arrogated to themselves the right to define what is acceptable political speech; and

WHEREAS, following the example of social media industries and corporations have imposed de facto standards of speech on their employees and business associates, contributing to what has been described as a “cancel culture” where citizens feel constrained to curtail public expression of their political, social, or moral beliefs; and

WHEREAS, Texas is an “employment at will” state, where employees exchange their free labor for monetary and other forms of compensation and employers have neither obligations to nor control over other aspects of their employees lives; and

WHEREAS, our form of government depends on the right of citizens to express their opinions and advocate for laws and legislation free of fear from retaliation or infringement by adverse employment actions; and

WHEREAS, citizens should be free from the fear of being compelled to participate or refrain from participating in transactions or other matters related to their political convictions or beliefs regarding the moral foundation of the social or political order of the state; and

WHEREAS, the State Bar and local bar associations have a long history of promoting the right of citizens to participate fully in the political and social life of our state and defending them against the encroachments of government and privileged elites;

NOW THEREFORE, BE IT RESOLVED BY THE STATE BAR OF TEXAS:

SECTION 1: The State Bar of Texas calls for the adoption of an amendment to Article I, §2 Texas Constitution to read as follows:

Sec. 2. (a) **INHERENT POLITICAL POWER; REPUBLICAN FORM OF GOVERNMENT.** All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of

Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

(b) All free government depends on the right of citizens to express their opinions and advocate for laws and legislation. The rights of citizens to exercise these rights may not be infringed by adverse employment actions, nor may citizens be compelled to participate or be prohibited from participation in transactions or other matters related to their political convictions or beliefs regarding the moral foundation of the social or political order of the state.

(c) It shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every citizen in the exercise of their right to express their opinions and advocate for laws and legislation. Nothing in this article shall limit the right of business enterprises employing less than 20 persons, charitable institutions and political advocacy groups to limit membership and participation to like-minded citizens.

SECTION 2: The State Bar of Texas urges the 87th Session of the Texas Legislature to adopt this constitutional amendment and submit it to the voters at an election to be held November 2, 2021. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment relating to a citizen's freedom of political expression."

SECTION 3: The recitations and provisions set out in the preamble of this resolution are adopted and made a part of the body of this Resolution, as fully as if the same were set forth herein.

SECTION 4: This resolution has not been presented to or approved by any local bar association or by any section or committee of the State Bar. There are no prior submissions of any substantially similar resolution by the annual meeting resolutions committee, the general assembly, and the Board.

SECTION 5: This resolution becomes effective immediately upon adoption.

IN WITNESS WHEREOF, the undersigned member of the State Bar of Texas has caused this resolution to be submitted for consideration and adoption by the annual meeting resolutions committee, the general assembly, and the full Board of the State Bar of Texas.



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