2019 **State Legislative Sessions Report**

ANNUAL REPORT ON GOVERNMENT AFFAIRS FROM AMERICA'S LEADER IN LIFE-AFFIRMING LAW AND POLICY



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Executive Summary

In 2019, life has been front and center in the national dialogue. From New York to Alabama to the halls of Congress, lawmakers have been introducing and passing legislation on the issue, whether advancing protections for mothers and children or pursuing extreme bills that dehumanize children in the womb. While those sorts of dehumanizing bills may have received outsized media coverage, advocates for life are demonstrably winning. **So far in 2019, 58 life-affirming laws passed and were signed into law across 22 states,** representing a more than 25% increase from 2018.

The biggest victory for life in 2019 is that the national abortion rate continues its downward trend, and it is now the lowest rate since 1973, when *Roe v. Wade* legalized abortion. According to Dr. Michael New, professor of social research and political science at the Catholic University of America and associate scholar at the Charlotte Lozier Institute, there is a direct correlation between increasing the number of state pro-life laws and decreasing the number of abortions. In observing this trend across three decades, the life-saving effect of state laws, including parental involvement, informed consent, and other laws based on AUL model bills, is undeniable.



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State legislators across the country continue to press forward to ensure that mothers are well informed about the risks of abortion, that the public has valuable statistics on the realities of abortion and its complications, and that public resources are no longer flowing to the abortion industry.

Pro-life legislation was introduced in 46 states, with lawmakers nationwide actively working to protect life from conception to natural death. AUL's attorneys testified in person in 8 states and submitted written testimony in 18 states, providing critical legal expertise and assessing the constitutionality of these and other proposed bills.

In 2019, AUL honed in on defending existing protections for life by opposing and defeating anti-life measures. For example, AUL lawyers testified against 10 of the 18 suicide by physician bills introduced this year. Seven of the ten were defeated, and just two, Maine and New Jersey, passed. AUL publicly opposed all 18 bills and continues to educate legislators and the public on the harms of suicide by physician legislation. After Virginia Governor Ralph Northam chillingly stated that an infant born alive after abortion "would be resuscitated if that's what the mother and family desire," a comment that seemed to endorse infanticide, legislators went to work. The federal government and lawmakers in a dozen states introduced legislation similar to AUL's model Born Alive Infant Protection Act, and it passed in two, Arkansas and Texas. More legislators are considering introducing this bill or strengthening their existing laws to prevent infanticide in 2020.

In response to the extreme legislation passed in New York and optimistic about the addition of Justice Brett Kavanaugh to the U.S. Supreme Court, some states introduced legislation that would limit abortion to when a heartbeat is detected, by around 8 weeks. These laws are all being challenged in state and federal courts, prompting some states to look at constitutional amendments in 2020. Similarly, four states passed conditional laws that would limit abortion in the event that Roe v. Wade is overturned or federal law otherwise changes; these are Arkansas, Kentucky, Missouri, and Tennessee

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States are taking greater interest in the data underlying abortions, as well, and five states (Arkansas, Idaho, South Dakota, Tennessee, and Wyoming) passed laws that increase transparency in abortion reporting. To ensure mothers are able to make a fully informed decision, five states (Arkansas, Kentucky, Nebraska, North Dakota, and Oklahoma) passed bills that counsel women about abortion pill reversal as part of the informed consent process.

Additionally, states continue to provide protections for unborn children with Down syndrome and other genetic anomalies. Four states passed Prenatal Non-Discrimination Acts similar to AUL's model bill (Arkansas, Kentucky, Missouri, and Utah).

At the same time, pro-abortion advocates are pressuring states to reverse protections for mothers and dehumanize children in the womb. These antilife bills strip out vital protections like fetal homicide laws and informed consent and parental consent requirements. Supposed "Roe" Acts intend to codify *Roe v. Wade* into state law, enacting extreme abortion regimes that would permit abortion all the way up to birth.

AUL will continue working with legislators across the country to keep the momentum going. We hope to pass even more life-affirming laws in 2020.

Key Legislative Victories

In 2019, state legislators enacted 10 measures based in whole or in part on AUL model legislation. AUL also helped to defeat anti-life measures in Connecticut, Delaware, Maryland, and New Mexico.

- Arkansas enacted HB 1399, based in part on AUL's *Prohibition on Public Funding of Human Cloning and Destructive Embryo Research Act.*
- **Arkansas** enacted SB 2, based in part on AUL's *Prenatal Nondiscrimination Act*, prohibiting abortion for the purpose of genetic selection because the child has or may have Down syndrome.
- **Arkansas** enacted SB 503, based in part on AUL's *Suicide by Physician Ban Act*, making suicide by physician a felony.
- **Idaho** enacted SB 1049, based in part on AUL's *Partial-Birth Abortion Ban Act*, amending the definition of partial-birth abortion and the circumstances for the exception to the prohibition of partial-birth abortion.
- **Iowa** enacted HF 766, based in part on AUL's *Family Planning Consistency and Transparency Act*, requiring that participants in pre-pregnancy family planning programs comply with federal law prohibiting commingling of Title X funds/programs and abortion.
- **Kentucky** enacted HB 5, based in part on AUL's *Prenatal Nondiscrimination Act*, prohibiting abortion on the basis of the unborn child's sex, race, color, national origin, or disability.
- **Kentucky** enacted SB 50, based in part on AUL's *Abortion Inducing Drugs Information Act*, requiring a report of dispensing a prescription for chemical abortion to the Vital Statistics Branch.
- Louisiana passed HB 425, based in part on AUL's *State Constitutional Amendment*, stipulating that no provision of the state constitution protects a right to abortion or requires the funding of abortion.
- **Utah** enacted HB 166, based in part on AUL's *Prenatal Nondiscrimination Act*, prohibiting abortion for the purpose of genetic selection because the child has or may have Down syndrome.
- **Wyoming** enacted HB 103, based in part on AUL's *Abortion Reporting Act*, requiring that physicians submit abortion reporting forms and authorizing the creation of public reports on abortion statistics.

- **Alabama** enacted HB 314: the Human Life Protection Act, prohibiting abortion except in cases where it is necessary to prevent a serious health risk to the mother; making abortion and attempted abortion felony offenses against the provider (not the mother).
- **Arkansas** enacted HB 1439: the Cherish Act, prohibiting abortions after a certain gestational age, except in a medical emergency; making a violation a Class D felony or a physician subject to a license suspension or revocation; providing for civil penalties.
- **Arkansas** enacted HB 1856: prohibiting state agencies from consenting to or approving the termination of pregnancy for an individual in the custody or guardianship of the state and from expending state funds for the purpose of terminating a pregnancy.
- **Arkansas** enacted SB 3: establishing additional reporting requirements by certain physicians and healthcare facilities for abortion complications; providing civil penalties for failure to report.
- **Arkansas** enacted SB 149: the Human Life Protection Act, abolishing abortion in the state and protecting the lives of children in the womb; prohibiting the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical if such is administered before the time when a pregnancy could be determined through conventional medical testing.
- **Arkansas** enacted SB 278: amending laws concerning abortion facilities and abortion reporting; amending the born alive infant protection laws; requiring an additional acknowledgment under the Woman's Right to Know Act; clarifying and increasing penalties relating to abortion.
- **Arkansas** enacted SB 341: the Woman's Right to Know Act, requiring that women be provided with information on reversing the effects of abortion-inducing drugs prior to undergoing a chemical abortion.
- **Arkansas** enacted SB 448: requiring physicians to have certain qualifications in order to perform abortions, redefining "viability" to be based on the latest medical advancements; providing penalties for violations.
- **Georgia** enacted HB 481: updating the Women's Right to Know Act; prohibiting a physician from performing an abortion after a fetal heartbeat is detected.
- **Idaho** enacted HB 64: revising provisions related to abortion complications and creating an abortion complication reporting system.
- Indiana enacted HB 1211: prohibiting dismemberment abortion unless a physician reasonably believes the abortion is necessary to prevent serious health risks to the mother, or save the mother's life.

- **Indiana** enacted SB 201: broadening the conscientious objection and ethical exemption for healthcare providers from being required to perform an abortion or assist or participate in procedures intended to result in an abortion if the provider objects to the procedures on ethical, moral, or religious grounds; adding a prohibition on requiring certain providers to prescribe, administer, or dispense an abortion-inducing drug.
- **Kentucky** enacted HB 148: providing that if the U.S. Supreme Court reverses *Roe v*. *Wade*, or an amendment to the U.S. Constitution is adopted restoring state authority to prohibit abortion, no person shall knowingly and with specific intent administer to, prescribe for, procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being, and no person shall use or employ any instrument or procedure upon a pregnant woman.
- **Kentucky** enacted SB 9: requiring a person who intends to perform an abortion to determine whether the child has a detectable heartbeat; requiring the person determining the presence or absence of a fetal heartbeat to record the child's estimated gestational age, the method used to test for a fetal heartbeat, the date and time of the test, and the results; prohibiting the intentional performance of an abortion if there is a detectable fetal heartbeat.
- Louisiana enacted HB 484: establishing duties of physicians and medical directors, administrators, and owners of abortion facilities relative to medical records and establishing retention periods for such records; providing conditions and requirements for obtaining and maintaining an abortion facility license.
- Louisiana enacted SB 184: prohibiting the abortion of any child with a detectable heartbeat.
- **Louisiana** enacted SB 221: requiring certain written and oral information to be given to a woman seeking an abortion; providing for information necessary to assess the qualifications of the facility and the physician who will perform the abortion.
- Louisiana enacted SB 238: adding abortion facility employees to the list of mandatory reporters of human trafficking and certain sex-based crimes to law enforcement; providing for additional postings of the National Human Trafficking Resource Center hotline information.
- **Mississippi** enacted SB 2116: prohibiting the abortion of any child with a detectable heartbeat except when a medical emergency necessitates.

- **Missouri** enacted HB 126: the Right to Life of the Unborn Child Act, requiring the use of a fetal heartbeat detection test prior to an abortion; prohibiting the abortion if a fetal heartbeat is detected; providing that no person shall perform or induce an abortion on a woman if the person knows that the woman is seeking the abortion solely because of a prenatal diagnosis, test, or screening indicating Down syndrome or the potential of Down syndrome in her child.
- **Nebraska** enacted L 209: requiring that no abortion shall be performed except with the voluntary and informed consent of the woman upon whom the abortion is to be performed; requiring a physician or registered nurse to tell the woman a certain number of hours before the abortion the particular medical risks associated with the particular abortion procedure to be employed, including counseling on abortion pill reversal.
- North Dakota enacted HB 1336: revising provisions relating to informed consent requirements before an abortion, including requiring that women receive information about abortion pill reversal services.
- **North Dakota** enacted HB 1546: prohibiting human dismemberment abortion and creating a penalty for performing dismemberment abortion.
- **Ohio** enacted SB 23: the Human Rights and Heartbeat Protection Act, providing that no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the child the pregnant woman is carrying and whose fetal heartbeat has been detected; creating the Joint Legislative Committee on Adoption Promotion and Support.
- **Oklahoma** enacted SB 614: strengthening informed consent and requiring signage in clinics related to chemical abortion pill reversal; providing criminal and administrative penalties; requiring the State Department of Health to maintain a website with information about chemical abortion pill reversal.
- **Pennsylvania** enacted SB 712: addressing the disbursement and use of family planning funding within the Commonwealth, and prohibiting its use for abortion.
- **South Dakota** enacted HB 1055: requiring parental notification and agreement before the institution of an order to withhold resuscitation from minor patients.
- **South Dakota** enacted HB 1177: requiring that women be given the opportunity to view a sonogram and hear the child's heartbeat prior to an abortion.
- **South Dakota** enacted HB 1190: strengthening existing reporting requirements relating to abortion.

- **South Dakota** enacted HB 1193: creating a criminal offense and providing a criminal penalty for causing an abortion against a pregnant mother's will.
- **South Dakota** enacted SB 72: providing for the creation of an informed consent form a physician must use to obtain consent before performing an abortion.
- **South Dakota** enacted SB 85: revising the deadline for the Department of Health's annual report regarding abortions.
- **Tennessee** enacted SB 614: conducting a study of the feasibility of requiring emergency rooms to report data on incidences of persons presenting at the emergency room within 30 days of an invasive surgical procedure that was performed at a non-hospital facility, and requiring the department to submit a report of findings and its recommendations no later than January 1, 2020.
- **Tennessee** enacted SB 1257: the Human Life Protection Act, providing for the abolition of abortion in Tennessee, conditioned upon the U.S. Constitution permitting states to prohibit abortion; providing for the offense of criminal abortion; creating an exception for situations where the abortion is necessary to prevent the death of a pregnant woman or prevent serious risk of substantial and irreversible impairment of major bodily function; prohibiting prosecution of a woman upon whom an abortion is performed or attempted.
- **Texas** enacted HB 16: establishing the rights of a living child born after an abortion; providing a civil penalty and a criminal offense if that child is not given life-saving medical attention.
- **Texas** enacted SB 22: prohibiting certain government transactions, including some funding between a governmental entity and an abortion facility or affiliate of such facility.
- **Texas** enacted SB 24: revising provisions relating to required informational materials and information a woman must receive as part of the informed consent process before an abortion.
- **Utah** enacted HB 136: prohibiting an abortion from being performed after the child reaches 18 weeks' gestational age except under certain circumstances; modifying the circumstances under which an abortion may be performed after the child reaches 18 weeks' gestational age; modifying provisions that require a physician to report certain information to the Department of Health relating to an abortion.

Anti-Life Enacted Measures

- Illinois enacted SB 25: the Reproductive Health Act, creating a fundamental right to make autonomous decisions about one's own reproductive health; providing that every individual who becomes pregnant has a fundamental right either to continue the pregnancy and give birth or to have an abortion, and to make autonomous decisions about how to exercise that right; and providing that a fertilized egg, embryo, or fetus does not have independent rights under the laws of the state of Illinois.
- **Maine** enacted HB 922: expanding the scope of who can perform abortions to include physician assistants, advanced practice registered nurses, and licensed allopathic or osteopathic physicians.
- **Maine** enacted HB 948: establishing the requirements and procedure for suicide by physician.
- **Maryland** enacted HB 1272 and SB 904: providing for a state family planning program permitting referral for abortion in the event that the state declines to participate in the federal Title X family planning program.
- **Massachusetts** enacted H. 4000: funding a public information campaign through the Department of Public Health to provide information about how to obtain an abortion in the state.
- **Nevada** enacted SB 94: adding abortifacient emergency contraception to the state family planning program without providing for conscientious objection rights for program participants with a religious or moral objection to dispensing abortifacient drugs.
- **Nevada** enacted SB 179: revising provisions related to informed consent and repealing the provision of law that criminalized unauthorized abortion.
- **New Jersey** enacted AB 1504: establishing the requirements and procedure for suicide by physician.
- **New York** enacted SB 240: the Reproductive Health Act, revising provisions of the law related to abortion and establishing comprehensive reproductive healthcare as a fundamental component of every individual's health, privacy, and equality in the state of New York.
- **New York** enacted SB 659A: requiring all insurance providers to include abortifacient emergency contraception in healthcare plans.

Anti-Life Enacted Measures

- **Oregon** enacted SB 579: amending the law relating to suicide by physician to create an exception to the waiting period.
- **Rhode Island** enacted HB 5125: amending the Reproductive Privacy Act to codify *Roe v*. *Wade*; repealing fetal homicide, partial-birth abortion ban, and spousal notification laws.
- **Vermont** enacted HB 57: recognizing the freedom of choice as a fundamental right; prohibiting public entities from interfering with or restricting the right of an individual to obtain an abortion.
- **Vermont** passed PR. 5: a proposed constitutional amendment that would add the individual right to personal reproductive autonomy to the Vermont state constitution; providing that under this new constitutional right, claims would be adjudicated using the strict scrutiny standard.



Resolutions & Measures

Pro-Life Resolutions Adopted

- **Kansas** legislators passed a resolution (SCR 1606) condemning the passage of the New York Reproductive Health Act and any legislation that "would incite abuse and violence toward women and their unborn children."
- Louisiana commended its pregnancy centers, adoption agencies, social services, pro-life organizations, and pro-life citizens, recognizing April 23, 2019, as Pro-Life Day (HCR 10).
- Louisiana issued a resolution (SCR 130) urging the United States Congress to review the definition of abortion and use of the term abortion for purposes of medical records when a woman has a spontaneous miscarriage.
- The **Michigan** House declared that its legislative body policy is to protect life by preserving legal protections for children in the womb under Michigan law and to recognize that any abortion is a tragic loss of human life (HR 23).
- North Dakota passed a resolution (HCR 3029) urging Congress to pass a prohibition on abortions performed at or after 20 weeks' gestation.
- **Ohio** passed a resolution (SR 41) urging Congress to pass the federal Born-Alive Abortion Survivors Protection Act.
- **Oklahoma** passed a resolution (HR 1003) recognizing February 6, 2019, as Rose Day 2019, a "reminder to all members of the House of Representatives that the fight to save the unborn will continue until legal protection for the lives of unborn children has been restored."
- **South Dakota** passed a resolution (HR 1003) denouncing New York's passage of its expansive abortion law.
- **South Dakota** also passed a resolution (HR 1004) emphasizing the right to life and asking Congress to end federal funding of Planned Parenthood.
- **Tennessee** passed a resolution (HJR 601) honoring the pregnancy center network CareNet's 25th anniversary and commending their work.

Resolutions & Measures

Anti-Life Resolutions Adopted

- The **California** Assembly and Senate both passed resolutions commemorating the 46th Anniversary of *Roe v. Wade* and asking the President and the United States Congress to support a "fundamental right" to abortion and access to those services provided by Planned Parenthood (HR 6 and SR 7).
- **California** also passed a resolution (SJR 4) asking HHS to rescind its new Title X regulations.
- **New Jersey** passed a resolution (AR 181) urging Congress to "reject or revoke the nomination of Judge Brett Kavanaugh" or any nominee who would "limit the rights of women" to have an abortion and to "remove any existing restrictions on access to abortion."

Defeat of Anti-Life Measures

- With the help of AUL legal and policy experts, **New Mexico**'s "Reproductive Health Act" and suicide by physician bills were both defeated.
- AUL helped allies in **Connecticut**, **Delaware**, and **Maryland** to defeat bills legalizing suicide by physician.

Pro-Life Measures Vetoed

- **Kansas** Governor Laura Kelly vetoed legislation (S. 67) that would have required notice be given that the effects of the abortion pill may be reversed and providing information on how to seek medical treatment for abortion pill reversal.
- **Montana** Governor Steve Bullock vetoed legislation (H. 500) that would have prohibited abortion at/after 20 weeks' gestation on the basis of the pain that can be felt by the child.
- **Montana** Governor Bullock also vetoed legislation (S. 100) that would have allowed a woman the choice to see the ultrasound of her baby and hear his heartbeat before an abortion could be performed.
- **Montana** Governor Bullock also vetoed legislation (S. 354) that would have required a healthcare provider to provide medical care to infants born alive.

Resolutions & Measures

Pro-Life Measures Vetoed (Continued)

- **Wisconsin** Governor Tony Evers vetoed legislation (A. 179) that would have required a healthcare provider to exercise the same care to preserve the life of an infant born alive during an abortion as would be provided to any other infant.
- **Wisconsin** Governor Evers also vetoed legislation (A. 180) that would have required the type of chemical or surgical abortion procedure to be included in reports.
- **Wisconsin** Governor Evers also vetoed legislation (A. 182) that would have prohibited abortion based on the child's race, national origin, sex, or disability.
- **Wisconsin** Governor Evers also vetoed legislation (A. 183) that would have removed abortion facilities and affiliates from the joint state and federal healthcare program.



Legislative Support

AUL experts provided legislative testimony, letters, and/or other statements in regard to 41 measures:

- AUL provided written testimony in opposition to **California** S. 24, requiring California public higher education institutions to offer abortions through university health centers.
- AUL staff testified in person and provided written testimony in opposition to **Connecticut** HB 5898, a bill that would have legalized suicide by physician.
- AUL provided written testimony in opposition to **Connecticut** HB 7070, a "deceptive advertising prohibition" that would have violated the First Amendment rights of pregnancy care centers.
- AUL President Catherine Glenn Foster testified in person and provided written testimony in opposition to **Delaware** H. 140, which would have legalized suicide by physician.
- AUL President Catherine Glenn Foster testified in person and submitted written testimony in support of **Delaware** H. 53 (Women's Ultrasound Right to Know Act), H. 52 and S. 21 (pain-capable child abortion ban), and S. 19 (pregnancy ultrasound offer).
- AUL President Catherine Glenn Foster testified in person in support of **Florida** H. 1335, which would have strengthened the requirements for parental notice and consent before a minor could obtain an abortion.
- AUL provided written testimony in opposition to **Maine** H. 948, which legalized suicide by physician.
- AUL Corporate Counsel Evangeline Bartz testified in person in support of **Maryland** H. 1075 (Health Informed Consent Act) and submitted written testimony in support of Maryland H. 975 (Unborn Child Protection Act).
- AUL provided in person and written testimony in opposition to **Maryland** H. 399 and S. 311, which would have legalized suicide by physician.
- AUL testified in person and submitted written testimony in support of **Massachusetts** H. 3322 (minimizing fetal pain), H. 3428 (safeguards against coerced abortion), H. 3429 (informed consent), and H. 3434 (Prenatal Nondiscrimination Act).
- AUL testified in person in opposition to **Massachusetts** H. 3320 and S. 1209, amending existing law to remove humanizing terms like "baby" and repealing the resuscitation requirement for doctors in the case of a baby born alive after an abortion.
- AUL President Catherine Glenn Foster testified in person in opposition to **Massachusetts** H. 1926 and S. 1208, which would legalize suicide by physician.

Legislative Support

- AUL submitted written testimony in opposition to **Minnesota** H.F. 2152, which would legalize suicide by physician.
- AUL submitted written testimony in support of **Missouri** H. 850, the Pain Capable Unborn Child Protection Act.
- AUL testified in person in support of **Montana** S. 100, strengthening informed consent provisions prior to obtaining an abortion.
- AUL submitted written testimony in support of **Montana** H. 284 (prohibition of suicide by physician) and S. 354 (Born Alive Infant Protection Act).
- AUL provided written testimony in opposition to **Nevada** S. 165, which would have legalized suicide by physician.
- AUL President Catherine Glenn Foster testified in person in opposition to **New Jersey** S. 1072, legalizing suicide by physician.
- AUL submitted written testimony in opposition to **New Mexico** H. 21, which would have codified Roe and expanded abortion throughout pregnancy.
- AUL President Catherine Glenn Foster testified in person in opposition to **New Mexico** H. 90, which would have legalized suicide by physician.
- AUL submitted written testimony in opposition to **New York** SB 240, the "Reproductive Health Act," codifying Roe and expanding abortion throughout pregnancy.
- AUL submitted written testimony alongside Bobby Schindler (President, Terri Schiavo Life & Hope Network) in opposition to **Oregon** S. 579, adding exemptions to the reflection period in the existing suicide by physician law.
- AUL submitted written testimony in opposition to **Rhode Island** H. 5125, H. 5127, and S. 152, collectively "the Reproductive Health Act".
- AUL testified in person and submitted written testimony in opposition to **Rhode Island** H. 5555, which would have legalized suicide by physician.
- AUL submitted written testimony in opposition to **Vermont** H. 57 (codifying Roe) and Prop. 5 (state constitutional amendment restricting abortion regulation).
- AUL submitted written testimony in support of **Wisconsin** AB 179 (Born Alive Infant Protection Act) and AB 182 (Prenatal Nondiscrimination Act).

National Trends

Abortion

- In 2019, bills related to life were introduced in all 50 states. Legislators considered approximately 570 measures related to life, either on the topic of abortion or suicide by physician.
- While 2019 abortion-related measures were overwhelmingly life-affirming, states continue to consider measures seeking to undermine existing state laws and policies regulating or limiting abortion. At least 15 states considered measures undermining existing lifeaffirming laws or supporting the so-called "right" to abortion.
- Significant abortion-related measures in 2019 included enhanced informed consent requirements, abortion and complications reporting requirements, bornalive protections, and heartbeat bills.

Legal Recognition and Protection of Children in the Womb

• At least 11 states considered measures providing legal recognition of and protection for children in the womb, and at least 15 states considered protections for newly born children, including those born during an abortion.

Patient Protection

• Measures in 18 states sought to legalize suicide by physician. Only two states, Maine and New Jersey, passed these bills.



Life-Related Legislation

Pro-Life Bills Considered by State



Anti-Life Bills Considered by State

