



2020 State Legislative Sessions Report:

Annual Report on Government
Affairs from America's Leader in
Life-Affirming Law and Policy



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

Every election year brings unexpected challenges, but 2020 has truly been a year like no other.

While state lawmakers hit the ground running in January, pursuing dozens of life-affirming bills, efforts stalled in March when the COVID-19 global pandemic prematurely ended the legislative sessions in most states.

Americans United for Life (AUL) responded to the pandemic by putting the spotlight on the growing threat of healthcare rationing and denials of medical care, publishing [*Ethical First Principles in a National Crisis*](#), while mourning the loss of so many of our fellow Americans.

As lawmakers settled into virtual meetings, many state legislatures reopened, resulting in 13 states passing Life-affirming laws so far in 2020. Lawmakers 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.

And thankfully, the shortened legislative sessions slowed down the worrying trend of states passing extreme abortion laws, and no state passed a suicide by physician bill in 2020. The only state to pass an expansive anti-Life law was Virginia; the District of Columbia also passed a “Roe” ordinance, removing the few safeguards that did exist.

AUL attorneys testified and weighed in on legislation in a number of states, providing critical legal expertise and assessing the constitutionality of these proposed bills.

Building on the momentum from last year, two states, Idaho and Utah, passed conditional bills similar to

The biggest victory for Life 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.

AUL's model bill, which would ban abortion in the event that Roe v. Wade was overturned or lawmaking authority was otherwise handed back to the states.

Three states passed Born-Alive Infant Protection Acts similar to AUL's model bill, but just one, West Virginia's, was enacted into law. The governors of Kentucky and Wyoming vetoed the BAIPA bills that passed through their legislatures.

After a long fight in Tallahassee, Florida passed a parental consent law which was strongly backed by AUL and based in part on AUL legislation. It requires that a minor receive parental consent before obtaining an abortion, and it is widely expected to allow the Sunshine State to ratchet back the state supreme court's bad caselaw holding that a right to abortion exists in the state constitution, now that the court is more reliably pro-life.

Several states continue to put Life on the ballot. Alaska, Iowa, Kansas, and Kentucky are pursuing ballot initiatives or constitutional amendments in 2021 and 2022. This November, Louisianans will vote on the "Love Life" amendment to the state constitution. Coloradoans will vote on Prop 115, banning late-term abortions.

Some of the most extreme bills AUL opposed failed to pass without a vote, including suicide by physician bills and "Roe" bills in Maryland and Wisconsin. A "right to abortion" constitutional amendment in New Hampshire was never voted on. In New Hampshire, AUL vocally opposed a bill that would have required virtually all health insurance plans to cover elective abortion in the state; it was vetoed by Governor Sununu.

In June, the Supreme Court struck down Louisiana's admitting privileges law in a fractured decision. The opinion eliminated a critical safeguard for Louisiana women in the event that they need emergency care due to complications from abortion. Despite our disappointment at the Court's decision in June Medical Services v. Russo, there are reasons to be optimistic,

as AUL's analysis [Disappointment and Opportunity](#) explains. Chief Justice Roberts, writing in concurrence, signaled an end to the confusing and subjective benefit-burden test created in 2016 in [Whole Woman's Health v. Hellerstedt](#). It appears that the Court reverted back to the more pro-life friendly [Planned Parenthood v. Casey](#) standard.

In August, the Eighth Circuit Court of Appeals appeared to agree in [Hopkins v. Jegley](#), allowing four Arkansas laws that had previously been struck down to go into effect this fall. These included: 1) a ban on dismemberment abortion, 2) a prohibition on sex-selective abortion, 3) a humane disposal of fetal remains law, and 4) a bill requiring the preservation of forensic evidence in cases of suspected abuse of a minor. Several are based in whole are part on AUL model bills.

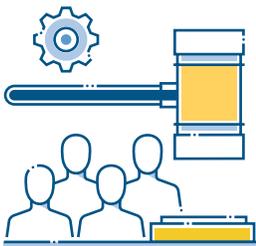
After the [June Medical](#) decision, state lawmakers should feel empowered to pass and enact life-affirming laws with less concern that they will be immediately challenged and struck down by district judges making subjective judgments about the benefits or burdens of the law.

The biggest victory for Life 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 reducing 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.

AUL will continue working with legislators across the country to keep the momentum going. Whatever the next year brings, we hope to pass even more Life-affirming laws in 2021.

Legislative Movement in 2020

IN 2020, STATE LEGISLATORS ENACTED 19 LIFE-AFFIRMING LAWS AND RESOLUTIONS. AUL ALSO HELPED TO DEFEAT ANTI-LIFE MEASURES IN MARYLAND AND NEW HAMPSHIRE.



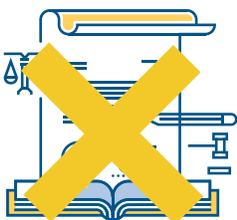
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PRO LIFE MEASURES ENACTED



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PRO-LIFE RESOLUTIONS ADOPTED



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ANTI-LIFE MEASURES DEFEATED

2

PRO-LIFE MEASURES VETOED

2

ANTI-LIFE MEASURES ENACTED

Enacted Measures:

FLORIDA ENACTED SB 404 | based in part on AUL's Parental Involvement Enhancement Act, requiring parental involvement and consent before a minor obtains an abortion.

IDAHO ENACTED SB 1385 | prohibiting and criminalizing the performance of abortion in the event that the Supreme Court of the United States or an amendment to the U.S. Constitution restores the authority to prohibit abortion to the states.

IDAHO ENACTED SB 1249 | creating a "Choose Life" license plate program for Idaho drivers and allocating a portion of the fees to be distributed to Life-affirming pregnancy resource centers.

INDIANA ENACTED SB 299 | establishing the right of a pregnant woman, after a surgical abortion, to either dispose of the fetal remains by interment or cremation, or to request that the facility dispose of the fetal remains by interment or cremation.

IOWA ENACTED H 594 | providing a 24-hour reflection period between counseling and abortion, and ensuring that children will receive life-sustaining care consistent with their parents' wishes.

KENTUCKY ENACTED SB 102 | requiring healthcare providers to report evidence of suspected prenatal drug exposure or fetal alcohol spectrum disorder to the state's child protective services agency.

LOUISIANA ENACTED SB 433 | amending the state's child welfare and mandatory reporting laws to establish that the pregnancy of a child under the age of thirteen years constitutes cause to investigate abuse.

MISSISSIPPI ENACTED HB 1295 | the “Life Equality Act,” prohibiting the performance of any abortion on the basis of race, sex, or genetic abnormality, and requiring doctors to affirm in writing that the abortion is not sought for any of these reasons.

NEBRASKA ENACTED LB 814 | prohibiting “dilation and evacuation” abortions, also known as dismemberment abortions, and enacting criminal and civil consequences for doctors who use this method of abortion.

OKLAHOMA ENACTED HB 2587 | the “Nondiscrimination in Health Care Coverage Act,” prohibiting state agencies from relying on discriminatory measures, such as “quality adjusted life years” or based on age or disability, in determining health care recommendations.

OKLAHOMA ENACTED SB 1728 | the “Unborn Person Wrongful Death Act,” modifying Oklahoma wrongful death laws to expand who may sue a doctor who performs a fraudulent abortion, including abortion without consent or risk screenings, or if the abortion is performed on a minor girl or results in mental or physical harm.

TENNESSEE ENACTED HB 2263 | an omnibus bill prohibiting abortion if a fetal heartbeat is detected, and in the event that the heartbeat provision is struck down, the law establishes benchmarks up to a 20-week “Pain-Capable” prohibition; providing that a woman has the opportunity to see her ultrasound and hear her

baby’s heartbeat as part of the informed consent process and while the healthcare provider is performing an ultrasound to determine gestational age and heartbeat; and preventing any abortion that is sought on the basis of the child’s sex, race, or prenatal diagnosis, test, or screening indicating a genetic abnormality (PRENDA).

UTAH ENACTED SB 67 | providing for the humane disposal of fetal remains after abortion by interment (burial) or cremation.

UTAH ENACTED SB 174 | prohibiting and criminalizing the performance of abortion, with limited exceptions, in the event that the Supreme Court of the United States or an amendment to the U.S. Constitution restores the authority to prohibit abortion to the states.

UTAH ENACTED HB 244 | requiring healthcare providers to report evidence of suspected prenatal drug exposure or fetal alcohol spectrum disorder to the state’s child protective services agency.

WEST VIRGINIA ENACTED HB 4007 | the “Born-Alive Abortion Survivors Protection Act,” ensuring that babies born-alive after an attempted abortion receive emergency life-saving care, and penalizing physicians who do not provide reasonable medical care.

WYOMING ENACTED HB0001-2020 | a budget measure ensuring that public funding of the University of Wyoming may not be used to fund abortions.

Pro-Life Resolutions Adopted:

LOUISIANA LEGISLATORS PASSED

A RESOLUTION SCR 61 | recognizing May 2020 as “Louisiana Abortion Recovery Awareness Month,” “so that women who have been harmed by abortion can come forth to receive the help and healing they need and others can be warned of the risks and pain of abortion.”

SOUTH DAKOTA LEGISLATORS PASSED

A RESOLUTION HCR 6020 | denouncing the National Education Association’s policy to support a “fundamental right to abortion,” stating: “South Dakota recognizes that abortion ends the life of a whole, separate, unique, living human being.”

Pro-Life Measures Vetoed:

KENTUCKY GOVERNOR ANDY BESHEAR

VETOED SB 9 | a born-alive infant protection bill that prohibited a physician from denying nourishment or reasonable medical care from an infant born alive during an attempted abortion.

WYOMING GOVERNOR MARK GORDON

VETOED SF 0097 | a born-alive infant protection bill that required physicians to take medically appropriate and reasonable steps to preserve the life and health of an infant born alive after an attempted abortion.

Anti-Life Measures Enacted:

VIRGINIA ENACTED HB 980 AND SB 733 | collectively “the Reproductive Health Protection Act,” repealing the 24-hour reflection period law and the ultrasound access law; repealing the parental consent law for minors seeking abortion; repealing the law classifying abortion facilities as “hospitals” for purposes of complying with health and safety standards; repealing all informed consent laws; and expanding who can perform an abortion to include nurse practitioners.

THE DISTRICT OF COLUMBIA ENACTED B 23-434 |

“the Strengthening Reproductive Health Protections Amendment Act of 2020,” stripping the remaining few safeguards in the District by affirming a “right to have an abortion as a human right in the District of Columbia;” and prohibiting health care employers from making hiring decisions based on the willingness of a health care professional to participate in abortion or sterilization without explicit conscience exemptions.

Anti-Life Measures Defeated:

NEW HAMPSHIRE | With the help of AUL legal and policy experts, New Hampshire’s bill requiring health insurance policies to cover elective abortion without exceptions for religious or moral objection was vetoed by a pro-choice governor.

MARYLAND | AUL helped allies in Maryland to defeat a bill that would have legalized suicide by physician.