



Americans
United
for Life

2022

State Legislative Sessions Report

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



State Legislative Sessions Report: Annual Report on Government Affairs from America's Leader in Life-Affirming Policy

Executive Summary

In the Courts

What a remarkable year for Life! The Nation waited with bated breath for the Supreme Court to release its decision in what revealed itself to be a momentous case, *Dobbs v. Jackson Women's Health Organization*. In June, the Supreme Court answered the question, "[w]hether all pre-viability prohibitions on elective abortions are unconstitutional" with a resounding "no." In fact, the Court not only gave Mississippi the win it sought, but it also finally righted its wrong and overturned *Roe v. Wade*, and properly returned the abortion issue to the democratic process. In doing so, it ushered in the beginning of the end of abortion violence.

But Life's success wasn't limited to the Nation's highest court. In the months since *Dobbs*, lawsuits brought by the abortion industry at the federal level have been voluntarily dismissed. Also at the federal level, many states have asked for, and won, injunctions to be lifted so their laws can begin to save lives. On the other hand, abortion businesses have now asked the state courts to find a state constitutional right to abortion in at least twelve states. In *Planned Parenthood of the Heartland, Inc. v. Reynolds*, the Iowa Supreme Court reversed its 2018 decision that created a fundamental right to abortion in the state constitution, giving Life yet another victory.

State Legislation

In the months leading to this historic moment, the hope that *Roe* could finally be overturned influenced state legislatures in different ways. Many pro-Life states chose to wait and see what would happen, which resulted in a slight decrease in momentum when compared to previous years. But some states were spurred to finally pass stronger regulation of abortion and protection for the unborn. Both Arizona and Florida took a meaningful step toward protecting unborn children and passed laws prohibiting abortion after 15 weeks.

At the same time, pro-abortion states doubled down on their hostility toward Life and pushed their states further and further away from the norm. New Jersey passed a law codifying the right to abortion. Colorado passed a law asserting that not only is there a right to abortion, but also that unborn children do not have any rights at all. New Hampshire took a step back from the progress it made last year and expanded the exceptions to its later-term 24-week limitation.

After Life's victory before the Supreme Court, there was a flurry of activity as a handful of states leapt to protect human life. Thirteen states—Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, and Wyoming—wisely prepared for the day *Roe* would eventually tumble and had passed conditional laws leading up to *Dobbs*. A conditional law activates upon a predetermined condition, which, in this case, was the overturn of *Roe*. Thanks to their legislators' foresight, ten of these states were able to protect the unborn as the conditional laws went into effect, either upon the release of the *Dobbs* opinion or upon certification by the state Attorney General. Unfortunately, abortionists have challenged many of these conditional laws in litigation, and three are currently unenforceable.

In other states, governors called special sessions so their legislatures could pass pro-Life bills without needing to wait half a year for the next legislative session to begin. Indiana called a special session and became the first state to pass a bill in response to *Roe*'s overturn. The new law, already in effect, abolishes abortion with limited exceptions. West Virginia has since followed and passed a law prohibiting abortion with limited exceptions as well.

State Constitutional Amendments

Election years are historically unpredictable. During this year's primaries, Kansas voters had the opportunity to undo the Kansas Supreme Court's mistake and assert there is no state constitutional right to an abortion. Unfortunately, the measure failed. While disappointing, this is not an indication that Kansans are pro-choice. There are lessons the movement can learn from this loss, but it is not the voters' only chance to protect the unborn.

This November, Kentuckians will have a chance to vote on whether to amend the state constitution to state there is no right to abortion or the funding of abortion. Montanans will have a chance to vote on a legislative referendum to adopt the Born-Alive Infant Protection Act and protect babies who survive abortions. On the other hand, voters in California, Michigan, Vermont will vote on whether to enshrine abortion as a right into their state constitutions.

Chemical Abortion

Last year, AUL and other pro-Life national organizations worked together to draft a model bill designed to protect women from the dangers of the drugs used in the chemical abortion

procedure. As later-term abortions drop in frequency and women have abortions earlier in pregnancy, the use of the chemical abortion regimen increases, which makes the regulation of the two-drug protocol more and more pressing for state legislators. In addition, the Food and Drug Administration eliminated the in-person dispensing requirement late last year, making this coalition bill even more significant. Building on last year's momentum, at least eight states introduced bills based on the Abortion-Inducing Drug Risk Protocol. So far, Kentucky, South Dakota, and Tennessee have passed such bills.

Physician Assisted Suicide

Life's victory was not limited to abortion. At least 12 states introduced bills that attempted to legalize physician-assisted suicide but all failed to pass, a reflection of the nationwide consensus that those who are sick deserve our care. Additionally, New Jersey introduced a bill to repeal their physician-assisted suicide statute but unfortunately, it failed as well.

California, Connecticut, New Jersey, New York, and Washington passed laws designed to protect abortionists from out-of-state lawsuits. Three states in which assisted suicide is allowed introduced legislation to expand access. One state, Vermont, was successful and removed its in-person requirement.

Legislative Movement in 2022

To date, the attorneys at Americans United for Life have provided critical legal expertise in 30 states, and provided testimony in seven states. Now that *Roe* is overturned, legislators should feel confident in their ability to pass Life-affirming laws in this upcoming year. AUL will continue working with legislators across the country to take advantage of this new legal landscape, and we hope to see even more pro-Life laws passed in the next year.

So far in 2022, at least 59 bills and resolutions were passed and signed into law in 29 states. The enacted measures have been codified as state statute and carry the force of law. The resolutions are statements by the legislative body that simply express a policy preference.

Enacted Measures

Pro-Life Measures

Arizona

1. SB 1164 limiting abortion to 15 weeks gestation

Colorado

1. HB 22-1289 expanding health care coverage to pregnant women regardless of immigration status up to 12 months postpartum and to children regardless of immigration status

Florida

1. HB 5 limiting abortion to 15 weeks gestation and creating a fetal & infant mortality review committee

Idaho

1. HB 521 requiring abortions to be performed at a hospital, physician's regular office, or a clinic
2. SB 1309/1358 prohibiting abortion after a heartbeat is detected and allowing for a lawsuit to be filed by the parent, grandparent, aunt, or uncle of the aborted unborn child

Indiana

1. HB 1217 requiring women be informed a coerced abortion is illegal, requiring abortion providers offer women assistance to prevent coerced abortions, and making abortion clinic employees mandatory reporters
2. SB 1 (special session) prohibiting abortion with limited exceptions and repealing the 20-week ban, repealing the licensing of abortion businesses,

Iowa

1. SF 529 criminalizing fraud in assisted reproduction

Kentucky

1. HB 3, an omnibus bill that, among other things, regulated chemical abortion, certifying/regulating at the state level, judicial bypass, complications complaint portal, taxpayer funding, dignified disposal, limiting at 15 weeks gestation

Louisiana

1. SB 342 stating the construction of the state's abortion laws is to prohibit abortion and preserve the lives of unborn children to the furthest extent permitted, and criminalizing the performance of an abortion by an unlicensed provider.
2. SB 116 creating an office of women's health to improve women's health outcomes
3. SB 388 regulating chemical abortion, prohibiting telemedicine for chemical abortions, expanding the conditional law to include *Dobbs* if it overturns *Roe*, expanding born-alive infant protections, empowering the Louisiana Secretary to be able to issue a cease and desist order if there is a violation of any abortion law, and providing a guide for closing outpatient abortion clinics when abortion is made illegal

Maine

1. LD 1771 creating an advisory panel to study the implications of gene-editing technology

Mississippi

1. HB 1685 creating a tax credit to support pregnancy resource centers

Ohio

1. SB 157 strengthening born-alive protections and requiring more data to be gathered relating to post-abortion hospital care when the abortion is performed after 12 weeks gestation

Oklahoma

1. SB 612 prohibiting abortion from conception
2. SB 1503 prohibiting abortion when a fetal heartbeat is detected
3. SB 1555 amending the state's conditional law
4. HB 4327 prohibiting abortion from conception and creating a private cause of action against abortionists,

South Carolina

1. HB 4776 the MED Act, recognizing the state's public policy is to protect conscience rights, recognizing the right to not participate in or pay for any health care service that violates the healthcare practitioner or entity's conscience, preventing discrimination against conscience rights, and providing a conscience violations complaint process

South Dakota

1. HB 1051 amending born-alive protections and adding civil and disciplinary action
2. HB 1318 regulating chemical abortion administration to require separate, in-person visits for each drug used in the regimen

Tennessee

1. SB 2158/HB 2557 prohibiting public schools from contracting with an individual or entity that performs, refers for, or advocates for abortion
2. SB 2281/HB 2416 enacting the Abortion-Inducing Drug Risk Protocol

Virginia

1. SB 163 rendering unenforceable and voiding any surrogacy contract provision that requires abortion or selective reduction

West Virginia

1. SB 468 prohibiting abortion based on the unborn child's disability or potential disability and providing resources on disability care to families
2. HB 302 prohibiting abortion except if there is a nonmedically viable fetus, a medical emergency, an ectopic pregnancy, or if there is rape or incest and the gestational age

is 14 weeks or less; requiring notice before an unemancipated minor has an abortion; prohibiting telemedicine abortions

Wyoming

1. HB 92, a conditional law that will prohibit abortion and abortion funding once the State Attorney General determines *Roe* has been overturned

Anti-Life Measures

California

1. SB 245 prohibiting healthcare service plans from requiring a deductible, co-pay, or cost sharing for abortion and abortion-related services
2. AB 1666 declaring another state's law authorizing a civil action against a person who receives, seeks, performs, induces, aids, or abets abortion to be against state public policy and prevents that lawsuit from being heard in the state
3. AB 179, a budget bill that sets aside millions for abortion funding and training

Colorado

1. HB 22-1279 declaring there is a "fundamental right" to abortion throughout pregnancy, and a fertilized egg, embryo, or fetus does not have independent rights

Connecticut

1. HB 5414 preventing subpoenas against in-state doctors providing reproductive health services

Delaware

1. HB 455 expanding who is permitted to perform abortions to include physicians assistants, certified nurse midwife, and certified nurse practitioner; protecting abortionists from out of state lawsuits; requiring health insurance coverage for out of state telehealth abortions

Maine

1. LD 811/SP 156 increasing reimbursements to reproductive health providers, including Planned Parenthood, through MaineCare (became law without Governor's signature)

Maryland

1. HB 937 creating a program to fund abortion training for physicians, nurse practitioners, nurse-midwives, licensed certified midwives, and physicians assistants (overrode Governor's veto)

Massachusetts

1. HB 5090 declaring that interference with constitutionally protected reproductive healthcare services is against public policy, requiring public universities to provide chemical abortions to its students and providing the funding of such programs

New Hampshire:

1. HB 1609 expanding the exceptions for the 24-week limitation and creating an annual report on abortions performed after 24 weeks
2. HB 1673 amending the Fetal Health Protection Act making an ultrasound required only if the provider knows about or is conscious of a substantial risk that the unborn child is at least 24-weeks gestation

New Jersey:

1. SB 49 codifying the “right” to abortion
2. AB 3974 prohibiting extradition of individuals to another state for conduct relating to reproductive health services that are legal in New Jersey
3. AB 3975 rendering judgment from another state presumptively unenforceable in New Jersey when it relates to abortion, creating a rebuttable presumption that if such a case affects a New Jersey resident the state lacks personal jurisdiction, disallowing restrictions on medical licensing based on the individual’s performance of abortions

New York:

1. SB 9039/AB 10094 creating a cause of action for the unlawful interference of protected rights, including abortion
2. SB 9080/AB 9718 prohibiting medical malpractice insurers from taking adverse action solely on the basis that the healthcare provider performs abortion
3. SB 9384/AB 9818 adding reproductive healthcare service providers, employees, volunteers, patients, and their immediate family members, to the state’s address confidentiality program
4. AB 9687/SB 9079 prohibiting professional misconduct charges from being brought against licensed medical professionals for performing, recommending, or providing an abortion to a resident of a state where abortion is illegal

Washington

1. HB 1851/SB 5766 replacing “woman” with “pregnant individual,” expanding abortion practitioners to include physician assistants, advanced registered nurse practitioners, and “other health care practitioner[s] working within their scope of practice,” preventing the state from prosecuting anyone for “aiding or assisting” the exercise of the fundamental right to reproductive freedom

Vermont

1. SB 74 changing the reflection period and removing the in-person requirement for physician assisted suicide

Resolutions

Pro-Life

Michigan:

1. HR 22/SR 8 affirming the right to life of every unborn child and calling for the enforcement of laws regulating abortion

Vetoed Measures

Pro-Life

Michigan Governor Whitmer vetoed two pro-life bills:

1. HB 5558 prohibiting experimentation on a dead embryo or fetus without first obtaining consent of the mother, and prohibiting research on organs, tissues, or cells taken from an aborted embryo or fetus
2. HB 5559 providing criminal penalties for the prohibitions laid out in HB 5558

New Hampshire Governor Sununu, a Republican, vetoed HB 1625, the Sidewalk Free Speech Act, which would have repealed portions of state law that restricted access to the public walkway by abortion clinics. The legislature failed to override his veto.

Virginia Governor Glenn Youngkin vetoed HB 384 which would have protected employees of the Commonwealth and local governments from penalties for expressing an opinion on current or proposed government action.