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# The Personhood Declaration

*Model Legislation & Policy Guide*



*Advancing the Human Right to Life  
in Culture, Law, and Policy*

# INTRODUCTION

In June 1986, Missouri Governor John Ashcroft signed legislation which amended existing state laws concerning unborn children and abortions. The first provision of the new law, or the “preamble,” contained legislative findings stating, “The life of each human being begins at conception,” and “[U]nborn children have protectable interests in life, health, and well-being.”<sup>1</sup> The new law also required that all Missouri laws be interpreted to provide unborn children with the same rights enjoyed by other persons, subject to the federal Constitution and U.S. Supreme Court's precedent.<sup>2</sup>

Abortion proponents quickly challenged the new law, including the preamble.<sup>3</sup> In 1989, the U.S. Supreme Court overturned a lower court's sweeping determination that the preamble was unconstitutional.<sup>4</sup> The Supreme Court declined to definitively rule on the preamble's constitutionality because “the extent to which the preamble's language might be used to interpret other state statutes or regulations was something that only the courts of Missouri [could] definitively decide.”<sup>5</sup>

As a result, the “Missouri Personhood Declaration” has been in effect for decades, guiding the interpretation and application of Missouri law and providing a model for other states to follow to affirm the value of life in the womb. Missouri's leadership is all the more relevant since the U.S. Supreme Court overturned *Roe v. Wade*,<sup>6</sup> declaring in *Dobbs v. Jackson Women's Health Org.*, “The Constitution does not prohibit the citizens of each State from regulating or prohibiting abortion. . . . We now overrule those decisions and return that authority to the people and their elected representatives.”<sup>7</sup>

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<sup>1</sup> Mo. Rev. Stat. §§ 1.205.1(1), (2) (1986).

<sup>2</sup> *Id.* at § 1.205.2.

<sup>3</sup> See *Reprod. Health Servs. v. Webster*, 662 F. Supp. 407 (W.D. Mo. 1987).

<sup>4</sup> *Webster v. Reprod. Health Servs.*, 492 U.S. 490, 506 (1989).

<sup>5</sup> *Id.* The Court also upheld provisions 1) specifying that a physician, prior to performing an abortion on any woman whom he has reason to believe is 20 or more weeks pregnant, must ascertain whether the fetus is “viable” by performing “such medical examinations and tests as are necessary to make a finding of [the fetus'] gestational age, weight, and lung maturity;” and 2) prohibiting the use of public employees and facilities to perform or assist abortions not necessary to save the mother's life or the use of public funds, employees, or facilities for the purpose of “encouraging or counseling” a woman to have an abortion not necessary to save her life. *Id.* at 520. For a history of the Missouri law, see Cynthia Gorney, *Taking Aim at Roe v. Wade*, (Apr. 9, 1989)

[https://www.washingtonpost.com/archive/lifestyle/magazine/1989/04/09/taking-aim-at-roe-v-wade/1c876e77-ca2b-4689-816b-a25e343a59ba/?utm\\_term=.375bf3fefd09](https://www.washingtonpost.com/archive/lifestyle/magazine/1989/04/09/taking-aim-at-roe-v-wade/1c876e77-ca2b-4689-816b-a25e343a59ba/?utm_term=.375bf3fefd09).

<sup>6</sup> 410 U.S. 113 (1973).

<sup>7</sup> 597 U.S. at \_\_\_ (June 24, 2022), slip op. at 78–79.

Drawing on the precise language of the “Missouri Personhood Declaration,” AUL has drafted the enclosed model language to provide states with a legislative vehicle to ensure that their laws recognize and protect the unborn. The preamble may be introduced as stand-alone legislation or as part of other life-affirming legislation.

For more information or drafting assistance, please contact AUL at [Legislation@aul.org](mailto:Legislation@aul.org).

# THE “PERSONHOOD DECLARATION”: A FRAMEWORK FOR DEFINING AND PROTECTING PERSONHOOD

HOUSE/SENATE BILL No. \_\_\_\_\_  
By Representatives/Senators \_\_\_\_\_

Section 1. Text of Preamble.

The *[Legislature]* of the State of *[Insert name of State]* finds that:

- (a) The life of each human being begins at conception;
- (b) Unborn children have protectable interests in life, health, and well-being; and
- (c) The natural parents of unborn children have protectable interests in the life, health, and well-being of their unborn children.
- (d) The practice of abortion shall be prohibited within *[Insert name of State]* to the furthest extent allowed legally allowed.

Section 2. Effective Date, Interpretation, and Application.

Effective *[Insert date]*, the laws of the State of *[Insert name of State]* shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development the rights available to all other persons of the State of *[Insert name of State]*, including without limitation the rights of life, liberty, and property and to the equal protection of the laws.

Section 3. Definitions.

As used in this *[Section, Title, or other appropriate term]*, the terms “**unborn child**” or “**unborn children**” means the offspring of human beings from conception until birth.

“**Abortion**” means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with the knowledge that the termination by those

means will with reasonable likelihood cause the death of the unborn infant. Such use, prescription, or means is not an abortion if done with the intent to:

- (1) Save the life or preserve the health of the unborn infant;
- (2) Remove a dead unborn infant caused by spontaneous abortion; or
- (3) Remove an ectopic pregnancy.

#### Section 4. Exclusions.

Nothing in this [*Section, Title, or other appropriate term*] shall be interpreted to allow a cause of action against a woman for indirectly harming her unborn child by failing to properly care for herself or by failing to follow any particular program of prenatal care.

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