THE STATUS OF ABORTION IN THE UNITED STATES

2025

National RIGHT TO LIFE
www.nrlc.org

The Status of Abortion in the United States is a report issued by the National Right to Life Committee (NRLC). Founded in 1968, National Right to Life, a federation of right-to-life affiliates in each of the 50 states, works through legislation and education to protect innocent human life from abortion, infanticide, assisted suicide and euthanasia.

Original Release: March 2025

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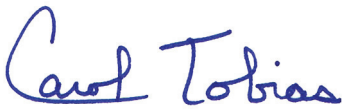
CAROL TOBIAS
National Right to Life President

In 1973, the U.S. Supreme Court found, in the U.S. Constitution, an invisible "right" to kill preborn children. Even before that horrendous decision, National Right to Life was organizing and mobilizing state affiliates to defend the right to life for our littlest brothers and sisters.

Now, almost three years after the Supreme Court ruled in *Dobbs v. Jackson Women's Health Organization* that the authority to regulate abortion is "returned to the people and their elected representatives," the country finds itself at a crossroads. Many states have laws that protect unborn children and their mothers from the tragedy of abortion while other states have enacted laws to protect abortionists.

National Right to Life and its affiliates will continue to promote legislative efforts that provide legal protection to unborn children. We will also continue to offer hope and help to their mothers. No woman should be led to believe that ending the life of her unborn child is the "solution" to any current difficulty she may be facing. America is better than that. This twelfth annual Status of Abortion in the United States is a snapshot of where we are in the post-*Dobbs* landscape, and also a blueprint for how we move forward to build a culture that values life and respects mothers and their children.



ABORTION IN AMERICA
Abortion Statistics Before and After *Dobbs*

Before *Dobbs*, there was one critical benchmark in U.S. abortion history—January 22nd, 1973, the date of *Roe v. Wade,* the U.S. Supreme Court decision legalizing unlimited abortion throughout all nine months of pregnancy. Everything was measured from that point forward.

With the Supreme Court's *Dobbs v. Jackson* decision overturning *Roe*, rejecting the idea that there is any national right to abortion, there is a new benchmark—June 24, 2022, the point at which many states were once again able to pass and enforce legislation protecting unborn children.

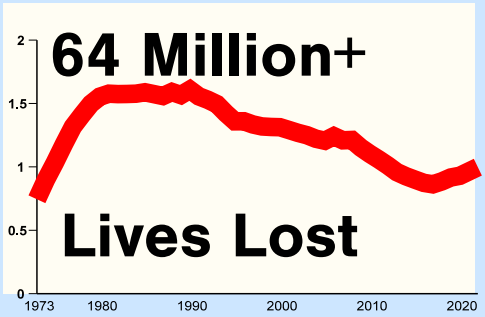
After *Roe*, Before *Dobbs*

Under *Roe*, measuring abortion and its effects was never easy or precise, owing to the secrecy often surrounding the procedure and the general presence of its practitioners outside the medical mainstream, but the task was relatively straightforward—simply report the number of abortions and the characteristics of the patients and "providers." Two entities, one public, one private, regularly counted abortions in the U.S.—the government, using the U.S. Centers for Disease Control (CDC), and an independent abortion industry offshoot, the Guttmacher Institute, which was at one time a special research affiliate of the abortion giant Planned Parenthood.

Guttmacher relied on occasional surveys from abortion clinics or other "providers," generally obtaining higher and—what were believed to be—more accurate estimates. The CDC relied on yearly reports from state health departments which varied in quality and completeness, but had the advantage of being published more frequently and in a standardized format that allowed for better measuring trends and making comparisons. Still, some abortionists did not report their abortions to government officials in some states, and some states did not report their numbers to the CDC, inevitably making their numbers lower and their data more incomplete.

After *Dobbs*

What follows are charts showing abortion numbers under *Roe* and the issues with data collection after the *Dobbs* decision.



	Guttmacher	CDC
1973	744,610	615,831
1974	898,570	763,476
1975	1,034,170	854,853
1976	1,179,300	988,267
1977	1,316,700	1,079,430
1978	1,409,600	1,157,776
1979	1,497,670	1,251,921
1980	1,553,890	1,297,606
1981	1,577,340	1,300,760
1982	1,573,920	1,303,980
1983	1,575,000	1,268,987
1984	1,577,180	1,333,521
1985	1,588,550	1,328,570
1986	1,574,000	1,328,112
1987	1,559,110	1,353,671
1988	1,590,750	1,371,285
1989	1,566,900	1,396,658
1990	1,608,600	1,429,247
1991	1,556,510	1,388,937
1992	1,528,930	1,359,146
1993	1,495,000	1,330,414
1994	1,423,000	1,267,415
1995	1,359,400	1,210,883
1996	1,360,160	1,225,937
1997	1,335,000	1,186,039
1998	1,319,000	884,273*
1999	1,314,800	861,789*
2000	1,312,990	857,475*

Abortion Statistics

The LEGACY of *ROE v. WADE*

There were already abortions being performed in some states in the years before Roe,[1] but the Supreme Court's decision in 1973 set off a tragic era that led to the loss of more than 64 million lives[2] in the U.S. over the next five decades. [3]

Abortions rose quickly after legalization, skyrocketing from nearly three quarters of a million a year to about 1.5 million by 1980.

Though abortions didn't peak until 1990 at 1.6 million, abortion rates (the number of abortions per 1,000 women of reproductive age) reached their all time high in 1980 and 1981 at 29.3. The number of "providers" performing abortion also peaked during this time, reaching 2,918 in 1982. The abortion ratio, measuring the number of abortions for every 100 pregnancies ending in abortion or live birth, peaked just a few years later at 30.4.

Abortion rates and ratios began falling in the 1980s, and abortions themselves fell after 1990, so that by 2017 all had reached levels not seen since *Roe*.

These drops coincided with court cases and pro-life legislation that allowed governments to impose limits on abortion to slow the abortion juggernaut. The Hyde Amendment cut funding in the early 1980s, followed by laws giving parents the right to be involved in their teens' abortion decisions. Informed consent laws passed in the 1990s and later ultrasound legislation assured that women knew of the humanity of their unborn children and practical alternatives available in their area. Laws against Partial-Birth Abortion exposed abortion's inhumanity and the barbarity of the industry.

By 2017, Guttmacher recorded just 862,320 abortions along with a low abortion rate of 13.5 and an abortion ratio of just 18.4. And there were just 1,587 identified abortion providers that year.

After those lows, chemical abortions, governed by strict safety rules since 2000, took off after being greatly deregulated under Democrat administrations in 2016 and again in 2021.Those new rules eventually allowed abortion pills to be mailed to women's homes.

The Supreme Court overturned *Roe* in 2022, giving states the ability to limit abortion and legally protect unborn children. Several states stopped allowing non-therapeutic abortions at that point leading to a sudden drop-off in those states and some drop overall

Our count goes through June of 2022 – when *Roe's* official reign ended and a new era began.

Living with the Consequences of *Roe*

Loss of an entire generation – due to *Roe*, more than 64 million innocent babies lost their lives. That represents more lives than are found in any U.S. state and about 20% of the current national population.

Abortion as the social norm – by the time *Dobbs* came in 2022, more than half the U.S. population (those born since 1973) had never known a time when abortion was not legal. Claims have been made that between a quarter and a third of all American women have had at least one abortion.

A multi-billion dollar killing industry – What started as isolated rogue abortionists operating out of old houses and storefronts gradually morphed into a lucrative industry with national abortion chains like Planned Parenthood[4] building giant mega clinics, large staffs performing thousands of abortions a year. Eventually, these entities included not just clinicians with some modest level of training, but well-paid administrators, fundraisers, and lobbyists.

Corrupted institutions – medicine, once dedicated exclusively to saving lives, has added surgical and chemical killing to its repertoire. Universities and institutions of "higher learning" have become havens for abortion industry researchers and apologists, ignoring or denying the death of the unborn and the physical, psychological, and social harms done to women and society. The media and entertainment industries have tried to make abortion seem normal and positive and abortionists seem noble.

Entrenched, powerful, wealthy political lobby – the abortion industry has used its wealth and social influence to build and maintain a powerful political block in local, state, and national legislatures, government, and judiciaries guaranteeing the flow of money to the industry and funding strong opposition to even the most common sense legislation.

Experienced, effective pro-life movement – when the medical and legal establishment began to move towards legalization of abortion, concerned citizens in different communities across the U.S. came together to organize and oppose these movements.

Over the years, they learned how to whittle away at the legal abortion establishment, ensuring federal taxpayers weren't funding abortions, that parents were involved in teens' decisions, that women were informed of practical alternatives, and that the most horrific abortion procedures were banned. All this was part of the substantial reduction in abortion and abortion rates since the mid1980s forward and the legal challenge that eventually undid *Roe*.

Annual Abortion Totals

2001	1,291,000	853,485*
2002	1,269,000	854,122*
2003	1,250,000	848,163*
2004	1,222,100	839,226*
2005	1,206,200	820,151*
2006	1,242,200	846,181*
2007	1,209,640	827,609*
2008	1,212,350	825,564*
2009	1,151,600	789,116*
2010	1,102,670	765,651*
2011	1,058,490	730,322*
2012	1,011,000	699,202*
2013	958,700	664,435*
2014	926,190	652,639*
2015	899,500	638,169*
2016	874,080	623,471*
2017	862,320	612,719*
2018	885,800	619,591*
2019	916,640	629,898*
2020	930,160	620,327*
2021	976,668§	625,978*
2022	499,060§	613,383*

Dobbs

overturns *Roe*

June 24, 2022

*Excludes data from NH, CA and at least one other state

§ Guttmacher has not published figures for 2021 or 2022..NRLC extrapolates for 2021 and then, to account for Dobbs occurring mid-year, counts only half of the 998,120 that would have been expected for 2022 if abortions rose at the same rate each year and reached the 1,032,100 Guttmacher reported for 2023.

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Notes and Citations

1. Several states legalized abortion before the Supreme Court's decision in 1973. Early reports from the U.S. Centers for Disease Control (CDC) reported 22,670 for 1969, 193,491 for 1970, 485,816 for 1971, and 586,760 for 1972. CDC, "Abortion Surveillance: Annual Summary, 1972," issued April 1974. On file, available upon request.

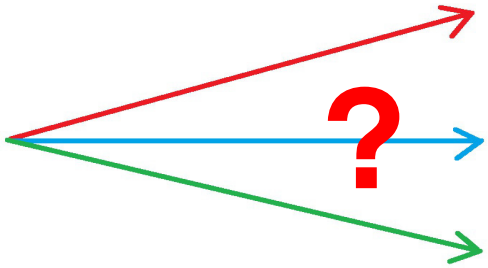
2. Those adding up the numbers in the columns will see that the actual total of the figures given is 62,386,038. Guttmacher has acknowledged in previous years an undercount in the neighborhood of 3% and later that a number of providers may have been missed in recent surveys (e.g., see the statement on "Limitations" found in the "Abortion Incidence and Access to Services In the United States, 2008," Perspectives on Sexual and Reproductive Health," Vol 43, No.1 (March 2011): pp. 41-50 at p. 49.) Adding 3% to that figure would give us 64,257,619. While the actual number is unlikely to be that precise, it does give us good reason to believe that the true total is somewhere over 64 million.

3. Numbers here come from annual or semi-annual reports issued by the Guttmacher Institute or the U.S. Centers for Disease Control (CDC). The most recent of each of these is, for Guttmacher: Rachel K. Jones, Marielle Kirstein, Jesse Philbin, "Abortion incidence and service availability in the United States, 2020," Perspectives on Sexual and Reproductive Health, Vol 54, No. 4 (December 2022), pp. 128-141; for the CDC: Mandy K. Cohen, Debra Houry, Samuel F. Posner, "Abortion Surveillance — United States, 2022," Morbity and Mortality Weekly Report, Surveillance Summaries 2024; Vol 73, No. 7 (November 28, 2024). Earlier numbers come from earlier reports, as adjusted by subsequent reports. Documentation for individual numbers available upon request.

4. According to the Planned Parenthood Federation of America's most recent annual report, the organization was responsble for performing 392,715 abortions (about 39% of the national total) and took in more than $2 billion in revenues. "Above and Beyond," PPFA Annual Report 2022-2023, found at www.plannedparenthood.org/uploads/filer_public/bf/a3/bfa35e39-14e5-43c3-8192-de42ed9309f1/2024-ppfa-annualreport-c3-digital.pdf.

Abortion Statistics

After *Dobbs*



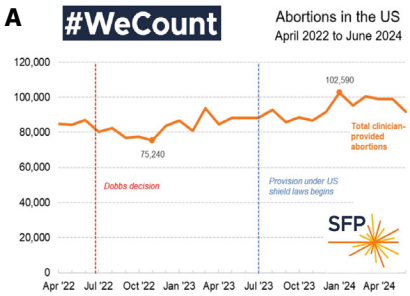
Industry Surveys Claim Abortion Increases

Surveying members in the months before and after *Dobbs*, the Society of Family Planning (SFP) said that abortions **surged before the decision was officially announced and then dropped of afterwards.**[1] **(A)**

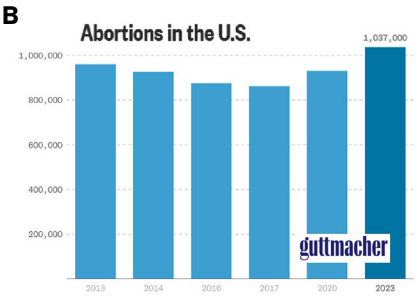
Monthly surveys done by the Guttmacher institute in 2023 concluded that abortions rose that year from what they were in 2020. **Guttmacher ultimately reported 1,032,100 abortions for 2023**, an 11% increase over the 930,960 reported in 2020.[2] **(B)**

Both SFP and Guttmacher data show much of the increase coming from **women traveling to neighboring states** when clinics closed in their own states or **women ordering abortion pills online and having them mailed to their home in unmarked packages.**[3] **(C)**

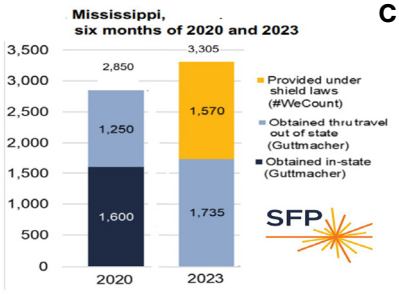
A



B



C



Issues with Industry Data

Guttmacher relied on surveys of abortionists for years, generally attaining what were thought to be the best data available. But **new methods used by Guttmacher and SFP are less comprehensive and less accurate** than those used in past surveys.

Problematic Projections

In the past, Guttmacher took years to ensure that they had actual counts from every "provider" they could identify. Today, **both Guttmacher and SFP base their estimates on surveys from a select number of abortionists and then project numbers for the remainder.**[4,5]

This would be difficult enough if circumstances after *Dobbs* were the same as before, but with so many clinics closing, abortionists moving to new states, adopting different business models (e.g., joining the staff at a mega-clinic, operating a mobile clinic, becoming a virtual clinic providing abortion pills via telemedicine, etc.),[6] **determining what might be a representative caseload for a given "provider" is going to be problematic,** no matter what their previous history might have been.

Conflating Abortion Pill Sales and Usage

To get an accurate count, researchers need to have some idea of the numbers of women aborting with pills delivered by mail. But simply relaying sales figures from online marketers or telehealth providers is not good enough.[7] **Sales of abortion pills does not equal usage.**

Women may order the pills and not use them, or they may change their minds after using them, attempting to reverse the process.[8] Women may take the pills but may be among the 2-7% (or more) for whom the pills do not fully work.[9] They may take the advice of pill promoters and buy and store these for later use.[10]

Partners may use false identities to buy these for women who intend to keep their babies,[11] while others might buy these to resell on the black market.[12]

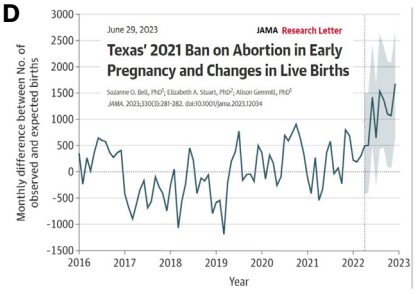
Lives Saved

The media have taken the latest SFP and Guttmacher reports as evidence that pro-life laws have not worked.[13] But other reports make plain that thousands of lives have been saved.

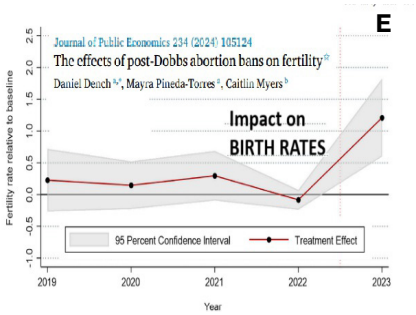
Countless anecdotal stories[14] are backed by other more scientific measures. A research letter published in the Journal of the American Medical Association (JAMA) in June of 2023 found laws passed in Texas in 2021 limiting abortion to early pregnancy resulted in 9,799 additional births, about 3% more than expected.[15](D)

A 2024 study from the Journal of Public Economics found similar results in other states with new laws protecting unborn children, saying "states with abortion bans experienced an average increase in births of 2.3 percent relative to if no bans had been enforced."[16](E)

D



E



What We Know (and What We Don't)

Are there women traveling to other states to have abortions? Yes. Are abortion pills being mailed to women's homes? Yes.

Does the data show that due to these factors, more abortions are being done in the U.S. since *Dobbs* than before? We don't know.

The data collection being done, the statistical methods being used by SFP and Guttmacher are not careful enough, not rigorous enough to give a definitive answer. There are too many questionable assumptions, too large a margin of error.

We do know that there have been thousands of babies born since *Dobbs* to women who might have chosen abortion under other legal circumstances, if there was an abortion clinic nearby. No one is saying that this is a casual or easy decision for those mothers to have their babies, but with encouragement, with help from pregnancy care centers, community, and family, these mothers and babies are alive and making it.

We may get better information in the future when official birth and abortion data come out from the states and federal government. Increased birth rates in certain states would provide a valuable clue, but abortion limits can also lead to increased contraceptive use or abstinence, reducing both births and abortions.

Data from the U.S. Centers for Disease Control will give us some idea of what is happening in the states and how many women are traveling and having their abortions elsewhere,[17] but too many key states do not collect or report such data. An effective way of tracking what happens with mailed abortion pills remains to be found.

Under these circumstances, it may prove difficult to get a true, complete, or objective measure on the nature, type, and location of abortions over the next few years.

Notes and Citations

1. The latest "We Count" report (October 22, 2024) from the Society of Family Planning, based on surveys of their membership, done between April 2022 and June 2024, can be found here: https://societyfp.org/wp-content/uploads/2024/10/WeCount-Report-8-June-2024-data.pdf. The chart on page 3 (screenshot A) shows both the spike just before *Dobbs* and the drop afterwards.
2. The Guttmacher Institute began doing monthly surveys of their membership in January of 2023 and publishing that data soon after. Data from those monthly surveys can be found here: www.guttmacher.org/monthly-abortion-provision-study. Based on those surveys, Guttmacher has given two different estimates for the number of abortions performed in 2023: On the monthly survey page they say 1,032,100, but elsewhere, on its "Abortion in the United States" fact sheet from June 2024, they say there were 1,037,000 for 2023, 11% more than the 930,160 Guttmacher reported for 2020 (www.guttmacher.org/fact-sheet/induced-abortion-united-states, accessed 12/19/24). It is unclear which is the official number. If there is information from 2021 and 2022, it has yet to be released.
3. SFP's report (from note 1) makes this point by offering and comparing charts of abortions from many of the states with laws protecting the unborn. The one shown here, for Mississippi, is similar to ones from Alabama, Arkansas, Georgia, Kentucky, Louisiana, Missouri, South Dakota, Tennessee, and West Virginia, though the mix of women traveling to other states and those ordering abortion pills sent to their homes varies from one state to the next. Certain states, for reasons related to their own unique legislative history, showed declines or relative stasis, though still with considerable numbers traveling elsewhere or using mailed abortion pills.
4. In the latest "We Count" report (see note 1), authors admit that "In total, 81% of the abortions we counted across the study period were based on data obtained from providers or health departments, while the remaining 19% of the data were imputed." The percentage and numbers of abortions imputed varied from report to report and state to state, e.g., the April 11, 2023 "We Count" report indicates "we imputed, or estimated, 30% or more of the abortions in five states and DC, and four of these states (Florida, New Jersey, New York, Virginia) provided 2,000 or more abortions per month." (https://societyfp.org/wp-content/uploads/2023/03/WeCountReport_April2023Release.pdf , accessed 12/19/24).
5. While in the past, the Guttmacher Institute took pains to obtain data from every "provider" they could identify, with their new monthly surveys they use "monthly collection of data from samples of abortion providers— to produce timely estimates of clinician-provided abortions in states without total abortion bans" (emphasis added). Guttmacher says "Estimates are generated by a statistical model that combines data collected from monthly samples of providers with historical data on the caseload of every provider in the United States" (again, emphasis added). This is one reason why the monthly numbers are given in a range rather than as a direct figure, so that there is a "median estimate" for each month with a "90% uncertainty interval" and a "range" with a "50% uncertainty interval." The problem is that these varied so much from report to report that the median estimate of 87,110 for June 2023 given in Guttmacher's August 2024 report fell outside the range of 87,900 to 91,400 given for that month in the January 2024 report.
6. Details of some of these changes can be found in the latest report from independent abortion clinics "Communities Need Clinics 2024" from the Abortion Care Network, found at https://abortioncarenetwork.org/wp-content/uploads/2024/12/CommunitiesNeedClinics2024_WEB-FINAL.pdf, particularly pages 12-16.
7. SFP's "We Count" began counting the number of abortions "provided" by abortionists in "shield law" states in its February 28, 2024 report, found here: https://societyfp.org/wp-content/uploads/2024/02/SFPWeCountPublicReport_2.28.24.pdf. These are based on sales figures and telehealth visits recorded by the abortionists, not by patients, who would have aborted in their home state, not the provider's office. There is no indication that the abortionist confirmed that the woman took the abortion pills shipped to her or that she had a successful abortion and suffered no complications.
8. No one is saying that every woman wishes to reverse the process after taking the abortion pill, but some clearly do. According to the Abortion Pill Rescue Network, 5,000+ lives have been saved since 2012 by women taking progesterone boosts to counteract mifepristone, halting the chemical abortion process. See the 2024 Life Trends Report issued by Heartbeat International, found at https://www.heartbeatinternational.org/images/pdf/Life%20Trends%20Report%20Digital%202024%20%28web%29.pdf
9. The FDA's "Medication Guide" for Mifepristone (U.S. Food and Drug Administration (FDA), "Mifeprex® (mifepristone) tablets Label," 01/2023 rev., Reference ID: 5103833, at www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lbl.pdf, (accessed 5/11/23) says on page 17 that "About 2 to 7 out of 100 women taking Mifeprex will need a surgical procedure because the pregnancy did not completely pass from the uterus or to stop bleeding." Even proponents trumpeting newer protocols admit high failure rates. UCSF Health's "Aspiration Versus Medication Abortion," at ucsfhealth.org/education/aspiration-versus-medication-abortion (accessed 5/10/23) says 3-5% require surgery or an "additional aspiration procedure due to ongoing pregnancy, prolonged or excessive bleeding, or preference."
10. This is the advice of abortion pill "expert" Daniel Grossman in Carrie Baker's, "Abortion Pills in Your Medicine Cabinet? Advance Provision Medication to End Early Pregnancies," Ms. magazine, 12/14/21 at https://msmagazine.com/2021/12/14/abortion-pill-end-early-pregnancy-at-home/. Rebecca Gomperts, the founder of Aid Access, the online abortion pill promoter and supplier used by many in the U.S., suggested and supports "advanced provision," in Claire Cohen's, "The doctor providing abortions to U.S.women from 5,000 miles away," The Telegraph (London), 12/29/22, at https://www.telegraph.co.uk/women/life/dr-rebecca-gomperts-every-woman-should-have-abortion-pills-medicine/.

11. Sometimes a woman's partner slips mifepristone into a her drink to induce an abortion, sometimes misoprostol, the prostaglandin used in combination with mifepristone to expel the child. "Civil servant who spiked drink with abortion drug remanded into custody," BBC, 5/4/22, at https://www.bbc.com/news/uk-england-london-61325599 "Man who spiked orange juice to force miscarriage convicted," Crown Prosecution Service, 10/30/24 at www.cps.gov.uk/east-england/news/man-who-spiked-orange-juice-force-miscarriage-convicted. "Texas attorney who poisoned pregnant wife with abortion medication sentenced to 180 days in jail," NBC News, 2/9/24 at www.nbcnews.com/news/us-news/texas-attorney-poisoned-pregnant-wife-abortion-medication-sentenced-18-rcna138065. "Doctor accused of spiking girlfriend's drink with abortion pills," KCCI 8 Des Moines, 12/15/17, at www.kcci.com/article/doctor-accused-of-spiking-girlfriend-s-drink-with-abortion-pill/14439117.

12. Jayaram Brindala, the founder of Abortion Telemedicine told the New York Times that "We don't have any barriers such as an ID verification or GPS validation," Pam Belluck, "Abortion Pill Providers Experiment With Ways to Broaden Access," 9/3/22.

13. For example, see Aira Bendix, "Why abortions rose after Roe was overturned," NBC News, 11/26/ 24, found at https://www.nbcnews.com/health/womens-health/abortions-rose-roe-overturned-why-rcna181094.

14. For example, see Caroline Kitchener, "This Texas teen wanted an abortion. She now has twins," Washington Post, June 20, 2022.

15. Suzanne O. Bell, Elizabeth Stuart, Alison Gemmil, "Texas' 2021 Ban on Abortion In Early Pregnancy and Changes in Live Births," JAMA, Vol. 330, No. 3 (July 18, 2023), pp. 281-282.

16. Daniel Dench, Mayra Pineda-Torres, Caitlin Myers, "The effects of post-Dobbs abortion bans on fertility," Journal of Public Economics, Vol. 234 (June 2024).

17. The CDC's abortion surveillance report for 2022, which bridges the time before and after *Dobbs*, does indeed show large numbers of women traveling to other states to have abortions and inflating the number of abortions there. But it also shows abortions dropping in states with legal protections for unborn children, causing overall numbers to drop by 2% for 2022 from 2021. See CDC, "Abortion Surveillance — United States, 2022," Surveillance Summaries / November 28, 2024 / 73(7);1–28, available at: www.cdc.gov/mmwr/volumes/73/ss/pdfs/ss7307a1-H.pdf.

CHEMICAL ABORTIONS: A Deadly Year for Moms and Babies

Mifepristone—the "abortion pill"—when combined with misoprostol to cause abortions has been a lethal quagmire for unborn babies and their mothers in the United States since it first went on the market twenty-five years ago. Actions by the FDA, the abortion industry, and media allies presented even greater problems in 2024.

The U.S. Food and Drug Administration (FDA) gave limited approval to mifepristone in September of 2000. There were rules limiting when and how the drug combination could be prescribed and used, and there were safety concerns that became apparent when a number of women died and hundreds ended up in the hospitals.

Once the abortion industry dismissed and downplayed those concerns and persuaded the FDA to gut several safety regulations in 2016, the use of chemical abortions increased. The industry then convinced the FDA to drop required visits to the abortionist from three to one; to extend the gestational limit from seven to ten weeks after a woman's last menstrual period; and to expand the prescriber pool to any "certified healthcare provider."

The biggest blow, however, came in 2021 and 2023 when the Biden administration's FDA dropped the requirement for any in-person visit and then authorized the prescription and sale of these drugs by online and retail pharmacies.

After *Dobbs*

Following these decisions, the sale and mail delivery of mifepristone and misoprostol took place in states not only where unlimited abortion was still legal and still the norm after the *Dobbs* decision but also in states where abortion—and specifically abortion pills—were generally prohibited by law.

Because of this, abortion groups like the Society of Family Planning (SFP) have been claiming that the number of abortions performed on women from states like Arkansas, Georgia, Kentucky, Louisiana, Mississippi, Missouri, South Dakota, Tennessee, and West Virginia after *Dobbs* exceeded those performed before *Dobbs*. They derived these numbers by adding together the number of abortion pills shipped to women in those states to the number of abortions "providers" said women obtained outside their home states.

There are some highly questionable assumptions in those statistics. For example, ordering abortion pills is not the same thing as using the pills. The pills might be taken but may not work. Women might change their minds and try to "reverse" their abortions, etc. But there is no question that abortion pills have been shipped this way.

Further Developments in 2024

The year 2024 showed an increase in sales of the drug. Because of the Biden administration's advocacy, CVS and Walgreens announced the beginning of mifepristone sales in March of 2024, though limited at the time to states where abortions were legal.

The Biden administration also defended mifepristone at the U.S. Supreme Court in *FDA v. Alliance for Hippocratic Medicine*. Several pro-life doctors sought the reinstatement of safety standards that had been in place prior to the changes of 2016, 2021, and 2023.

Though some members of the High Court took the doctors' concerns more seriously than did the Biden administration's FDA, the justices ultimately ruled that the doctors lacked "standing." The Court dismissed the doctors' suit because the physicians did not have an identifiable economic or personal stake in the outcome and because they did not actually prescribe the pills.

Three states—Missouri, Kansas, and Idaho—have sought to revive the suit. These states argue that they do have legal standing because their populations and state medical systems are economically and personally affected by the laxer safety standards. On January 16, 2025, U.S. District Judge Matthew J. Kacsmaryk ruled in *Missouri et al. v. U.S. Food and Drug Administration et al.*, that the states of Idaho, Missouri, and Kansas could proceed with their challenge regarding the FDA's approval and regulation of the abortion drug mifepristone.

The "Shield Law" Dodge

Abortion pill promoters in abortion-friendly states have been emboldened by "shield laws" intended to protect prescribers and purveyors of abortion pills from legal liability. These laws declare that the behavior of abortionists in these states will be governed by the laws of the states where the abortionists reside and/or operate, rather than the states where the abortion pills are delivered or used.

In 2024, New York abortionist Margaret Carpenter prescribed abortion drugs for a woman to give her teenage daughter. The drugs were mailed to Louisiana. The teen, who wanted to keep her baby but was allegedly coerced into taking the abortion drugs, ended up in the emergency room following complications from the abortion. Carpenter was indicted by a Louisiana grand jury but New York Governor Kathy Hochul refuses to comply with the extradition order signed by Lousiana Governor Jeff Landry.

Hochul's defiance is legally questionable, given the U.S. Constitution's "full faith and credit" clause requiring that states recognize and respect the laws and rulings made in other states. This generally means, for example, that someone may be held accountable for actions committed in one state even if they are officially residents of another state.

Spinning New Deaths and Complications

Meanwhile, women continue to be injured and to die from these dangerous abortion drugs. In September, shortly before the election, it came out that two women in Georgia had died from complications from chemical abortions. The media tried to blame Georgia's new law protecting unborn children. However, it was looser regulations and relaxed monitoring of mifepristone patients allowed by Biden's FDA that clearly were responsible for these women failing to get the timely medical help they needed.

The media continues to ignore evidence that these pills are more dangerous and less effective than the abortion industry and federal government claims. More objective foreign studies show higher complication rates (e.g., nearly 10.3% of mifepristone patients sought treatment in the emergency department in Canada). Even the FDA has admitted that 36 deaths and thousands of injuries among U.S. patients were associated with use of the abortion pill.

Yet, the industry and its government allies continued to push the narrative that "serious complications are less than one percent." This claim involves some artful redefinition of what qualifies as "serious" so that things like hemorrhage, infection, incomplete or "failed" abortion requiring "uterine aspiration" (i.e., surgical abortion), and even "uterine perforations" do not count as "serious" complications.

A New Legal Challenge

One of the important later developments of 2024 was a civil suit brought in December by Texas Attorney General Ken Paxton. Paxton brought the suit against Maggie Carpenter, an abortionist from New York who mailed pills to a woman in Texas. Paxton became aware of this violation of Texas law when that Texas woman ended up in an emergency room with complications from an abortion using pills shipped to her home by Carpenter.

Carpenter was charged with practicing medicine in Texas without a license; performing an abortion in violation of Texas Health and Safety Code; and in several ways violating Texas law regarding chemical abortions. Texas law allows Paxton to collect civil penalties of not less than $100,000 for each violation.

Though filed in Texas district court, if successful throughout that state court system, Texas would then file a suit in New York to enforce its judgment. If New York, citing its "shield law," rejects Texas' ability to collect its penalties, Texas could then take the case to the Supreme Court to settle between the conflicting state laws and rulings.

The Supreme Court Could Be Busy in 2025

Between this case, the three states trying to reinstate original FDA mifepristone safety regulations, and other cases now in the lower courts determining how much states can independently regulate drugs sold and used within their borders, the Supreme Court could end up addressing a number of issues that will greatly impact the availability and use of chemical abortion in the United States.

The Court could decide whether "shield laws" are legal or not. The Court could decide to reinstate previous FDA safeguards requiring at least one in-person visit (thereby stopping online sales, full telemedicine, and the mailing of pills to women the prescriber has never personally met or examined). The Court could also rule on whether states could generally limit or regulate the sale or use of FDA-approved drugs within their own state borders.

At some point, the Court could also issue a definitive ruling on whether the Comstock Act, a late 19th century law that forbade the mailing and shipping of abortifacients, reaffirmed multiple times since, is still in force.

Only time will tell how many women will suffer, how many more babies will die in the meantime.

FEDERAL POLICY AND ABORTION

Overview - Federal Law and Abortion

From 1972 until 2022, the basic legal framework governing the legality of abortion and the legal status of unborn human beings had been "federalized" primarily by decisions of the United States Supreme Court, rather than by acts of Congress.

Despite 50 years of court-imposed restraint, Congress has played an important role in shaping abortion-related public policies. For example, the Hyde Amendment, limiting abortion funding in Medicaid and certain other programs, is estimated to have saved over two and a half million lives. On the other hand, certain provisions of the 2010 Obamacare (ACA) law resulted in wider reliance on abortion as a method of birth control—at least in some states. Additionally, the U.S. Senate has played and will continue to play a pivotal if indirect role in determining abortion policy, through confirmation or rejection of nominees to the U.S. Supreme Court and the circuit courts of appeals.

Currently, most pro-life laws and policies are being enacted at the state level. However, the federal government, from the executive branch to the U.S. Congress has both the opportunity and the responsibility to protect the most vulnerable members of the human family.

Partial-Birth Abortion

The use of one specific method of abortion, partial-birth abortion, has been banned nationwide under a federal law, the Partial-Birth Abortion Ban Act (18 U.S.C. §1531), that was enacted in 2003 and upheld by the U.S. Supreme Court in 2007. Partial-birth abortion, which is explicitly defined in the law, was a method used in the fifth month and later (i.e., both before and after "viability"), in which the baby was partly delivered alive before the skull was breached and the brain destroyed. Abortion performed with consent of the mother by any other method, up to the moment of birth, does not violate any federal law.

Born-Alive Infants and Abortion

Under the Born-Alive Infants Protection Act (PL 107-207), enacted in 2002, babies who are born alive, whether before or after "viability," are recognized as full legal persons for all federal

law purposes. This law says that "with respect to a member of the species homo sapiens," the term born alive "means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion."

Much stronger federal protection would be provided by the Born-Alive Abortion Survivors Protection Act (H.R. 21). The Born-Alive Abortion Survivors Protection Act would enact an explicit requirement that a baby born alive during an abortion must be afforded "the same degree" of care that would apply "to any other child born alive at the same gestational age," including transportation to a hospital, and applies the existing penalties of 18 U.S.C. § 1111 (the federal murder statute) to anyone who performs "an overt act that kills [such] a child born alive." There have been several votes in the past in the U.S. Senate which have garnered majority support, but 60 votes are required and the bill has not advanced. In January 2025, in the 119th Congress, the bill passed the House of Representatives in a vote of 217-204-1 with only one Democrat voting for passage. In the Senate, the bill failed to meet the 60-vote threshold in a vote of 52-47. Additional information can be found on page 21.

Unborn Victims of Violence

Babies carried in the womb "at any stage of development" who are injured or killed during the commission of certain violent federal crimes are fully recognized as human victims under the Unborn Victims of Violence Act (PL 108-212), enacted in 2004. For example, under certain circumstances, conviction of killing an unborn child during commission of a federal crime can subject the perpetrator to a mandatory life sentence for murder. (The majority of states have enacted similar laws, usually referred to as "fetal homicide" laws. See: www.nrlc.org/federal/unbornvictims/statehomicidelaws092302. Prior to *Dobbs*, federal and state courts consistently ruled that such laws in no way conflicted with the doctrine of *Roe v. Wade*. See: www.nrlc.org/federal/unbornvictims/statechallenges.)

Other Federal Policies

Pro-abortion advocacy groups intensified efforts to enshrine "abortion rights" in statute (e.g., the "Women's Health Protection Act," formerly the "Freedom of Choice Act") under the Biden adminstration. They received endorsements of such measures from three presidents (Clinton, Obama, and Biden) and managed to obtain several votes. None of these measures were signed into law. Further information is available on page 19.

A number of federal laws generally prohibit federal subsidies for abortion in various specific programs, the best known of these being the Hyde Amendment, which governs funds that flow through the annual federal Health and Human Services (HHS) appropriations bill. A fuller explanation of the Hyde Amendment can be found starting on page 23. However, as discussed below, Obamacare contains provisions that sharply depart from Hyde Amendment principles, primarily by authorizing federal subsidies for the purchase of private health plans that cover unlimited abortion.

Congressional Action on Federal Subsidies for Abortion

As early as 1970, Congress added language to legislation authorizing a major federal "family planning" program, Title X of the Public Health Service Act, providing that none of the funds would be used "in programs where abortion is a a method of family planning." In 1973, Congress amended the Foreign Assistance Act to prohibit the use of U.S. foreign aid funds for abortion.

However, by 1976, the federal Medicaid program alone was paying for about 300,000 abortions a year, and the number was escalating rapidly. Congress responded by attaching a "limitation amendment" to the annual

appropriations bill that includes funding for the Department of Health and Human Services (DHHS)—the Hyde Amendment—prohibiting federal reimbursement for abortion, except to save the mother's life. In a 1980 ruling (*Harris v. McRae*), the U.S. Supreme Court ruled, 5-4, that the Hyde Amendment did not contradict *Roe v. Wade*.

Following the Supreme Court decision upholding the Hyde Amendment, Congress enacted a number of similar laws to prohibit abortion coverage in other major federally-subsidized health insurance plans, including those covering members of the military and their dependents, federal employees, and certain children of parents with limited incomes (SCHIP). By the time Barack Obama was elected president in 2008, this array of laws had produced a nearly uniform policy that federal programs did not pay for abortion or subsidize health plans that included coverage of abortion, except when necessary to save the life of the mother, or in cases of rape or incest.

Provisions of the Obamacare health law sharply deviated from this longstanding policy. While President Obama repeatedly claimed that his legislation would not allow "federal funds" to pay for abortions, a claim reiterated in a hollow executive order, the law itself explicitly authorized massive federal subsidies to assist many millions of Americans to purchase private health plans that cover unlimited abortion in states that fail to pass laws to limit abortion coverage.

The "No Taxpayer Funding for Abortion Act" would apply the full Hyde Amendment principles in a permanent, uniform fashion to federal health programs, including those created by the Obamacare law. With respect to Obamacare, this would mean that private insurance plans that pay for elective abortions would not qualify for federal subsidies, although such plans could still be sold through Obamacare exchanges, in states that allow it, to customers who do not receive federal subsidies. The U.S. House of Representatives passed this legislation in 2011, 2014, 2015, and 2017. In the 117th Congress, a procedural vote that would have brought the measure for consideration (Roll Call no. 175) failed in the Democrat-controlled chamber by a vote of 218-209. The measure was reintroduced in the 118th Congress and referred to the Subcommittee on Health. Enactment of this legislation remains a top priority for the National Right to Life Committee.

Federal Subsidies for Abortion Providers

Despite the laws already described that are intended to prevent federal funding of elective abortion, many organizations that provide and actively promote abortion receive large amounts of federal funding from various health programs.

For example, the Planned Parenthood Federation of America (PPFA), which provides more than one-third of all abortions within the United States, receives well over $699.3 million through federal, state, and local government grants and contracts.

The Federal Medicaid program is the largest source of these funds. Pro-life forces in Congress have made repeated attempts to enact a new law to deny PPFA eligibility for federal funds. In December 2015, the Senate for the first time passed legislation (H.R. 3762) that would disqualify PPFA from receiving funds under Medicaid and certain other federal programs, and the House gave final approval to this legislation on January 6, 2016. However, President Obama vetoed this bill on January 8, 2016, and the veto was sustained. The U.S. House has since voted numerous times to defund PPFA, but none of these measures has passed the U.S. Senate.

Federal Conscience Protection Laws

Congress has repeatedly enacted federal laws to protect the rights of health care providers who do not wish to participate in providing abortions, including the Church Amendment of 1973 and the Coats-Snowe Amendment

of 1996. One of the most sweeping such protections, the Hyde-Weldon Amendment, has been part of the annual Department of Health and Human Services (DHHS) appropriations bill since 2004. This law prohibits any federal, state, or local government entity that receives any federal HHS funds from engaging in "discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions." The law defines "health care entity" as including "an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan."

However, the Biden administration continued the policy of the Obama era, which undercut enforcement of the federal conscience laws in various ways, and indeed orchestrated attacks on conscience rights in a sweeping and aggressive fashion. As with his first administration, it is expected that conscience rights will be protected under President Trump.

Congressional Action on Direct Protection for Unborn Children

During the Reagan Administration, there were attempts to move legislation to directly challenge *Roe v. Wade*, but no such measure cleared either house of Congress.

After the Republicans took control of Congress in the 1994 election, Congress for the first time approved a direct federal ban on a method of abortion—the Partial-Birth Abortion Ban Act. President Clinton twice vetoed this legislation. The House overrode the vetoes, but the vetoes were sustained in the Senate.

After the election of President George W. Bush, the Partial-Birth Abortion Ban Act was enacted into law in 2003. This law was upheld 5-4 by the U.S. Supreme Court in the 2007 ruling of *Gonzales v. Carhart*, and is in effect today. The law makes it a federal criminal offense to perform an abortion in which the living baby is partly delivered before being killed, unless this was necessary to save the mother's life. In response to the *Gonzales* ruling, National Right to Life developed the model Pain-Capable Unborn Child Protection Act, which declares that the capacity to experience pain exists by at least 20 weeks fetal age, and generally prohibits abortion after that point. Since the time of the initial introduction, there is now compelling evidence that an unborn baby can feel pain by at least 15 weeks.

A federal version of the legislation has been passed numerous times by the House of Representatives and garnered a majority of votes in the Senate (while short of the 60 needed to advance).

In addition, there has been an effort to protect unborn children once a heartbeat has been detected (typically around 6 weeks). Various states have passed some version of this legislation, and today, after the *Dobbs* ruling, several are in effect.

The So-called "Women's Health Protection Act," Formerly the "Freedom of Choice Act"

Beginning about 1989, pro-abortion advocacy groups made it a major priority to enact a federal statute, styled the "Freedom of Choice Act" (FOCA), which would override virtually all state laws that limited access to abortion, both before and after "viability." Bill Clinton endorsed FOCA while running for president in 1992. As Clinton was sworn into office in January 1993, leading pro-abortion advocates predicted Congress, with lopsided Democrat majorities in both houses, would send Clinton FOCA within six months.

FOCA did win approval from committees in both the Senate and House of Representatives in early 1993, but it died without floor votes after National Right to Life engaged in a campaign to educate members of Congress regarding its extreme effects.

FEDERAL POLICY AND ABORTION

The only affirmatively pro-abortion statute enacted during the Clinton years was the "Freedom of Access to Clinic Entrances" statute (18 U.S.C. §248), enacted in 1994, which applies federal criminal and civil penalties to those who interfere with access to abortion clinics in certain ways. However, starting in 2004, pro-abortion advocacy groups renewed their agitation for FOCA. (See www.nrlc.org/federal/foca/article020404foca)

In 2013, alarmed by the enactment of pro-life legislation in numerous states, leading pro-abortion advocacy groups again unveiled a proposed federal statute that would invalidate virtually all federal and state limitations on abortion, including various types of laws that have been explicitly upheld as constitutionally permissible by the U.S. Supreme Court. This updated FOCA is formally styled the "Women's Health Protection Act," although National Right to Life noted that it would be more accurate if it were labeled the "Abortion Without Limits Until Birth Act."

It was not until the 117th Congress that these measures were ever brought for a vote. Four separate votes on virtually identical legislation were taken. In the Democrat-controlled House, the measure passed by a vote of 218-211 (Roll Call No. 295) and again by a vote of 219-210 (Roll Call No. 360). In the Senate, where the measure needed 60 votes to advance, the measure failed on two occasions by a vote of 46-49 (Roll Call No. 65) and 49-51 (Roll Call No. 170). The so-called "Women's Health Protection Act" would invalidate nearly all state limitations on abortion, including waiting periods and women's right-to-know laws. It would require all states to allow abortion even during the final three months of pregnancy based on an abortionist's claim of "health" benefits, including mental health. It would also invalidate nearly all existing federal laws limiting abortion.

National Right to Life Priorities in the 119th Congress and Beyond

There are many life-affirming policies that can be enacted at the federal level that will reduce the number of abortions, help mothers, and save lives. National Right to Life is urging all lawmakers to embrace the unique and transformative role the federal government has in advancing life-affirming policies in the United States.

This includes:

- Ensuring that no taxpayer dollars are used to pay for abortion or subsidize health plans that cover or promote abortion, either in the U.S. or in other countries, and eliminating to the extent possible taxpayer funding of abortion providers.
- Recognizing the role of parents to be involved before their minor daughter could get an abortion.
- Connecting mothers of newborn and preborn children to resources.
- Protecting the lives of babies born alive following an attempted abortion.
- Seeking protective protocols on chemical abortions to reduce the risk of death and injury to the mother.
- Promoting educational initiatives (and existing right-to-know laws) to provide vital information about the development of the unborn child and the physical, mental, and emotional dangers of elective abortion.
- Requiring the U.S. Centers for Disease Control and Prevention (CDC) to collect meaningful data and publish reports on abortion in all 50 states and the District of Columbia, (e.g., the number of abortions performed, the age of the mother and preborn child, complications and deaths arising from such procedures).
- Protecting the conscience rights of health care personnel and entities who do not wish to perform or participate in any part of the abortion process.
- Confirming only federal judges and justices who will interpret the Constitution fairly and honestly according to its text and history.

Understanding the Born-Alive Abortion Survivors Protection Act

The Born-Alive Abortion Survivors Protection Act is a proposed federal law aimed at closing critical gaps left by the Born-Alive Infants Protection Act of 2002. While the 2002 law recognized that any infant born alive, regardless of the circumstances of birth—including following an abortion attempt—is a person under U.S. law, it did not include specific requirements for the medical care of such infants or penalties for failing to provide care.

The Born-Alive Abortion Survivors Protection Act addresses these omissions by requiring healthcare professionals to provide the same medical care to abortion survivors that would be given to any other infant born at the same gestational age.

Key Differences Between the Two Acts

- Born-Alive Infants Protection Act (2002):
    - Defines a "born-alive" infant as a person entitled to the full protection of U.S. laws.
    - Focuses on the legal recognition of personhood but does not mandate any specific medical actions.
- Born-Alive Abortion Survivors Protection Act:
    - Mandates that healthcare providers deliver life-saving care to infants born alive during abortion attempts.
    - Requires that infants who survive be transferred to a hospital equipped to provide specialized care.
    - Establishes penalties for healthcare providers who fail to comply.
    - Includes provisions allowing mothers to pursue civil action if their child is harmed due to a lack of required care.

Why Is This Act Necessary?

- Documented Cases of Neglect: Instances of neglect have been documented at the state level, even when live births following abortions are reported. For example:
    - In Minnesota, reports indicate five infants were born alive during abortion procedures in 2021. None of these infants received life-saving care.
    - Between 2017 and 2022, Arizona reported 62 live births following abortions, and Florida documented 30 cases over a four-year period.
- Lack of National Oversight: The Born-Alive Infants Protection Act does not require healthcare facilities to report live births after failed abortions. As a result, there is no comprehensive federal database tracking these occurrences, leaving gaps in accountability and oversight.

High-profile cases, such as the Kermit Gosnell scandal, have highlighted the dire need for federal legislation to ensure the humane treatment of infants born alive. Gosnell's clinic was discovered to have routinely delivered live infants and then ended their lives. The Grand Jury Report noted that hundreds of babies may have died in this manner, underscoring the lack of safeguards against such atrocities.

The issue has also entered the political arena in recent years:

- In Virginia, legislation proposed by Delegate Kathy Tran in 2019 sparked controversy for its permissiveness on late-term abortions, including situations where a mother is in active labor.
- Former Governor Ralph Northam's comments about post-birth decisions for infants born alive added to concerns about the ethical implications of current abortion practices.

The Act serves as a necessary expansion of existing legal protections by explicitly mandating that infants born alive receive immediate and appropriate medical attention. This includes:

- A requirement for healthcare providers to treat abortion survivors with the same care provided to any infant of the same gestational age.
- Establishing penalties for failing to provide care, ensuring accountability within the medical profession.
- Allowing mothers to pursue legal recourse if harm results from noncompliance.

The lack of consistent reporting and accountability at the national level makes the Born-Alive Abortion Survivors Protection Act a critical piece of legislation. By addressing these gaps, the Act aims to ensure that all infants, regardless of the circumstances of their birth, are afforded the same rights and medical care. It also reflects an effort to standardize responses to these cases across states, ensuring that the protections for vulnerable newborns are applied uniformly nationwide.

This legislation brings clarity to an area of law where ambiguity has allowed for disparate practices, ensuring that the life of every newborn is respected and safeguarded.

THE HYDE AMENDMENT

The Hyde Amendment, detailed below, has been renewed each appropriations cycle—with few changes—every year for over 40 years. The Hyde Amendment, and similar provisions, have enjoyed bipartisan support over the years and have been supported by Congresses controlled by both parties as well as presidents from both parties.

President Trump Issues Executive Order on January 24, 2025

President Trump issued an executive order within days of beginning his second term to reinforce the Hyde Amendment which prevents the use of U.S. taxpayer dollars to pay for abortions domestically.

Department of Defense Memorandum January 29, 2025

On January 29, 2025, President Trump's DOD issued a memo reversing a Biden administration directive that Department of Defense pay the travel and transportation costs for military members and dependents to travel to obtain elective abortions.

Actions Under President Biden in Violation of Hyde-Related Provisions

Veterans Affairs September 9, 2022 Interim Final Rule

Since 1992, Veterans Affairs (VA) has been statutorily prohibited from using taxpayer dollars for abortion. In fall of 2022, the Biden administration disregarded this longstanding statutory prohibition on taxpayer funding for abortion at the VA and issued a new rule that includes funding abortion for an array of "health" reasons.

The undefined reference to health meant, as in *Doe v. Bolton* (the companion case to *Roe v. Wade*), that abortions could be done for virtually any reason. The Court held in *Doe* that, "medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the wellbeing of the patient. All these factors may relate to health."

Department of Defense Memorandum October 20, 2022

Federal law (10 U.S.C. § 1093) has long prevented the Department of Defense (DOD) from using funds to perform elective abortions and prevented the DOD from using its facilities to provide abortions. In late October 2022, Biden's DOD published a memorandum directing the DOD to pay the travel and transportation costs for military members and dependents to travel to obtain elective abortions.

The federal prohibition against DOD funding elective abortion clearly extends to funding for any item related to the abortion, such as travel and transportation, which has been the case for the entire life of the funding prohibition.

These actions were an affront by the Biden administration to the longstanding provisions of law prohibiting taxpayer-funded abortion. National Right to Life believes that the Hyde Amendment has proven itself to be the greatest domestic abortion-reduction measure ever enacted by Congress, saving over an estimated 2.5 million lives.

The History of the Hyde Amendment

Federal funding of abortion became an issue soon after the U.S. Supreme Court, in its 1973 ruling in *Roe v. Wade*, invalidated the laws protecting unborn children from abortion in all 50 states. The federal Medicaid statutes had been enacted years before that ruling, and the statutes made no reference to abortion, which was not surprising, since criminal laws generally prohibited the practice. Yet by 1976, the federal Medicaid program was paying for about 300,000 elective abortions annually, and the number was escalating rapidly.

If a woman or girl was Medicaid-eligible and wanted an abortion, then abortion was deemed to be "medically necessary" and federally reimbursable.

It should be emphasized that "medically necessary" is, in this context, a term of art—it conveys nothing other than that the woman was pregnant and sought an abortion from a licensed practitioner.

That is why it was necessary for pro-life Congressman Henry Hyde (R-Ill.) to offer, beginning in 1976, his limitation amendment to the annual Labor Health and Human Services (LHHS) appropriations bill to prohibit the use of funds that flow through that annual appropriations bill from being used for abortions. In a 1980 ruling (*Harris v. McRae*), the U.S. Supreme Court ruled, 5-4, that the Hyde Amendment did not contradict *Roe v. Wade*.

The pattern established under Medicaid prior to the Hyde Amendment was generally replicated in other federally-funded and federally-administered health programs. In the years after the Hyde Amendment was attached to LHHS appropriations, the remaining appropriations bills as well as other government programs went entirely unaffected and continued to pay for abortions until separate laws were passed to deal with them. Where general health services have been authorized by statute for any particular population, elective abortions ended up being funded—unless and until Congress acted to explicitly prohibit it.

In later years, as Medicaid moved more into a managed-care model, the Hyde Amendment was expanded to explicitly prohibit any federal Medicaid funds from paying for any part of a health plan that covered abortions (with narrow exceptions). Thus, the Hyde Amendment has long prohibited not only direct federal funding of abortion procedures, but also federal funding of plans that include abortion coverage.

There is abundant empirical evidence that where government funding for abortion is not available under Medicaid or the state equivalent program, at least one-fourth of the Medicaid-eligible women carry their babies to term, who would otherwise procure federally-funded abortions. Some pro-abortion advocacy groups have claimed that the abortion-reduction effect is substantially greater—one-in-three, or even 50 percent.

What the Hyde Amendment Does (and Does Not) Cover

The Hyde Amendment is a limitation that is attached annually to the appropriations bill that includes funding for the Department of Health and Human Services (DHHS), and it applies only to the funds contained in that bill. (Like the annual appropriations bill itself, the Hyde Amendment expires every September 30, at the end of every federal fiscal year. The Hyde Amendment will remain in effect only for as long as the Congress and the President re-enact it for each new federal fiscal year.)

The current Hyde Amendment text reads in part:

> SEC. 506. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.
>
> (b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.
>
> (c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.
>
> SEC. 507. (a) The limitations established in the preceding section shall not apply to an abortion—
>
> (1) if the pregnancy is the result of an act of rape or incest; or
>
> (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

The Hyde Amendment is sometimes referred to as a "rider," but in more correct technical terminology it is a "limitation amendment" to the annual appropriations bill that funds the Department of Health and Human Services and a number of smaller agencies. A "limitation amendment" prohibits funds contained in a particular appropriations bill from being spent for a specified purpose. The Hyde Amendment limitation prohibits the spending of funds within the DHHS appropriations bill for abortions (with specified exceptions). It does not control federal funds appropriated in any of the other 11 annual appropriations bills, nor any funds appropriated by Congress outside the regular appropriations process. [However, because of an entirely separate statute enacted in 1988, the HHS policy is automatically applied as well to the Indian Health Service.]

That is why it has been necessary to attach funding bans to other bills to cover the programs funded through other bills to cover the programs funded through other funding streams (e.g. international aid, the federal employee health benefits program, the District of Columbia, Federal prisons, Peace Corps, etc.). Together these various funding bans form a patchwork of policies that cover most federal programs and the District of Columbia, but many of these funding bans must be re-approved every year and could be eliminated at any time.

Some examples of programs currently covered by the Hyde Amendment policy:

- Medicaid ($75 million) and Medicare ($67 million), and other programs funded through the Department of Health and Human Services.

THE HYDE AMENDMENT

- The Federal Employees Health Benefits Program (covering 9 million federal employees) prevents the use of federal funds for "the administrative expenses in connection with any health plan… which provides any benefits or coverage for abortions." Federal employees may choose from a menu of dozens of private health plans nationwide, but each plan offered to these employees must exclude elective abortions because federal funds help pay the premiums.

- State Children's Health Insurance Program (SCHIP) prohibits the use of federal funds "to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion" (42 USC§1397ee(c)(7)).

The 2010 Obamacare health law ruptured longstanding policy. Among other objectionable provisions, the Obamacare law authorized massive federal subsidies to assist many millions of Americans to purchase private health plans that will cover abortion on demand. The Patient Protection and Affordable Care Act (PPACA) allows premium assistance credits under PPACA to be directed to health insurance coverage that includes abortion, where a state has not specifically banned it.

The PPACA also created multiple new streams of federal funding that are "self-appropriated"—that is to say, they flow outside the regular funding pipeline of future DHHS appropriations bills and therefore would be entirely untouched by the Hyde Amendment.

When a federal program pays for abortion or subsidizes health plans that cover abortion, that constitutes federal funding of abortion—no matter what label is used. The federal government collects monies through various mechanisms, but once collected, they become public funds—federal funds.

In addition, there is not a meaningful distinction to how the funds are dispersed once they become federal funds—be it towards a direct payment for health coverage or in the form of tax credits (which may or may not be paid in advance, or simply count against tax liability—which does not always exist). Additionally, there is no meaningful distinction to whom the funds are paid, be it to an individual, an employer covering health cost, or to another covering entity. When government funds are expended to pay for abortions or to plans that pay for abortions, that constitutes federal funding for abortion.

THE "EQUAL RIGHTS AMENDMENT"

Executive Summary

Pro-abortion groups, seeking a replacement for *Roe v. Wade*, have been engaged in an intensive, long-term effort to flatten constitutional guardrails and ram the long-expired 1972 Equal Rights Amendment into the U.S. Constitution. Many elected Democratic officeholders enlisted in this extra-constitutional campaign. However, for decades, federal judges of every political stripe have rebuffed the politically contrived, legally untenable claims of the ERA revivalists.

During 2024, the ERA-revival movement continued to rely heavily on strongly sympathetic and often willfully gullible news media to promote the claim that the ERA was on the verge of becoming part of the Constitution, and that any lawmaker or judge who resisted the scheme was an enemy of "equality."

In the wake of the U.S. Supreme Court's June 24, 2022, ruling in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade*, pro-abortion activists loudly proclaimed as true a position that for decades they denied or deflected: The Equal Rights Amendment (ERA) in the form proposed by Congress in 1972, if it ever became part of the U.S. Constitution, could be employed as a strong legal foundation for challenges to (and in their view, invalidation of) virtually all state and federal limits on abortion, and to require funding of elective abortion at all levels of government.

To those ends, pro-abortion activists pulled out all stops to try to ram the 1972 ERA into the Constitution. Yet their effort could have succeeded only if multiple constitutional guardrails were first demolished, with far-reaching ramifications for possible future revisions to the text of the Constitution.

ERA revivalists, including President Biden, urged that Congress adopt a joint resolution purporting to retroactively "remove" a ratification deadline, despite the multiple constitutional impediments to any such exercise in legislative time travel. Such a measure failed in the U.S. Senate in April 2023 and had no prospect of success in the House of Representatives during 2024. Nevertheless, nearly every Democrat in Congress endorsed the concept. Some went further, demanding that the Archivist of the United States certify the ERA without waiting for congressional action, or that the President order her to do so.

Far from eliciting media outcries about attacks on the rule of law or the constitutional order, during 2021-2023 the anything-goes ERA-revival campaign was overtly promoted in prestigious organs of the national media such as the *New York Times*, *The Atlantic*, NBC News, ABC News, and National Public Radio. In most cases, these promotional treatments gave short shrift to the actions of the federal courts regarding the status of the ERA, or even ignored the court decisions altogether.

The tension between objective requirements for amending the Constitution and political gamesmanship were illustrated by the fact that President Biden endorsed the unsuccessful congressional proposals to proclaim the ERA as having been ratified, even though his Justice Department recognized in federal court that the ERA was not ratified—a position affirmed in a 42-year unbroken string of federal court decisions.

THE EQUAL RIGHTS AMENDMENT

Federal Courts Stand Fast Against ERA Deadline Denialism

The ERA Resolution submitted to the states by Congress on March 22, 1972, contained a seven-year ratification deadline. The deadline expired on March 22, 1979 with the ERA short of the 38 states required for ratification. There is no judicial authority to support any claim that the ERA continued to exist as a viable proposal after that date. Nevertheless, since winning adoption of ostensible "ratification" resolutions from the legislatures of Nevada (2017), Illinois (2018), and Virginia (2020), ERA revivalists routinely assert that the ERA is already part of the Constitution—or at least, that it will become part of the Constitution if so declared by the Archivist of the United States, or by the Congress, or both.

So far, the constitutional rule of law has prevailed. The federal courts have remained uniformly unreceptive, over a 42-year period, to the legal claims advanced by the ERA revivalists. As the *Washington Post* Fact Checker noted on February 9, 2022:

> [E]very time the issue has been litigated in federal court, most recently in 2021, the pro-ERA side has lost, no matter whether the judge was appointed by a Democrat or Republican…. Moreover, two major court rulings have concluded that the ERA's ratification deadline, as set by Congress, has expired —a position embraced by both the Trump and Biden Justice Departments. The Supreme Court in 1982 also indicated support for the idea that the deadline has passed. ("The ERA and the U.S. archivist: Anatomy of a false claim," *Washington Post*, February 9, 2022, also awarding Congresswoman Carolyn Maloney "Four Pinocchios" for her claims that the Archivist of the U.S. could and should unilaterally add the ERA to the U.S. Constitution.)

The most recent major judicial blow to ERA deadline-denialism occurred on February 28, 2023, when a unanimous three-judge panel of the U.S. Court of Appeals for the District of Columbia rejected a lawsuit by the attorneys general of Illinois and Nevada. Those two states had asked that the court order the Archivist of the United States to certify ("publish") the ERA as part of the Constitution.

Douglas Johnson, a researcher who has covered the ERA ratification process since 1983, wrote in January 2024:

Since 1982, 30 federal judges have had an opportunity to vote to validate or advance some element of the ERA-revivalists' legal claims, but the ERA-revival litigants have yet to win a single vote, from a single judge, on a single component in their hodge-podge array of novel legal claims. These 30 judges have been equally divided as to the political parties of the presidents who selected them.

[An article by Mr. Johnson, "Federal Judges Scorn ERA Revival Legal Claims" detailing the various federal court cases dealing with the status of the ERA, from 1982 through 2023, is available from NRLC.]

On January 17, 2025, in a complete departure from legal precedent and Constitutional procedure, outgoing President Joe Biden inaccurately declared that the Equal Rights Amendment (ERA) had been ratified and was now part of the Constitution. While the statement was celebrated by pro-abortion ERA activists, it has no legal merit or impact.

In 1983 and since, National Right to Life has expressed strong opposition to any federal ERA, *unless* an "abortion-neutralization" amendment is added, which would state: "Nothing in this Article [the ERA] shall be construed to grant, secure, or deny any right relating to abortion or the funding thereof." ERA proponents have vehemently rejected such a modification to any "start over" ERA.

INTERNATIONAL

International Abortion Funding

Numerous policy issues are related to foreign aid and abortion. One significant policy was originally announced by the Reagan Administration in 1984 at an international population conference in Mexico City, and therefore, has been officially known as the Mexico City Policy. That policy required that organizations that perform abortions (except to save the mother's life or in cases of rape or incest) could not lobby to change the abortion laws of host countries, and could not "actively promote abortion as a method of family planning." The Mexico City Policy has been adopted by each Republican president since, and rescinded by each Democrat president.

Under previous Republican presidents, the policy applied to family planning programs administered by the U.S. Agency for International Development (USAID) and the State Department. However, in the decades since 1984, a number of new health-related foreign assistance programs have been created, under which the U.S. provides support to private organizations that interact with many women of childbearing age in foreign nations. All too many of these organizations have incorporated promotion of abortion into their programs—even in nations which have laws that provide legal protection to unborn children.

President Trump reinstated the Mexico City Policy in his first term and widened its reach calling it the Protecting Life in Global Health Assistance Program. The expanded policy reached a substantial array of overseas health programs, including those dealing with HIV/AIDS, maternal and child health, and malaria, and including some programs operated by the Defense Department. In one of its first actions upon taking office, the Biden administration, on January 28, 2021, reversed this policy.

On January 24, 2025, one of President Trump's first actions in office was an Executive Order reinstating Mexico City Policy and America's reentry into the Geneva Consensus Declaration. Co-founded by the United States in 2020 under President Trump, the Declaration is a coalition of more than 30 countries united in affirming the inherent dignity of every human being, the importance of women's health without endorsing abortion, and the sovereignty of nations to protect life through their own laws.

STATE LAWS AND ABORTION

The following pages provide a summary of state laws highlighting key legislation enacted by National Right to Life Committee's (NRLC's) network of state affiliates over the past 25 years. For a more comprehensive list of laws by National Right to Life's grassroots network of affiliates, please visit the state legislation page at https://www.nrlc.org/statelegislation/.

The 2024 state legislative session brought significant pro-life victories, reinforcing the value of life-affirming laws that protect and promote a culture where every life—from the womb to natural death—is cherished.

One groundbreaking law, recently passed and signed by Louisiana's pro-life governor, sets a new precedent by making it a crime to coerce a pregnant woman into consuming abortion-inducing drugs through deception or poisoning. This innovative legislation not only protects expectant mothers but also classifies abortion-inducing drugs as controlled substances, adding a critical layer of accountability.

Tragically, the accessibility of these drugs online has led to cases nationwide where pregnant women were unknowingly poisoned, resulting in the loss of their unborn children. Louisiana's bold steps demonstrate the power of strong, protective laws in combating such devastating acts and safeguarding the dignity of both women and their babies.

Tennessee's pro-life leaders have taken a bold step forward by enacting a law, inspired by National Right to Life's post-*Dobbs* model, that stands alongside Idaho's groundbreaking legislation to address abortion trafficking of minors.

This important law safeguards the rights of parents and legal guardians to be involved in their minor daughter's abortion decisions. It prohibits any adult from recruiting, harboring, or transporting a pregnant unemancipated minor within the state for an abortion without the knowledge and consent of her parents.

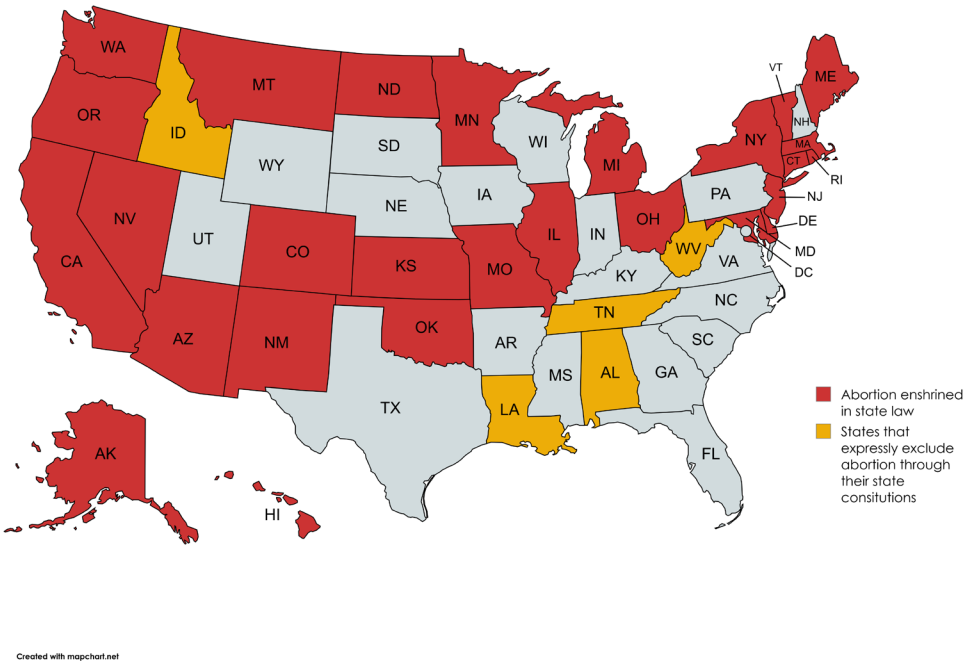
STATE LAWS AND ABORTION

By prioritizing parental involvement and protecting vulnerable minors, Tennessee is leading the way in fostering a culture of accountability and care.

National Right to Life, in partnership with our network of state affiliates, remains dedicated to collaborating with lawmakers to advance impactful, life-affirming legislation. These efforts focus on safeguarding both mothers and children while promoting a culture of compassion and support. The strong relationships our affiliates have built with policymakers consistently result in effective, meaningful protections and resources for mothers, unborn children, and families facing challenging circumstances.

For more information and updates on the following laws and maps, please visit nrlc.org.

Abortion Enshrined in State Laws by Interpretation of State Constitution, State Constitutional Amendment or State Legislative Statute



Abortion Enshrined in State Laws by Interpretation of State Constitution, State Constitutional Amendment or State Legislative Statute

The state constitutions in 5 (five) states do not enshrine abortion in state law. Four of these specifically excluded abortion and abortion funding through state constitutional amendments (Alabama, Louisiana, Tennessee, and West Virginia). The constitution in one state (Idaho) was interpreted by a court decision to exclude a so-called right to abortion.

(See the list of 27 states and the District of Columbia that have enshrined abortion in state law through a court decision, constitutional amendment or state legislative statute on the next page.)

STATE LAWS AND ABORTION

Abortion Enshrined in State Laws by Interpretation of State Constitution, State Constitutional Amendment or State Legislative Statute

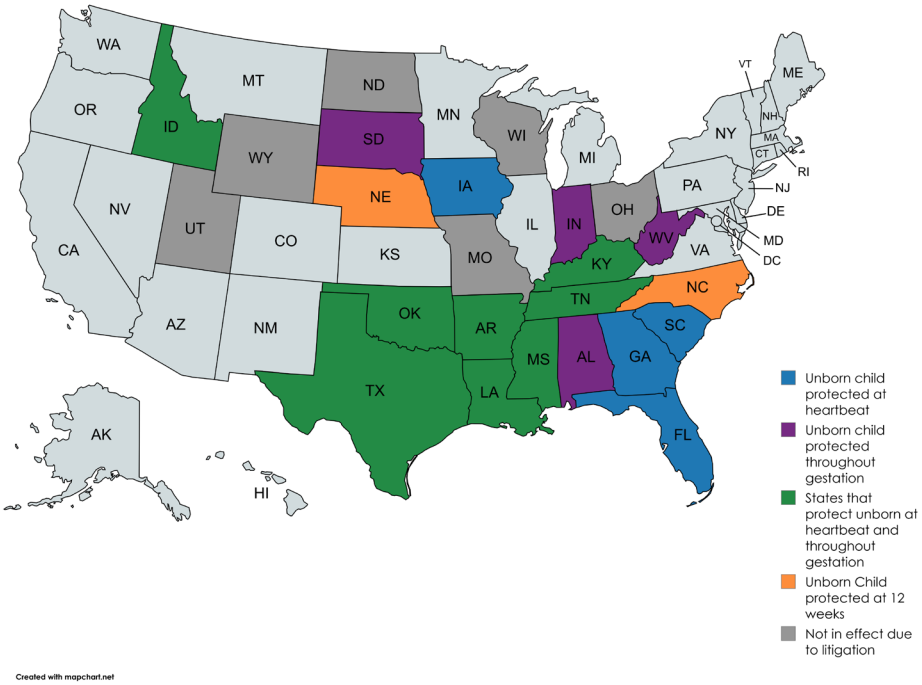
A total of 27 states and the District of Columbia have guaranteed a so-called right to abortion by either a court decision, constitutional amendment or state legislative statute:

Alaska (court decision)
Arizona (constitutional amendment)
California (constitutional amendment and statute)
Colorado (constitutional amendment and statute)
Connecticut (statute)
Delaware (statute)
District of Columbia (statute)
Hawaii (statute)
Illinois (state statute)
Kansas (court decision)
Maine (statute)
Maryland (constitutional amendment and statute)
Massachusetts (court decision and statute)
Michigan (constitutional amendment)
Minnesota (state statute and court decision)
Missouri (constitutional amendment
Montana (constitutional amendment and court decision)
Nevada (legislatively referred state statute)
New Jersey (court decision and statute)
New Mexico (statute)
New York (constitutional amendment and statute)
North Dakota* (court decision)
Ohio (constitutional amendment)
Oklahoma** (court decision)
Oregon (statute)
Rhode Island (statute)
Vermont (constitutional amendment and statute)
Washington (legislatively referred state statute)

* In September 2024, a state district judge struck down North Dakota's law protecting the unborn throughout gestation, ruling it unconstitutional under the state constitution. Previously, in 2023, the state's Supreme Court, in declining to vacate a preliminary injunction on the state's trigger law, held that the state constitution provides a fundamental "right" to an abortion when necessary to preserve the life or health of a mother.

** In 2023, the Supreme Court of Oklahoma held that "the Oklahoma Constitution creates an inherent right of a pregnant woman to terminate a pregnancy when necessary to preserve her life."

Abortion Protections in Early Pregnancy and Fetal Heartbeat Protection Laws



Abortion Protections in Early Pregnancy and Fetal Heartbeat Protection Laws

Several states have enacted laws that protect the unborn child throughout gestation or once the heartbeat of the baby can be detected. The heart is the first organ to form in an unborn child. An unborn child's heart begins to beat after eighteen (18) days.

Beginning in 2013, several states have enacted laws protecting unborn children from abortion after the unborn child's heartbeat is detected. A total of five (5) states: Florida, Georgia, Iowa, Ohio*, and South Carolina have laws protecting the unborn child once a heartbeat is detected.

Nine (9) states have enacted laws protecting unborn children throughout gestation: Alabama, Indiana, Missouri*, North Dakota*, South Dakota, Utah*, West Virginia, Wisconsin*, and Wyoming*.

Eight (8) states have laws that both protect the unborn when their heartbeat can be detected, and throughout gestation: Arkansas**, Idaho, Kentucky, Louisiana, Mississippi, Oklahoma**, Tennessee, and Texas.

Two (2) states have laws that protect the unborn child after 12 weeks: Nebraska and North Carolina.

*Laws not in effect due to litigation.
** The heartbeat laws are not in effect in these states but the laws protecting the unborn child throughout gestation remain in effect.

A Summary of Abortion Laws in All 50 States and the District of Columbia

Alabama: Unborn babies are protected except under limited exceptions; 48-hour waiting period; an ultrasound is required before an abortion; an in-person visit is required for chemical abortions; parental consent is required for before a minor's abortion; non-physicians may not perform an abortion

Alaska: Unlimited abortion; non-physicians are allowed to perform abortions; an in-person visit is required for chemical abortions

Arizona: Abortion legal under the state constitution; an abortion law preventing abortions after viability is under court challenge following passage of the state's constitutional amendment; ultrasound required before an abortion; parental consent is required before a minor's abortion; non-physicians may not perform abortions; state has a shield law protecting abortionists

Arkansas: Unborn babies are protected except under limited exceptions; 72-hour waiting period; an ultrasound is required before an abortion; an in-person visit is required for chemical abortions; parental consent is required before a minor's abortion; non-physicians may not perform an abortion

California: Abortion legal under the state constitution until viability; private health insurance is required to cover abortion; non-physicians can perform abortions; state funds are used to pay for abortion client care; shield laws for abortionists--including telehealth abortions

Colorado: Abortion legal under the state constitution; private health insurance is required to cover abortion; parental notice is required for minor's abortion; non-physicians can perform abortions; shield laws for abortionists--including telehealth abortions

Connecticut: Abortion legal under the state constitution until viability; non-physicians may perform abortions; shield law protecting abortionists

Delaware: Abortion legal under the state constitution until viability; private health insurance required to cover abortion; non-physicians may perform abortions; parental notice required for a minor's abortion; shield law protecting abortionists; health insurance plans are required to cover abortion

District of Columbia: Unlimited abortion; shield law protecting abortionists

Florida: State law protects preborn babies 6 weeks old or later; 24-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; mailing abortion pills is against the law; parental consent is required for a minor's abortion; non-physicians are not allowed to perform abortions

Georgia: State law protects preborn babies 6 weeks old or later; 72-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; mailing abortion pills is against the law; parental notice is required for a minor's abortion; non-physicians are not allowed to perform abortions

Hawaii: Abortion legal until viability; non-physicians are allowed to perform abortions; shield law protects abortionists

Indiana: Unborn babies are protected except under limited exceptions; 18-hour waiting period; an ultrasound is required before an abortion; an in-person visit is required for chemical abortions; parental consent is required for before a minor's abortion; non-physicians may not perform an abortion

Iowa: State law protects preborn babies 6 weeks old and later; 24-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; parental notice is required for a minor's abortion; non-physicians are not allowed to perform abortions

Kansas: Unborn babies are protected at 22 weeks and later; parental consent is required for before a minor's abortion; non-physicians may not perform an abortion; private health insurance is prevented from covering abortions

Kentucky: State law protects preborn babies; 24-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; parental consent is required for a minor's abortion; non-physicians are not allowed to perform abortions

Louisiana: State law protects preborn babies; state constitution explicitely excludes abortion; 24-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; parental consent is required for a minor's abortion; non-physicians are not allowed to perform abortions

Maine: Abortion legal under the state constitution until viability; private health insurance required to cover abortion; non-physicians may perform abortions; shield law protecting abortionists--including telehealth abortions; health insurance plans are required to cover abortion

Maryland: Unlimited abortion legal under the state constitution; private health insurance is forced to cover abortions; parental notice required for a minor's abortion; non-physicians may perform abortions; shield law protecting abortionists

Massachusetts: Abortion legal under the state constitution until 24 weeks; private health insurance is forced to cover abortions; parental consent or notice is required for minor's abortion; non-physicians can perform abortions; shield laws for abortionists--including telehealth abortions

Michigan: Abortion legal under the state constitution until viability; private health insurance required to cover abortion; non-physicians may perform abortions; parental notice required for a minor's abortion; shield law protecting abortionists

Minnesota: Unlimited abortion legal under the state constitution; non-physicians may perform abortions; private health insurance required to cover abortions; shield law protecting abortionists

Mississippi: Unborn babies are protected except under limited exceptions; 24-hour waiting period; an ultrasound is required before an abortion; an in-person visit is required for chemical abortions; parental consent is required for before a minor's abortion; non-physicians may not perform an abortion

Missouri: Abortion legal under the state constitution until viability; private health insurance is prevented from covering abortion; an in-person visit is required for chemical abortions; non-physicians may not perform abortions; parental consent and notice are required for a minor's abortion; shield law protecting abortionists

Montana: Abortion legal until viability; non-physicians are allowed to perform abortions; parental notice is required for a minor's abortion

Nebraska: Unborn babies are protected at 12 weeks of pregnancy; 24-hour waiting period (does not have to be an in-person visit before the waiting period); an in-person visit is required for chemical abortions; private health insurance is prevented from covering abortion; parental consent is required before a minor's abortion; non-physicians may not perform an abortion

Nevada: Unborn babies are protected after 22 weeks; parental consent is required before a minor's abortion; non-physicians may not perform an abortion

New Hampshire: Unborn babies are protected at 24 weeks and later*; parental notice is required for a minor's abortion; non-physicians are allowed to perform abortions

New Jersey: Unlimited abortion throughout pregnancy; private health insurance forced to cover abortions; non-physicians may perform abortions; shield law protecting abortionists

New Mexico: Abortion legal under the state constitution until viability; private health insurance required to cover abortion; non-physicians may perform abortions; shield law protecting abortionists--including telehealth abortions; health insurance plans are required to cover abortion

New York: Unlimited abortion legal under the state constitution; private health insurance required to cover abortions; taxpayers funds are used to pay for abortions; non-physicians may perform abortions; shield law protecting abortionists

North Carolina: Unborn babies protected after 12 weeks; 72-hour waiting period; parental consent or notice is required for minor's abortion; ultrasound is required before an abortion

North Dakota: Abortion legal under the state constitution until viability; private health insurance required to cover abortion; non-physicians may perform abortions; parental notice required for a minor's abortion; shield law protecting abortionists; health insurance plans are required to cover abortion

Ohio: Abortion legal under the state constitution; state law protects babies after 20 weeks and later; parental consent required for a minor's abortion

Oklahoma: State law protects preborn babies; 72-hour waiting period; private health insurance is prevented from covering abortions; mailing abortion pills is against the law; parental consent is required for a minor's abortion; parental notice is required before a minor's abortion; non-physicians are not allowed to perform abortions

Oregon: Unlimited abortion; private health insurance required to cover abortion; non-physicians are allowed to perform abortions; shield law protecting abortionists

Pennsylvania: Unborn babies are protected at 24 weeks and later; 24-hour waiting period; parental consent required for a minor's abortion; non-physicians can not perform abortions; shield law protecting abortionists

Rhode Island: Unborn babies are protected at viability; 18-hour waiting period; parental consent required for a minor's abortion; non-physicians can perform an abortion; shield law protecting abortionists

South Carolina: State law protects preborn babies 6 weeks old or later; 24-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; parental consent is required for a minor's abortion; non-physicians are not allowed to perform abortions

South Dakota: Unborn babies are protected; 72-hour waiting period; an in-person visit is required for chemical abortions and both drug doses have to be taken on-site; parental notice is required for a minor's abortion; non-physicians are not allowed to perform abortions

Tennessee: Unborn babies are protected; state constitution explicitly excludes abortion; 48-hour waiting period; ultrasound required; chemical abortions require in-person visit; parental consent is required for a minor's abortion; non-physicians are not allowed to perform abortions

Texas: Unborn babies are protected; 24-hour waiting period; ultrasound required; private health insurance is prevented from covering abortions; chemical abortions require an in-person visit; mailing abortion pills is illegal; parental consent and notification is required for a minor's abortion; non-physicians may not perform abortions

Utah: Unborn babies are protected at 18 weeks and later; 72-hours waiting period; private health insurance is prevented from covering abortions; chemical abortions require in-person visit; parental consent and notification is required for a minor's abortion; non-physicians may not perform abortions

Vermont: State constitution allows unlimited abortion; private health insurance forced to cover abortion; non-physicians can perform abortions; shield law protects abortionists-- even for telehealth abortions

Virginia: Unlimited abortion until the third trimester; parental consent and notification is required before a minor's abortion; non-physicians can perform abortions

Washington: Abortion legal under the state constitution until viability; private health insurance required to cover abortion; non-physicians may perform abortions; parental notice required for a minor's abortion; shield law protecting abortionists

West Virginia: State law protects preborn babies; state constitution explicitely excludes abortion; 24-hour waiting period; an in-person visit is required for chemical abortions; parental notification is required for a minor's abortion; non-physicians are not allowed to perform abortions

Wisconsin: State law protects preborn babies at 20 weeks and later; 24-hour waiting period; ultrasound required; an in-person visit is required for chemical abortions; parental consent is required for a minor's abortion; non-physicians may not perform abortions

Wyoming: State law protects preborn babies after viability; parental consent and notification required before a minor's abortion; non-physicians can not perform abortions

Note: Exceptions to abortions after viability or after a specific time in pregnancy may involve exceptions for the life of the mother, rape and incest, a fatal or severe fetal abnormality, the mother's physical health or a "health" exception as defined by the U.S. Supreme Court decision in *Doe v. Bolton* which would allow abortion for virtually any reason.

No Current Laws Prohibit Abortion in Emergency Situations

Most states with laws protecting unborn children include explicit language permitting abortion for emergency medical intervention when it is necessary to prevent the death of the pregnant woman or to prevent substantial and irreversible physical impairment of a major bodily function of the pregnant woman.

Additionally, most states clarify that these laws do not prevent miscarriage treatment, the delivery of a stillborn child, or any other procedure to remove a baby who has died in utero.

Allowable Conditions

In state pro-life laws, the legal standard is often based on reasonable medical judgment. While there is no formal list of qualifying conditions or medical emergencies, the following reflect some permissible medical reasons for abortion.

1. **Ectopic Pregnancy**
   This occurs when a baby implants and grows outside the uterus, most commonly in a fallopian tube. This condition is life-threatening if untreated.

2. **Sepsis/Infection**
   Sepsis during pregnancy can cause severe organ damage and dangerously low blood pressure, leading to shock. Without prompt treatment, it can be life-threatening for the mother.

3. **PROM (PPROM)**
   Preterm Premature Rupture of Membranes

4. **Malignant Cancer**

5. **Maternal Heart Disease**

6. **Hemorrhage**

Miscarriage Care is NOT ABORTION

Miscarriage care is not abortion because it involves treating a natural loss of pregnancy rather than deliberately ending a viable one.

The purpose of miscarriage care is to protect the mother's health and help her recover physically and emotionally. Pro-life values fully support compassionate care for women experiencing miscarriage, recognizing the dignity of both the mother and the child.

Misrepresenting miscarriage care as abortion creates unnecessary fear and confusion for women seeking necessary medical treatment.

National RIGHT TO LIFE
1446 Duke Street | Alexandria, Virginia 22314
www.nrlc.org

2024 BALLOT MEASURES

BY THE NUMBERS

10

number of states with abortion on the ballot in the 2024 elections.

Arizona, Colorado, Florida, Maryland, Missouri, Montana, Nebraska, Nevada, New York, and South Dakota had abortion-related ballot measures in 2024 ***- the most ever in a single year!***

National Right to Life was the only national pro-life group actively involved in all 10 ballot measure states.

3

number of pro-abortion ballot measures defeated in the 2024 elections

Pro-life coalitions sucessfully defeated pro-abortion ballot measures in Florida, Nebraska, and South Dakota. Nebraska also passed a pro-life ballot measure to preserve their current protections for unborn children.

6 to 1

margin by which the AP reported the pro-life side was being outspent

On October 30, 2024, the Associated Press (AP) reported that pro-life side was being outspent by more than a 6-to-1 margin in ballot measure campaigns. (Some estimates are even higher.) Media tracking firm Ad-Impact showed pro-abortion campaigns had spent **more than three times** as much as the pro-life side spent on advertising on TV, streaming services, radio, and websites.

STATE BY STATE

Arizona: Proposition 139

"Right to Abortion Initiative" - Constitutional amendment creating a "fundamental right" to unlimited abortion until birth, removes parental consent requirement for minors

Result: Yes: 61.62% - No: 38.38% - PASSED

Colorado: Initiative 79

"Right to Abortion & Health Insurance Coverage Initiative" Constitutional amendment creating a "right to abortion" until birth and repealing a constitutional provision that previously blocked the use of state tax dollars to pay for abortions

Result: Yes: 61.96% - No: 38.04% - PASSED

Florida: Amendment 4

"Right to Abortion Initiative"- Constitutional amendment with undefined terms which would allow virtually unlimited abortion until birth - *(60% vote threshold required)*

Result: Yes: 57.16% - No: 42.84% - FAILED

Maryland: Question 1

"Right to Reproductive Freedom Amendment"- Constitutional amendment establishing a "right" to unlimited abortion until birth, prevents enactment of future protections

Result: Yes: 75.46% - No: 24.54% - PASSED

Missouri: Amendment 3

"Right to Reproductive Freedom Initiative" - Constitutional amendment creating a "right" to unlimited abortion until birth, invalidates most current protections

Result: Yes: 51.61% - No: 48.39% - PASSED

Montana: CI-128

"Right to Abortion Initiative" - Constitutional amendment reaffirming a "right" to abortion until birth, further closes door on protections for unborn children in Montana

Result: Yes: 57.76% - No: 42.24% - PASSED

Nebraska: Initiatives 439 & 434

Initiative 439 (Pro-Abortion): "Right to Abortion Amendment"

Result: Yes: 48.80% - No: 51.20% - FAILED

Initiative 434 (Pro-Life): Preserve existing NE law that protects unborn babies 12 weeks & older with exceptions

Result: Yes: 55.09% - No: 44.91% - PASSED

Nevada: Question 6

"Right to Abortion Initiative" - Extending the existing state constitutional "right to abortion" until birth, allows non-physicians to perform abortions

Result: Yes: 64.35% - No: 35.65% - PASSED

New York: Proposition 1

"Equal Protection of Law Amendment" - Broadening existing state ERA language, further codifying unlimited abortion until birth, makes future protections difficult

Result: Yes: 61.51% - No: 38.49% - PASSED

South Dakota: Amendment G

"Right to Abortion Initiative" - Constitutional amendment for a "right to abortion" but presented within deceptive trimester framework to appear more reasonable

Result: Yes: 41.41% - No: 58.59% - FAILED

THE U.S SUPREME COURT AND ABORTION

A Brief Synopsis of Cases

Roe v. Wade **(1973)**
Relying on an unstated "right of privacy" found in a "penumbra" of the Fourteenth Amendment, when coupled with *Roe*'s companion case, *Doe v. Bolton* (below), the Court effectively legalized abortion on demand throughout the full nine months of pregnancy in this challenge to the Texas state law regarding abortion. Although the Court mentioned the state's possible interest in the "potentiality of human life" in the third trimester, legislation to protect that interest would be gutted by mandated exceptions for the "health" of the mother (see *Doe* below).

Doe v. Bolton **(1973)**
A companion case to *Roe*, which challenged the abortion law in Georgia, *Doe* broadly defined the "health" exception so that any level of distress or discomfort would qualify and gave the abortionist final say over what qualified: "The medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well being of the patient. All these factors may relate to 'health.'" Because the application of the health exception was left to the abortionist, legislation directly prohibiting any abortion became practically unenforceable.

Bigelow v. Virginia **and** ***Connecticut v. Menillo*** **(1975)**
Bigelow allowed abortion clinics to advertise. *Menillo* upheld a Connecticut law prohibiting abortions performed by non-physicians.

Planned Parenthood of Central Missouri v. Danforth **(1976)**
The court rejected a parental consent requirement and decided that (married) fathers had no rights in the abortion decision. Furthermore, the Court struck down Missouri's effort to ban the saline amniocentesis abortion procedure, in which salt injected into the womb slowly and painfully poisons the child.

Maher v. Roe **and** ***Beal v. Doe*** **(1977)**
States are not required to fund abortions, though they can if they choose. A state can use funds to encourage childbirth over abortion.

***Poelker v. Doe* (1977)**
In *Poelker*, the Court ruled that a state can prohibit the performance of abortions in public hospitals.

***Colautti v. Franklin* (1979)**
Although *Roe* said states could pursue an interest in the "potential life" of the unborn child after viability (*Roe* placed this at the third trimester), the Court struck down a Pennsylvania statute that required abortionists to use the abortion technique most likely to result in live birth if the unborn child is viable.

***Bellotti v. Baird (II)** (1979)**
The Court struck down a Massachusetts law requiring a minor to obtain the consent of both parents before obtaining an abortion, and insisted that states needed to offer a "judicial bypass" exception by which the child could demonstrate her maturity to a judge or show that the abortion would somehow be in her best interest. *In *Bellotti v. Baird (I)* 1976, the Court returned the case to the state court on a procedural issue.

***Harris v. McRae* (1980)**
The Court upheld the Hyde Amendment, which restricted federal funding of abortion to cases where the mother's life was endangered (rape and incest exceptions were added in the 1990s). The Court said states could distinguish between abortion and "other medical procedures" because "no other procedure involves the purposeful termination of a potential life." While the Court insisted that a woman had a right to an abortion, the state was not required to fund the exercise of that right.

***Williams v. Zbaraz* (1980)**
The Court ruled that states are not required to fund abortions that are not funded by the federal government, but can opt to do so.

***HL v. Matheson* (1981)**
Upholding a Utah statute, the Court ruled that a state could require an abortionist to notify one of the minor girl's parents before performing an abortion without a judicial bypass.

***City of Akron v. Akron Center for Reproductive Health* (1983)**
The Court struck down an ordinance passed by the City of Akron requiring: (1) that abortionists inform their clients of the medical risks of abortion, of fetal development, and of abortion alternatives; (2) a 24-hour waiting period after the first visit before obtaining an abortion; (3) that second- and third-trimester abortions be performed in hospitals; (4) one-parent parental consent with no judicial bypass; (5) and the "humane and sanitary" disposal of fetal remains. The Court later reversed some of this ruling in its 1992 decision in *Casey*.

***Planned Parenthood Association of Kansas City v. Ashcroft* (1983)**
The Court upheld a Missouri law requiring that post-viability abortions be attended by a second physician and that a pathology report be filed for each abortion.

***Simopoulous v. Virginia* (1983)**
The Court affirmed the conviction of an abortionist for performing a second-trimester abortion in an improperly licensed facility.

***Thornburgh v. American College of Obstetricians and Gynecologists* (1986)**
The Court struck down a Pennsylvania law requiring: (1) that abortionists inform their clients regarding fetal development and the medical risks of abortion; (2) reporting of information about the mother and the unborn child for second- and third-trimester abortions; (3) that the physician use the method of abortion most likely to preserve the life of a viable unborn child; and (4) the attendance of a second physician in post-viability abortions. The Court later reversed some of this ruling in its 1992 decision in *Casey*.

***Webster v. Reproductive Health Services* (1989)**
The Court upheld a Missouri statute prohibiting the use of public facilities or personnel for abortions and requiring abortionists to determine the viability of the unborn child after 20 weeks.

***Hodgson v. Minnesota* and *Ohio v. Akron Center for Reproductive Health* (1990)**
In *Hodgson*, the Court struck down a Minnesota statute requiring two-parent notification without a judicial bypass, but upheld the same provision with a judicial bypass. In the same decision, the Court allowed a 48-hour waiting period for minors following parental notification. In *Ohio v. Akron*, the Court upheld one-parent notification with judicial bypass.

***Rust v. Sullivan* (1991)**
In *Rust*, the Court upheld a federal regulation prohibiting projects funded by the federal Title X program from counseling or referring women regarding abortion. If a clinic physically and financially separated abortion services from family planning services, the family planning component could still receive Title X money. Relying on *Maher* and *Harris*, the Court emphasized that the government is not obliged to fund abortion-related services, even if it funds prenatal care or childbirth.

***Planned Parenthood of Southern Pennsylvania v. Casey* (1992)**
To the surprise of many observers, the Court narrowly (5-4) reaffirmed what it called the "central holding" of *Roe*, that "a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability." However, the Court also indicated a shift in its doctrine that would allow more in the way of state regulation of abortion, including previability regulations: "We reject the rigid trimester framework of *Roe v. Wade*. To promote the State's profound interest in potential life, throughout pregnancy the State may take measures to ensure that the woman's choice is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right." Applying this "undue burden" doctrine, the Court explicitly overruled parts of *Akron* and *Thornburgh*, and allowed informed consent requirements (that the woman be given information on the risks of abortion and on fetal development), a mandatory 24-hour waiting period following receipt of the information, the collection of abortion statistics, and a required one-parent consent with judicial bypass. A spousal notification requirement, however, was held to be unconstitutional.

***Mazurek v. Armstrong* (1997)**
The Court upheld a Montana law requiring that only licensed physicians perform abortions.

***Stenberg v. Carhart* (2000)**
Nebraska (as did more than half the other states) passed a law to ban partial-birth abortion, a method in which the premature infant (usually in the fifth or sixth month) is delivered alive, feet first, until only the head remains in the womb. The abortionist then punctures the baby's skull and removes her brain. On a 5-4 vote, the Court struck down the Nebraska law (and thereby rendered the other state laws unenforceable as well). The five justices said that the Nebraska legislature had defined the method too vaguely. In addition, the five justices held that *Roe v. Wade* requires that an abortionist be allowed to use even this method, even on a healthy woman, if he believes it is the safest method.

***Gonzales v. Carhart* (2007)**
By a vote of 5-4, the Court in effect largely reversed the 2000 *Stenberg* decision, rejecting a facial challenge to the federal Partial-Birth Abortion Ban Act, enacted by Congress in 2003. This law places a nationwide ban on use of an abortion method—either before or after viability—in which a baby is partly delivered alive before being killed. In so doing, the Court majority, in the view of legal analysts on both sides of the abortion issue, opened the door to legislative recognition of broader interests in protection of unborn human life, and signaled a willingness to grant greater deference to the factual and value judgments made by legislative bodies, within certain limits.

***Whole Woman's Health v. Hellerstedt* (2016)**
By a vote of 5-3, the Court declared unconstitutional Texas laws requiring abortion clinics to meet surgical-center standards, and requiring abortionists to have admitting privileges at a hospital within 30 miles. The majority ruled that these requirements constituted an "undue burden" on access to previability abortions. In his dissent, Justice Clarence Thomas wrote, "[T]he majority's undue-burden balancing approach risks ruling out even minor, previously valid infringements on access to abortion."

***June Medical Services LLC v. Russo* (2020)**
In a 5-4 decision, the Court struck Louisiana's 2014 "Unsafe Abortion Protection Act" or Act 620 that required abortionists to have admitting privileges to a hospital within 30 miles of an abortion clinic—similar to the requirement already in place for doctors who perform surgery at outpatient surgical centers. The majority declared it "an undue burden" and likened it to their decision in *Hellerstedt*. However, the Court seemingly restored the "undue burden" precedent established in *Planned Parenthood of Southeastern Pennsylvania v. Casey*.

***Dobbs v. Jackson Women's Health Organization* (2022)**
In a 5-3-1 decision, the Court reversed its decisions in *Roe v. Wade* (1973) and *Planned Parenthood of Southern Pennsylvania v. Casey* (1992). In the case, which centered on Mississippi's "Gestational Age Act," extending legal protections to unborn children at 15 weeks gestation, the Court held "that the Constitution does not confer a right to abortion. *Roe* and *Casey* must be overruled, and the authority to regulate abortion must be returned to the people and their elected representatives."

THE SUPREME COURT AND ABORTION

***Food and Drug Administration (FDA) v. Alliance for Hippocratic Medicine (AHM*) (2024)**
At issue were the Food and Drug Administration's (FDA) decisions in 2016 and 2021 to loosen regulations of the abortion drug mifepristone and whether the challengers had standing to bring their case.

The Court unanimously ruled that the challenger in the case, the Alliance for Hippocratic Medicine, did not have standing. The Court did not rule on whether or not the FDA had acted properly in removing previous safeguards. Because the decision is based on standing, the FDA regulations on mifepristone remain.

***Moyle v. United States* (2024)**
In a 6-3 decision, the United States Supreme Court dismissed *Moyle v. United State*s as "improvidently granted." The decision reinstates the lower court's pause on the Idaho law in question while litigation continues in the lower courts. The Court made clear that this case needs further lower court resolution. The state of Idaho had argued that the government's interpretation of EMTALA would render Idaho's pro-life law nearly unenforceable and would turn hospital emergency rooms into "federal abortion enclaves governed not by state law, but by physician judgment, and enforced by the United States' mandate to perform abortions on demand." But, during oral argument, the U.S. government went on record claiming they were doing no such thing.

Justice Barrett, in her concurring opinion, noted that the

...United States disclaimed these interpretations of EMTALA. First, it emphatically disavowed the notion that an abortion is ever required as stabilizing treatment for mental health conditions…. Second, the United States clarified that federal conscience protections, for both hospitals and individual physicians, apply in the EMTALA context.

During the oral argument, the federal government identified numerous emergency medical conditions, and Idaho confirmed that they could ALL be treated under state law.

Looking toward 2025

The Supreme Court will be looking at the abortion issue in *Kerr v. Planned Parenthood* which could determine whether a pro-life state like South Carolina can prevent Medicaid funds from going to abortion providers like Planned Parenthood.

Following the Court's June 2024 unanimous decision that the Alliance for Hippocratic Medicine did not have standing in *Food and Drug Administration (FDA) v. Alliance for Hippocratic Medicine (AHM)*, Texas U.S. District Court Judge Matthew Kacsmaryk on January 16, 2025 ruled in *Missouri et al. v. U.S. Food and Drug Administration et al.*, that the states of Idaho, Missouri, and Kansas could proceed with their challenge regarding the FDA's approval and regulation of the abortion drug mifepristone.

National Right to Life's mission is to protect and defend the most fundamental right of humankind: the right to life of every innocent human being from the beginning of life to natural death. Our nationwide network of affiliated state groups, community chapters, members and supporters all across the country act on the information they receive from us.

The strength of National Right to Life is derived from our broad base of diverse, dedicated people, united to focus on the single issue of life itself. Since National Right to Life's founding in 1968 as the first nationwide right to life group, we are dedicated entirely to defending life, America's first right.

National Right to Life's efforts center around the following policy areas:

Abortion: Abortion stops a beating heart more than 2,800 times a day. National Right to Life works to educate Americans about fetal development and abortion, to enact legislation in Congress and state legislatures to protect unborn children and their mothers, and to support activities that help women choose life-affirming alternatives to abortion.

Infanticide: National Right to Life works to protect newborn and young children whose lives are threatened and who are discriminated against simply because they have a disability.

Euthanasia: National Right to Life works against the efforts of the pro-death movement to legalize assisted suicide or euthanasia. National Right to Life also makes available to individuals the Will to Live, a pro-life living will.

National Right to Life works to restore protection for human life through the work of:

- the **National Right to Life Committee (NRLC)**, which provides leadership, communications, organizational lobbying, and legislative work on both the federal and state levels.

- the **National Right to Life Political Action Committee (NRL PAC)**, founded in 1979, which is a pro-life political action committee which works to elect, on the state and federal level, officials who respect democracy's most precious right, the right to life.

- the **National Right to Life Victory Fund**, an independent expenditure political action committee founded in 2012 with the express purpose of electing a pro-life president and electing pro-life majorities in the U.S. House of Representatives and U.S. Senate.

- the **National Right to Life Educational Trust Fund** and the **National Right to Life Educational Foundation, Inc.**, which prepare and distribute a wide range of educational materials, advertisements, and pro-life educational activities.

ABOUT NATIONAL RIGHT TO LIFE

• **outreach efforts** to groups affected by society's lack of respect for human life: the disability rights community; the post-abortion community; the Hispanic and Black communities; the community of faith; and the *Roe* generation — young people who are missing brothers, sisters, classmates, and friends.

• ***National Right to Life NEWS*** and ***NRLNews Today*** — ***NRLNews*** is published online monthly and ***NRLNews Today*** is an online daily pro-life news source of record providing a variety of news stories and commentaries about right-to-life issues in Washington and around the country. Visit nrlc.org/nrlnewstoday.

• the **National Right to Life website**, www.nrlc.org, provides visitors the latest, most up-to-date information affecting the pro-life movement, as well as the most extensive online library of resource materials on the life issues.

• a robust presence on every major **social media platform** (including Facebook, Twitter/X, Instagram, Truth Social, LinkedIn, Substack, and Pinterest), that allows National Right to Life to engage and educate millions of pro-life activists about the life issues.

This report may be downloaded from the National Right to Life website at:
www.nrlc.org/uploads/communications/statusofabortion2025.pdf.


National
RIGHT TO LIFE
Protecting Life in America Since 1968.

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