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***A Manifest Destiny for Life: Expanding the Pro-Life Map Across America***  
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## **INTRODUCTION**

The map of Life-protecting states radically expanded after the *Dobbs* decision, but gaps and fissures have appeared in many states now that abortion access has been intensely politicized. Since *Dobbs*, abortion advocates have largely been excluded from the federal courts, and are 0 for 8 in attempting to craft new state abortion rights in state appellate courts.<sup>1</sup>

The state legislature picture has evolved into a stalemate, with pro-life states and pro-abortion states lining up against one another over chemical abortion restrictions and so-called “shield laws”. The principal progress abortion advocates have seen is with state ballot initiatives, and they have moved quickly to bolster wins in this area with nearly a dozen new

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<sup>1</sup> See *Oklahoma Call for Reproductive Justice v. Drummond* (Oklahoma Supreme Court held “the Oklahoma Constitution creates an inherent right of a pregnant woman to terminate a pregnancy when necessary to preserve her life,” but stopped well short of declaring a state constitutional right to abortion.); *Planned Parenthood South Atlantic v McMaster* (state supreme court initially held that a right of privacy included the right to abortion, but upheld the state’s “Heartbeat” law on the basis that the right to life outweighed any right to abortion, rendering the “right to abortion” a virtual nullity); *SisterSong Women of Color Reproductive Justice Collective v. State of Georgia* (upholding Georgia’s “Heartbeat” law); *Planned Parenthood v Rokita*, upholding Indiana’s post-*Dobbs* abortion ban); *Planned Parenthood of the Heartland v Reynolds* (overturning previously held state “right to abortion”); *Planned Parenthood of Southwest and Central Florida v. State of Florida* (upholding Florida’s six-week law); *Planned Parenthood v. Mayes* (upholding Arizona’s pre-*Roe* abortion ban against a challenge based on earlier caselaw that suggested Arizona had a state “right” to abortion); *Planned Parenthood v Wasden*, Jan. 6, 2024 (upholding Idaho’s abortion ban). Note that the Oklahoma and South Carolina decisions were ostensibly wins for abortion, but stopped well short of finding a fundamental right to abortion that overrides state abortion restrictions. These cases seem to illustrate how difficult it is for state judges to recreate the “fundamental right to abortion” that *Dobbs* left behind – highlighting how far off the beam *Roe* was in the first place.

pro-abortion initiatives planned for November's election. How do we reserve our wins and prevent further losses in the battle for Life?

## **The Landscape for Life**

We frequently speak of a “Culture of Life”, but the *Dobbs* decision has freed many states to actively work toward creating one. Despite claims from the pro-abortion lobby of a marginal increase in abortions in 2023, pro-life advocates highlight a more significant statistic: [a 2.3% increase in birth rates in pro-life states](#), equating to approximately 32,000 births. Pro-life state laws are estimated to impact 166,239 abortions annually, showcasing their significant effect on reducing abortion numbers.

Fifteen states now have laws protecting all life in the womb; 3 more have “Heartbeat” style laws that protect life from 6 weeks; and 4 more have enforceable protections beginning at a later gestational age. By and large, these pro-Life states are the same states that ranked high on [AUL's Life List](#) for pro-life policy before *Roe* was overturned. Here's what the map looks like two years after *Dobbs*:

States Protecting Life Through All Nine Months (All these states allow for exceptions to protect the life of the mother, and some allow exceptions for rape and incest):

[Idaho](#), [North Dakota](#), [South Dakota](#), [Missouri](#), [Oklahoma](#), [Texas](#), [Louisiana](#), [Arkansas](#), [Mississippi](#), [Alabama](#), [Tennessee](#), [Kentucky](#), [Indiana](#), [Texas](#), [West Virginia](#)

Heartbeat Laws (Protection at Six Weeks):

- [Georgia](#), [South Carolina](#), [Florida](#).

Pro-Life Protection at Other Gestational Ages:

- 12 Weeks: [Nebraska](#), [North Carolina](#).
- 15 Weeks: Arizona
- 20 Weeks: [Wisconsin](#) (pre-*Roe* law in litigation)

## **State Ballot Initiatives**

Ballot initiatives allow citizens to propose and vote directly on legislation or constitutional amendments. Not all states allow for ballot initiatives, and certain states (like Florida) have higher thresholds for amendments to pass.. In the context of abortion law, ballot initiatives have emerged as a significant battleground. In 2023, abortion advocates spent significant amounts of money to turn out their base to vote on ballot measures in key states. We know abortion will be front and center in 2024; *Axios* claimed that a “reproductive-rights blitz” is planned, which is “meant to tap into the potency of abortion

rights as a voter-turnout generator ... timed to coincide with the two-year anniversary of [*Dobbs*]”.<sup>2</sup>

#### Notable 2023 Losses in Ballot Initiatives

- [Ohio](#).

Perhaps the strongest evidence of the importance of these ballot initiatives is what happened in Ohio last year. Once a state that valued life, it is now one of the top 5 destinations for abortion travel according to pro-abortion researcher, Guttmacher (<https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care>). The ballot initiative amended the Ohio constitution to say that “[e]very individual has a right to make and carry out one’s own reproductive decisions, including but not limited to decisions on contraception, fertility treatment, continuing one’s own pregnancy, miscarriage care, and abortion.” This means the state is prohibited from enacting laws that protect women. The amendment further states that Ohio may not “directly or indirectly, burden, penalize, prohibit, interfere with, or discriminate against either an individual’s voluntary exercise of this right or a person or entity that assists an individual exercising this right, unless the State demonstrates that it is using the least restrictive means to advance the individual’s health in accordance with widely accepted and evidence-based standards of care.”

- [Kansas](#)

#### Ballot Initiatives in 2024

- Arizona
- Arkansas
- Missouri
- North Dakota
- Oklahoma
- Nebraska
- Nevada

If this measure gets on the ballot in November and passes, it will have to be voted on again in 2026 before it can actually be added to the state constitution.

- South Dakota

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<sup>2</sup> <https://www.axios.com/2024/04/06/abortion-amendment-november-2024-elections-states-map>

South Dakota's amendment would create a "trimester framework in the state constitution for regulating abortion." The amendment would hold that during the first trimester, the state would be prohibited from regulating a woman's decision to have an abortion. During the second trimester, the state would be able to regulate abortion but "only in ways that are reasonably related to the physical health of the pregnant woman." During the third trimester, the state would be able to regulate or prohibit abortion, except "when abortion is necessary, in the medical judgment of the woman's physician, to preserve the life and health of the pregnant woman."

- New York

New York "will decide whether to amend the state constitution to add language related to pregnancy and personal freedom." It "is designed to ensure people can't be denied rights based on their "pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy" along with other things. New York doesn't limit abortion until 24 weeks. "Embedding these protections within our state constitution insulates us from the political winds that seek to ban, eliminate or reduce access to abortion care through changes to the state law."

- Maryland

Maryland's ballot measure seeks to "add a new article to the state constitution's Declaration of Rights to guarantee the right to reproductive freedom, defined to include "the ability to make and effectuate decisions to prevent, continue, or end one's own pregnancy" Legal up until viability generally and after for certain reasons.

- Florida (60% threshold)

While Governor Ron DeSantis signed the Heartbeat law and it went into effect this year, ballot amendment would restrict all pro-life laws except parental notification. That would be incredibly dangerous to the lives of pregnant women—in 2022 a Pensacola clinic had to close after sending 3 women to the hospital.

<https://www.pnj.com/story/news/2022/05/21/pensacola-florida-abortion-clinic-ordered-close-after-three-women-hospitalized/9871271002/>. Guttmacher states that after *Dobbs*, "Florida has become a key access point in the region for abortion care." They have seen a "major increase in out-of-state patients receiving care in Florida: 3,700 more patients from other states obtained an abortion in Florida in the first half of 2023 than in a similar period in 2020" Guttmacher State Policy Trends.

## **State Legislatures**

Two years after *Dobbs v. Jackson Women's Health Organization*, the abortion issue has been returned to the democratic process. This has caused a "major impact on abortion access in key states, most notably in Florida and Arizona." Pro-abortion group Guttmacher Institute called Florida a "key access point . . . for abortion care." But as of May 1<sup>st</sup> of this

year, life in Florida is protected from 6 weeks. On the other hand, life in Arizona was protected from conception but the state legislature repealed that law, so life is now only protected after 15 weeks.

Chemical abortion remains at the forefront because it is the most common form of abortion and even states with mid-term bans can still have rampant chemical abortion. Guttmacher said in 2023 it accounted for 63% of all abortions in the U.S. In 2020 it accounted for 53%. (<https://www.guttmacher.org/news-release/2024/medication-abortion-accounted-63-all-us-abortion-2023-increase-53-2020>).

Measures related to pregnancy resource centers were also front and center this year, for good or for ill depending on the politics of the state:

- 2024 Legislative Efforts to Support PRCs
  - Funding bills
    - Minnesota HB 4601 and HB 4033
    - Wisconsin SB 345/AB 344
  - Tax Credits for PRCs
    - Kansas - SB 498, HB 2764
    - Nebraska - LB 606
    - Alabama - SB 22/ HB 356
    - Ohio - SB 159
  - Other supportive PRC legislation
    - Illinois - HB 4490
    - California - SB 1368
- 2024 Legislative attacks on PRCs
  - Missouri - HB 2741
  - Kentucky - HB 538
  - Pennsylvania - HB 1589
  - New York - A 7084 - Penalizes PRCs for "deceptive practices"
  - Massachusetts - H 377
  - California - AB 602

- New Jersey - S 2522

Last year, AUL highlighted its introduction of a new model bill, the “Pregnancy Options Tax Credit Act,” which provides a way for states and the pro-life community to support pro-life pregnancy resource centers in a post-*Dobbs* world. This year, 52 bills were introduced in 18 states to provide funding for these centers. So far, two states—Utah and West Virginia—passed three bills allocating funding to pregnancy resource centers. One state, Kansas, vetoed the bill that passed.

Although measures related to abortion generally saw a decline in 2024, there was still significant activity but virtually no progress. There were 42 bills introduced in 21 states that sought to ban abortion in all or most cases. There were 23 bills introduced in 13 states that sought to establish fetal personhood, but no bill passed even one chamber.

### **Enacted Measures**

#### Pro-Life Laws

Louisiana

SB 276, a bill listing abortion drug coercion as domestic violence

Missouri

HB 2634 removing Medicaid funding of PP

Utah

SB 147

HB 3

West Virginia

SB 200

#### Anti-Life Laws

Washington

SB 5950 (budget) - expanding access to chem abortion

HB 2115 – chemical abortion prescriptions won’t have prescriber’s name on the label

HB 1954

### **The Physician-Assisted Suicide Landscape After a Particularly Active Year**

2024 was a watershed year for defending Life against threats to the elderly and ill. No new states voted to legalize assisted suicide, and only Colorado expanded access to it. And in

Europe, the European Court of Human Rights ruled overwhelmingly that no “right to die” exists, [upholding](#) Hungary’s law against assisted suicide.

U.S. Representatives Brittany Petterson (D-CO) and Scott Peters (D-CA) have introduced the Patient Access to End-of-Life Care Act. It would amend the Assisted Suicide Funding Restriction Act of 1997, thereby ending a ban on federal funding of physician assisted suicide.

For the first time, the End of Life Options Act was pushed through Massachusetts’ Joint Committee on Health Care Financing and the Joint Committee on Public Health. The two bills, S 1331 and H 2246, were referred to the Senate Committee on Ways and Means. Similarly, for the first time in Delaware, the House of Representatives passed the End of Life Options Act (HB 140) in a roughly bipartisan vote, with a “record-high” number of sponsors and co-sponsors (according to Compassion & Choices). Thankfully, the Delaware Senate allowed the bill to lapse for this year.

As we have warned, “safeguards” the assisted suicide crowd pushes are ultimately meaningless. This year, Vermont became the first state to remove the residency requirement—a “safeguard” against suicide tourism—from the law. Compassion & Choices applauded this move: <https://compassionandchoices.org/news/advocates-praise-vermont-legislature-and-governor-for-removing-residency-requirement-from-states-medical-aid-in-dying-law/>.

Eight states introduced bills to legalize physician-assisted suicide in 2024: DE (passed house), IL, MA (2), MI (4), NY (2), NC, PA, RI (2), VA (2, and one passed senate moved to house but failed to advance and is carried over). So far in 2024, no state has passed a bill newly legalizing physician-assisted suicide. Thankfully, many states defeated bills to legalize physician-assisted suicide, including AZ (2), FL (2), IN, IA (3), KY, MD (2), MO, TN (2), WI (2), NH (which passed the House), MN (2).

One state, New Jersey, has a bill which seeks to expand access to physician-assisted suicide. And one state, California, successfully defeated a bill that sought to do just that.

And Colorado enacted SB 24-068, which reduces the waiting period in Colorado from 15 days to only 7, and allows an advanced practice registered nurse to have the same authority as a physician to evaluate and prescribe lethal drugs.

Indiana passed SCR 17, “a resolution condemning assisted suicide, and West Virginia passed HJR 28, a measure for a referendum to adopt a constitutional amendment prohibiting assisted suicide, placing the issue on the West Virginia ballot this November.

### In Vitro Fertilization

One of the great surprises of the year came in April when in vitro fertilization (IVF) unexpectedly shot to the forefront of the American mind and political landscape. A years-

long case decided by the Alabama Supreme Court, *LePage v. Center for Reproductive Medicine*, recognized the personhood of embryos, meaning Alabama's Wrongful Death of a Minor Act applied to unborn children. Unfortunately, because of an intense political backlash, Alabama's legislature enacted new legislation that "grants absolute immunity from both civil and criminal liability to IVF clinics for destruction to human embryos.

### **In the Courts**

*Food & Drug Administration v. Alliance for Hippocratic Medicine; Danco Laboratories, L.L.C. v. Alliance for Hippocratic Medicine.*

This case considered "whether pro-life doctors and medical associations are able to challenge the FDA's 2016 and 2021 deregulation of abortion pills and whether the FDA's deregulation of abortion pills was conducted unlawfully." Unfortunately, the Court held in June of this year that the plaintiff pro-Life doctor associations lacked standing to challenge the FDA's actions. However, the case will continue on remand, as three states (Missouri, Idaho and Kansas) have intervened to challenge the FDA's actions.

*Moyle, Speaker of the Idaho House of Representatives v. United States.*

*Moyle* involved the Department of Justice's challenge to Idaho's early gestation protection law as a violation of the federal Emergency Medical Treatment and Active Labor Act (EMTALA), which requires Medicaid-funded emergency departments to provide "stabilizing care" to patients before transferring them to other facilities because they lack ability to pay. The Biden Administration argued that abortion might constitute such "stabilizing care", and that Idaho's statute was therefore preempted by the EMTALA law. The Supreme Court disagreed, holding in June 2024 that federal law imposes an obligation to provide "stabilizing care", but leaves the definition of such care to participating states.