



Christian Legal Society National Conference
November 2, 2024

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 two years ago, but gaps and fissures have appeared in many states now that abortion access has been intensely politicized. Thankfully, 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.¹ On the other hand, 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 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

¹ 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.

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

After *Dobbs*, the pro-abortion lobby began using ballot initiatives to challenge existing legislative actions on abortion. With the media on their side, they were successful in convincing voters, often with deceptive messaging and language, to upend the status quo in pro-life states and turn them into abortion-on-demand havens. Understanding and defeating pro-abortion ballot initiatives is crucial in states where a simple majority of voters can change the state constitution.

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 and Colorado) 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. Abortion is front and center again in 2024; as *Axios* said, a “reproductive-rights blitz” is ongoing, 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*]”.²

In 2022, California, Michigan, and Vermont enshrined a constitutional right to abortion. In 2023, Ohio followed suit. Since voters passed these measures, abortion activists have challenged life-affirming policies in both the legislatures and the courts. Michigan is one harrowing example of the impact pro-abortion ballot measures have on life-affirming policies. After enshrining the right to abortion, the Michigan legislature has sought to repeal numerous protections for women and preborn children, including the state's ban on partial-birth abortions, informed consent safeguards, and provisions requiring abortion facilities to be licensed and operated under necessary health and safety standards. Ultimately, the legislature was successful in repealing numerous protections for women and preborn children.

The impact goes well beyond laws. 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

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

destinations for abortion travel according to pro-abortion researcher, Guttmacher Institute.³ 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.” If Ohio is any warning, Florida must be on high alert this year. While Governor Ron DeSantis signed the Heartbeat Law this year at the behest of the legislature, a successful pro-abortion ballot initiative would peel back all pro-life laws except parental notification.

This year, 10 states have ballot initiatives: Arizona, Colorado, Florida, Maryland, Missouri, Montana, Nebraska, Nevada, New York, and South Dakota. AUL has issued analyses for each of these initiatives, which can be accessed [here](#). Here’s a brief overview of the measures:

- Arizona’s citizen-initiated ballot measure seeks to enshrine a “fundamental right to abortion” until viability and prohibit the government from “interfer[ing]” with that right. Currently, life is protected from 15 weeks. The measure needs 50% of the votes to pass.
- Colorado’s citizen-initiated ballot measure seeks to enshrine a constitutional right to abortion and prohibit the government from “imped[ing]” that right. It will also repeal an amendment that prohibited state funding of abortion. Currently, there is no gestational limit on abortion. The measure needs 55% of the votes to pass.
- Florida’s citizen-initiated ballot measure seeks to establish access to abortion until viability in the state constitution and prohibit the government from “restrict[ing]” abortion. Currently, life is protected from six weeks. The measure needs 60% of the votes to pass.
- Maryland’s legislative ballot measure seeks to enshrine a “fundamental right to reproductive freedom” and to prohibit the government from “burden[ing]” abortion except when “justified by a compelling state interest achieved by the least restrictive means.” Currently, abortion is legal up until viability. The measure needs 50% of the votes to pass.
- Missouri’s citizen-initiated ballot measure seeks to establish a “fundamental right to reproductive freedom” and prohibit the government from “interfer[ing]” with abortion unless “justified by a compelling governmental interest achieved by the least restrictive means.” Currently, life is protected from conception. The measure needs 50% of the votes to pass.
- Montana’s citizen-initiated ballot measure seeks to enshrine the right to abortion until viability and prohibit the government from “burdening” abortion until viability. Currently, abortion is protected until viability. The measure needs 50% of the votes to pass.
- Nebraska will have two competing ballot measures in November. Nebraska’s first citizen-initiated ballot measure seeks to establish a “fundamental right to abortion until fetal viability” and prohibit the government from “interfer[ing]” with that right. Nebraska’s second citizen-initiated ballot measure seeks to enshrine protection for “unborn children . . . from abortion in the second and third

³ <https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care>).

trimesters” except when there is a medical emergency and in cases of rape or incest. Currently, life is protected from 12 weeks. The measure needs 50% of the votes to pass.

- Nevada’s citizen-initiated ballot measure seeks to enshrine a “fundamental right to abortion” until viability and prohibit the government from “burden[ing]” this right “unless justified by a compelling state interest that is achieved by the least restrictive means.” The “compelling state interest” is limited to the woman seeking abortion, explicitly excluding the preborn child. Currently, abortion is legal until the 24th week of pregnancy. The measure needs 50% of the votes to pass. If it is successful, the ballot measure will have to be voted on again in 2026 before it can be added to the state constitution.
- New York’s legislative ballot measure seeks to amend the state’s equal protection amendment to include “pregnancy, pregnancy outcomes, and reproductive healthcare and autonomy.” Currently, abortion is legal until the 24th week of pregnancy. The measure needs 50% of the votes to pass.
- South Dakota’s citizen-initiated ballot measure seeks to create a trimester framework to regulate abortion. In the first trimester, abortion could not be regulated in any way. In the second trimester, abortion could only be regulated “in ways that are reasonably related to the physical health of the pregnant woman.” In the third trimester, abortion could be regulated except when “abortion is necessary, in the medical judgment of the woman’s physician, to preserve the life and health of the pregnant woman.” Currently, life is protected from conception. The measure needs 50% of the votes to pass.

In addition, Connecticut, Maine, New Hampshire, and Virginia also had bills that would have put pro-abortion measures on future ballots, but all failed. In Arkansas, the Secretary of State rejected the citizen-initiated ballot measure due to failures in the signature gathering process. This was upheld by the Arkansas Supreme Court and the measure will not appear on the ballot in November.

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 1st 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.

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.

Chemical abortion remains a paramount issue because it continues to be the most common form of abortion. Even states with second trimester protections can still have an incredibly high number of chemical abortions as a result of the pills being accessible online and shipped into the state. According to Guttmacher, chemical abortions accounted for 63% of all abortions in 2023, up from when it accounted for 53% in 2020.⁴ And as we covered in last year’s legislative report, it is no secret abortion pills are illegally moving through the

⁴ News Release, Guttmacher Institute, Medication Abortions Accounted for 63% of All US Abortions in 2023, an Increase from 53% in 2020 (Mar. 19, 2024), <https://www.guttmacher.org/news-release/2024/medication-abortions-accounted-63-all-us-abortions-2023-increase-53-2020>.

U.S. A European-based abortion pill supplier has a program to assist anti-life medical professionals in shipping abortifacients into states where abortion is illegal.⁵

Key Legislative Activity

Last year, AUL introduced 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 bill extends state tax credits for individuals and businesses that choose to donate to pregnancy resource centers. Similar tax credit bills were introduced in Alabama, Kansas, Ohio, and West Virginia. Kansas’ legislature passed a bill authorizing a tax credit for pregnancy resource centers. Additionally, this year, 54 bills were introduced in 20 states to provide funding for these centers. So far, eleven states—Arkansas, Florida, Iowa, Kansas, Louisiana, Missouri, Oklahoma, South Carolina, Tennessee, Utah and West Virginia—passed bills allocating funding to pregnancy resource centers.

Another bill that remains as timely as ever is AUL’s “Abortion-Inducing Drugs Risk Protocol.” In 2021, AUL and other national pro-life organizations worked together to draft a model bill designed to protect women from the dangers of the prescription drugs used in the chemical abortion procedure. The use of the chemical abortion regimen continues to increase year after year, which makes the regulation of the two-drug protocol more and more pressing for state legislators. In addition, the Food and Drug Administration eliminated the in-person dispensing requirement, and litigation against such change is still ongoing, making this coalition bill even more significant.

AUL’s “Chemical Abortion Accountability Act” helps protect women from the serious risks to their health and safety which has been exacerbated by the lack of medical oversight of abortion-inducing drugs. The Biden Administration chose to put women’s lives at risk, and a growing number of states have chosen to shield those who value profit over women’s health and safety.

To illustrate, on May 24, Louisiana Governor Jeff Landry signed a bill that added mifepristone and misoprostol—abortion-inducing drugs—to the controlled substances list (still allowing for non-abortion uses) and also added abortion drug coercion as a form of domestic violence. The bill’s sponsor had a personal motivation for introducing such a bill: his sister’s soon-to-be-ex-husband attempted to kill his preborn daughter by slipping abortion-inducing drugs—illegally obtained from Mexico—into his wife’s drinks. He received a sentence of a mere 180 days in county jail.

As mentioned earlier, this session saw an increase in activity related to physician-assisted suicide. This serves to remind us how important it is for states to cement their pro-life stance when it comes to end-of-life issues. AUL’s “Assisted Suicide Ban Act” does just this, so every state can cement its anti-suicide stance.

Pro-Life Laws and Resolutions

Arkansas

SB 64, appropriating funds for pregnancy resource centers

⁵ Steven H. Aden, *Annual State Policy Report on America’s State Legislative Sessions*, AMS. UNITED FOR LIFE (Oct. 3, 2023), <https://aul.org/wp-content/uploads/2023/10/2023-AUL-Annual-State-Policy-Report.pdf>. The Economist states that “the federal drug regulator has allowed abortifacient pills to be prescribed by mail, giving millions of women (including some in anti-abortion states) easier access to early-term abortions than they had before.” *The Pro-Choice Movement That Could Help Joe Biden Win*, THE ECONOMIST, (May 30, 2024), <https://www.economist.com/leaders/2024/05/30/the-pro-choice-movement-that-could-help-joe-biden-win>.

Executive Order 24-03, establishes Arkansas Strategic Committee for Maternal Health, which will develop a plan to improve women's health around prenatal and postpartum services

California

AB 1029, clarifying that the term "health care decision" in an advance health care directive does not include consenting to sterilization or abortion

Florida

HB 415, creating a state website to provide pregnancy and parenting resources, educational programs, financial assistance, and adoption services

HB 5001, appropriating funds for pregnancy resource centers

Georgia

HB 1046, creating the Georgia Commission on Maternal and Infant Health to make policy recommendations about improving perinatal care and reducing maternal mortality

Illinois

HB 5282, requiring insurance coverage for treatment for mental, emotional, nervous, or substance abuse for women who have had a miscarriage or stillbirth

HB 5142, amending insurance coverage of abortion and pregnancy care.

Iowa

H 2698, appropriating funds for pregnancy resource centers

SB 2252, creating a statewide pregnancy support program

Kansas

HB 2436, criminalizing coerced abortion

HB 2465, creating a tax credit for donations made to pregnancy resource centers; legislators overrode the governor's veto

HB 2749, updating abortion reporting requirements; legislators overrode the governor's veto

SB 27, exempting pregnancy resource centers from paying certain sales tax

SB 28, appropriating funds for the state's alternatives to abortion program; legislators overrode the governor's veto

Louisiana

HB 782, appropriating funds for pregnancy resource centers

SB 276, criminalizing the fraudulent provision of abortion-inducing drugs to an unsuspecting pregnant woman

SB 278, creating the Louisiana Pregnancy and Baby Care Initiative as a replacement for the state's Alternatives to Abortion program

SB 325, requiring a physician or healthcare facility to provide a pregnant woman who has received a diagnosis of a fetal genetic abnormality with a document created by the Louisiana Department of Health detailing resources and services available

Maryland

SB 873, expanding the state's Safe Haven Program by increasing the drop-off time period from 10 to 60 days, and expanding what qualifies as a designated facility

Michigan

HB 5208, outlining naming requirements for the birth certificate when an infant is born alive following an attempted abortion

Missouri

HB 2011, appropriating funds for the state's alternatives to abortion program, and appropriating funds for an alternatives to abortion campaign

HB 2634, prohibiting funding of abortion

North Carolina

HB 259, prohibiting contracts with providers that perform abortions

Nebraska

LB 932, updating the requirements for informed consent when seeking an abortion to include counseling

New Hampshire

HB 1607, expanding the state's Safe Haven Program by increasing the drop-off time period from 7 days to 61 days, and by authorizing anonymous surrender of infants

Oklahoma

HB 2152, requiring maternal mortality reports, including when death occurs up to one year after the termination of a pregnancy

HB 3041, permitting ethical research using adult stem cells and stem cells obtained from umbilical cords; prohibiting research on human embryos and on embryonic stem cell lines created after 2001

SB 538, allowing the government to reimburse organizations for providing ultrasounds

South Carolina

HB 4159, requiring all practitioners providing telehealth care in the state to have a South Carolina license to practice, and reenacting the prohibition on prescribing abortion-inducing drugs virtually

HB 5100, appropriating funds for pregnancy resource centers

South Dakota

HB 1224, creating materials to explain the state's abortion laws for the purpose of clarifying to medical providers what is legally defined as an abortion and what factors should be considered when treating a pregnant woman experiencing potentially life-threatening complications

HCR 6008, opposing the initiative to add an anti-life ballot measure

Tennessee

SB 1971, creating the criminal offense of abortion trafficking of a minor

HB 2973, appropriating funds for pregnancy resource centers

Utah

HB 3, allocating grants to two pregnancy resource centers

HB 560, updating state licensing laws to regulate abortion clinics

SB 147, directing the state Department of Health and Human Services to provide or contract for pregnancy support services

SB 229, permitting the revocation of a medical license if the department finds that an abortion has been performed in violation of state law

West Virginia

HJR 28, proposing an amendment that would prohibit physician-assisted suicide, euthanasia, and mercy killing

SB 200, appropriating funds for pregnancy resource centers, and appropriating funds for the maternal mortality review committee

Anti-Life Laws

Arizona

HB 2677, repealing the state's pre-*Roe* law

California

AB 352, prohibiting healthcare providers from cooperating with out of state investigations related to abortion

SB 233, allowing physicians licensed in Arizona to perform abortions on women who travel to California from Arizona to obtain an abortion

SB 345, stating California law governs when someone receives abortion services, including via telehealth, and a shield law prohibiting state or local government employees from assisting in investigations from out of state with regards to abortion

SB 487, a shield law that protects physicians and other providers from based on convictions or disciplinary actions from other states

Colorado

SB 24-068, expanding physician-assisted suicide to allow advanced practice registered nurses to evaluate patients and prescribe life-ending pills; reducing the waiting period from 15 days to 7 days; allowing the medical provider to waive the waiting period entirely if the patient may not live beyond 48 hours

Illinois

SB 251, appropriating funds for government employees and their dependents to travel to access abortion

Iowa

HF 2693, requiring the Attorney General must resume providing or reimbursing for abortion when requested in cases of sexual assault

Maryland

HB 1091, appropriating funds for abortion clinics

SB 360, appropriating funds to cover the cost of abortion in certain situations

SB 975, appropriating funds for abortion clinics

SJ 1/HJ 1, a joint resolution in support of the federal Equal Rights Amendment

Maine

LD 227 (HP 148), a “shield law” protecting abortionists

Massachusetts

HB 4040, appropriating funds for abortion centers

Michigan

HB 4949, a statutory Reproductive Health Act asserting the right to “reproductive freedom” and severely limiting the state’s ability to regulate abortion

HB 4951, decriminalizing partial-birth abortion

SB 474, changing “elective abortion” to “abortion” and defining it as medical treatment

SB 476, defining abortion as medical treatment

SB 477, removing the prohibition against university health centers providing referrals for abortions

SB 747, appropriating funds for expanding abortion access

Minnesota

HF 5247, requiring private health insurance coverage of abortion and abortion-related services, and requiring Medicaid coverage of the same

New York

AB 8803, appropriating funds for abortion access

AB 8804, appropriating funds to cover security for abortion clinics

AB 8806, creating a grant program to fund abortion access

SB 8303, appropriating funds for abortion access

SB 8304, appropriating funds to cover security for abortion clinics

SB 8306, creating a grant program to fund abortion access

Rhode Island

HB 7577, a shield law protecting healthcare providers

Washington

HB 2115, allowing chemical abortion pill labels to only list the name of the facility instead of the name of the prescribing provider

HB 1954, protecting abortion providers from disciplinary action

SB 5950, continuing state funding of abortion

Bills Vetoed

Delaware Governor John Carney vetoed a bill that would have legalized physician assisted suicide.

Kansas Governor Laura Kelly vetoed a bill that would have allowed for tax credits for donations to pregnancy resource centers. Governor Kelly also line-item vetoed an appropriations bill that would have funded the alternatives to abortion program. Governor Kelly also vetoed a bill that would have updated abortion reporting requirements. However, a legislative override was ultimately successful in all three cases.

Virginia Governor Glenn Youngkin vetoed a shield law that would have prohibited the extradition of individuals who perform abortions out of state. Governor Youngkin also vetoed two shield laws that would have prohibited disciplinary action from the board of medicine for performing an illegal abortion outside the Commonwealth.

Wyoming Governor Mark Gordon vetoed a bill that would have required any facility that performs surgical abortions be licensed as an outpatient surgical center. It would have also required pregnant women seeking abortions have an ultrasound no less than 48 hours before the abortion to determine gestational age and determine the viability of the pregnancy.

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. In one of this year's rare pro-life wins, a years-long case out of Alabama, *LePage v. Center for Reproductive Medicine*, interpreted Alabama's Wrongful Death of a Minor Act as applying to preborn children. A case that quietly began in relative obscurity catapulted IVF into the national spotlight.

Vice President Harris said the decision was "outrageous" and the Alabama court was "robbing women of the freedom to decide when and how to build a family,"⁶ a claim that is completely exaggerated, as all the court did was allow parents to sue a clinic—a *business*—that ruined their very attempt to try to build a family.

Here's what *really* happened.

⁶ Kamala Harris, (@KamalaHarris), TWITTER (Feb. 21, 2024, 3:34 P.M.), <https://x.com/KamalaHarris/status/1760417615019757924>.

Several years ago, at the Center for Reproductive Medicine, an unauthorized individual gained access to a freezer where embryos were being kept. The freezer should have been locked. This individual accidentally dropped and destroyed the embryos related to several families, including the LePages, who chose to sue for the loss of their children. The Alabama Supreme Court held the state’s Wrongful Death of a Minor Act applied “to all children, without exception,” allowing the LePages to proceed with their negligence lawsuit against the company. The Court also held that the Alabama Constitution’s Sanctity of Unborn Life Amendment would apply to embryos as well.

Alabama interpreted the wrongful death law to allow parents to stop a business from avoiding liability for its mistakes and hold it accountable for its negligent actions and failures—the destruction of wanted embryos. This case had nothing to do with the legality of the IVF process. It simply gave parents hoping for a child the opportunity to hold this business accountable for negligently allowing for the destruction of their children regardless of what form they took at the time.

While this was clearly a pro-life win, the response from both sides of the aisle was swift and negative. There was a frenzied rush to protect IVF businesses and prevent them from being held accountable for any future failures. Ten states—including Alabama, Georgia, California, Delaware, New Jersey, New York, North Carolina, Ohio, South Carolina, and Washington—introduced bills that would protect businesses from criminal or civil liability in similar situations or introduced bills that stated fertilized embryos that were not implanted were not human beings.

The bill was successful in Alabama, and IVF businesses can now operate without consequences for their mistakes or negligence. Under this new law, “no action, suit, or criminal prosecution for the damage to or death of an embryo shall be brought or maintained against any individual or entity” related to IVF services. In other words, Alabama IVF clinics have nearly absolute civil and criminal immunity for their actions.

AUL is concerned with all anti-life practices that occur during the in vitro process.⁷ This includes the way embryos are inhumanely treated as insignificant materials through the intentional destruction of, or experimentation on, “unwanted” embryos, and the decision to leave unused or unwanted embryos perpetually frozen. In addition, the destruction of “excess” fertilized embryos, either before implantation or after, in the process known as “selective reduction”—abortion—is an abhorrent anti-life practice whereby the “less desirable” babies in utero are killed. This can be the result of the malicious practice of genetic- or sex-selection—a type of discrimination touted as one of the benefits of the IVF process. AUL is also concerned with the increased medical risks to women from IVF through lack of research and full disclosure. For example, one study from 2022 found women who conceived with assisted reproductive technology were more likely than other mothers to experience “adverse obstetric outcomes” which included issues like acute kidney injury and placental abruption.⁸

These practices are contrary to the pro-life movement. Embryonic children kept in an IVF facility deserve the same wrongful-death protection that preborn children in the womb enjoy under fetal homicide laws. No couple, regardless of their views on personhood, would be happy to learn their embryos were treated carelessly. The Alabama Supreme Court acknowledged these truths in its ruling in *LePage* and required clinics to exercise commonsense care over the irreplaceable embryos in their charge. Yet in response to *LePage*, state

⁷ While AUL does not take a position on IVF as a practice, we do oppose embryo destruction as a life-ending activity, whether pre- or post-implantation. We do believe IVF can be a scientific good when used within the context of protecting life. AUL has had a Policy Guide and IVF model bill on file for almost three decades which lays out a more ethical way to practice IVF.

⁸ Pensée Wu et al., *In-Hospital Complications in Pregnancies Conceived by Assisted Reproductive Technology*, 11 J. OF THE AM HEART ASSOC. 58 (2022) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9075081/pdf/JAH3-11-e022658.pdf>.

legislators—even those who would consider themselves pro-life—made rash and swift legislative actions to protect IVF providers from any liability while completely disregarding the humanity of embryonic children and leaving IVF patients and parents without legal protection. It is misguided and against our pro-life stance to blindly support something without remembering to protect the innocent human lives impacted by the process.

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. On the other hand, United States Representatives Brittany Pettersen and Scott Peters introduced the “Patient Access to End-of-Life Care Act.” This Act would amend the “Assisted Suicide Funding Restriction Act of 1997,” thereby ending a longstanding prohibition on federal funding of physician-assisted suicide.

Twenty states introduced bills to legalize physician-assisted suicide: Arizona, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Tennessee, Virginia, and Wisconsin. For the first time in Massachusetts, the “End of Life Options Act” was pushed through the Joint Committee on Health Care Financing and the Joint Committee on Public Health, but it failed to advance. The session in New Hampshire was also a shocking one as the Republican-majority House passed their physician-assisted suicide bill in a 179-176 vote. Thankfully, it failed in the Senate 17-7.

Delaware came uncomfortably close to becoming the 11th state along with the District of Columbia to legalize physician-assisted suicide. The bill passed the House for the first time ever with a 21-4 vote in favor. While the bill failed in the Senate the first time, the bill sponsor was able to bring the bill up for a second vote where it passed 11-10. AUL worked to stop this. Governor Carney vetoed the bill, protecting Delaware’s citizens from the dangers of assisted suicide. Recognizing assisted suicide for what it really is, he wrote, “I am fundamentally and morally opposed to state law enabling someone, even under tragic and painful circumstances, to take their own life.”⁹

As we have warned time and time again, the so-called “safeguards” assisted suicide supporters push are ultimately meaningless. The public is sold a story that assisted suicide is safe and won’t be abused because “safeguards” exist. But once assisted suicide is legal, legislators and assisted suicide advocates quickly turn around and claim the very same safeguards are actually barriers to access of a legal right. The destruction of so-called “safeguards” we covered last year continues exactly as we predicted they would. 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/>. Likewise, Colorado enacted a bill to expand access to physician-assisted suicide: the bill reduces the waiting period from 15 days to 7 days and allows for the complete waiver of any waiting period for patients “unlikely” to live past the next 48 hours. The bill also expands access by giving advanced practice registered nurses the authority to evaluate a patient and prescribe him or her lethal drugs.

But a ray of hope exists as some legislators seek to protect vulnerable communities from suicide activists’ efforts to legalize and expand death-on-demand. For example, Republican legislators in New Jersey introduced two opposing bills—one that would have increased penalties for cases of fraud and coercion under the state’s physician-assisted suicide law, and one that would have repealed the physician-assisted suicide law entirely. Similarly, Kansas introduced two bills that would have criminalized encouraging or aiding

⁹ Governor Carney Vetoes House Bill 140 (Sept. 20, 2024) <https://news.delaware.gov/2024/09/20/governor-carney-vetoes-house-bill-140/>.

in another's suicide, a type of coercion, but both failed. Hawaii introduced a bill that would have reduced the waiting period from 20 to 5 days and expand prescribing authority to advanced practice registered nurses, but thankfully, it failed. New Jersey has a bill which sought to expand access to physician-assisted suicide by eliminating the 15-day waiting period for certain patients.

West Virginia now has a ballot measure to be voted on in November, to add an amendment to the state constitution that will protect the elderly and disabled by prohibiting physician-assisted suicide.

A Year In the Courts

AUL's Quarterly Litigation Report, which summarizes all pro-Life and bioethics court activity in the nation, can be accessed [here](#).

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, dismissing *Moyle v. United States* as improvidently granted, and holding in June 2024 that federal law imposes an obligation to provide "stabilizing care", but leaves the definition of such care to participating states. However, the Court also provided the most ringing affirmation of the rights of conscience seen in any Supreme Court decision, with no dissenting Justices on this point.

In the wake of *Moyle*, the Supreme Court denied a petition for a writ of *certiorari* in *Becerra v. Texas*, which also had asked the Court whether EMTALA contains an abortion mandate. This outcome is a win for pro-life policy in the states since it leaves a permanent injunction in place against the abortion mandate.

Other Significant Supreme Court Action

Sidewalk counselors continue to ask the Supreme Court to review its 2000 decision in *Hill v. Colorado*. In *Hill*, the Court upheld a law that prohibited sidewalk counselors from approaching or counseling within an 8-foot floating "bubble zone" around a woman if she is within 100-feet of an abortion clinic, even though they are on public sidewalks. Two cases, *Turco v. City of Englewood, New Jersey* and *Coalition Life v. City of Carbondale, Illinois*, are at the *certiorari* stage before the Supreme Court. Other sidewalk counselors are litigating their challenges to *Hill* in lower federal courts.

Oklahoma filed a petition for a writ of *certiorari* in the Supreme Court in *Oklahoma v. Health and Human Services*. The case involves the U.S. Department of Health and Human Services' decision to suspend Oklahoma's Title X funding because the pro-life state objected to providing abortion referrals. Oklahoma has raised issues involving the Spending Clause and Weldon Amendment.

The Fourth Circuit is considering two cases that allege the Food and Drug Administration's regulation of mifepristone preempts states' pro-life laws insofar as they interfere with mifepristone access. In *Bryant v. Moore*, the Fourth Circuit is reviewing a permanent injunction against North Carolina's law. The Fourth Circuit

also is considering an appeal of a district court's decision to dismiss a manufacturer's complaint against West Virginia's law in *GenBioPro, Inc. v. Raynes*.

Federal Courts Consider Pregnant Workers Fairness Act Regulations

Multiple lawsuits are challenging the Equal Employment Opportunity Commission's final rule for the Pregnant Workers Fairness Act, which includes an abortion-accommodation mandate. In *State of Tennessee v. Equal Employment Opportunity Commission*, a coalition of states have appealed a district court's order that the states lack standing to pursue their challenge. The Eighth Circuit heard oral argument in the *Tennessee* case last month. A district court issued a preliminary injunction against the regulations in *State of Louisiana v. Equal Employment Opportunity Commission*, a consolidated case involving Louisiana, Mississippi, and the United States Conference of Catholic Bishops. Motions for a preliminary injunction are pending in two additional cases: *Catholic Benefits Associations v. Burrows* and *Brandon & Clark, Inc. v. Equal Employment Opportunity Commission*.

State Court Litigation

Lawsuits continue over whether state constitutions protect abortion. The Utah Supreme Court upheld a preliminary injunction against the state's conditional law in *Planned Parenthood Association of Utah v. State of Utah*. A Georgia trial court crafted a state constitutional right to a pre-viability abortion and declared the state's heartbeat protection was unconstitutional in *SisterSong Women of Color Reproductive Justice Collective*. In *Access Independent Health Services, Inc. v. Wrigley*, a North Dakota district court denied the State's motion for summary judgment, finding "a fundamental right to choose abortion before viability exists under the enumerated and unenumerated interests protected by the North Dakota Constitution." Conversely, an Indiana trial court denied abortionists' motion for a permanent injunction in *Members of the Medical Licensing Board of Indiana v. Planned Parenthood Great Northwest, Hawai'i, Alaska, Indiana, Kentucky, Inc.*

End-of-Life Cases

In *United Spinal Association v. State of California*, disability rights advocates are challenging California's assisted suicide law for unlawfully engaging in disability discrimination. After the district court granted the State's motion to dismiss, the disability rights advocates appealed the decision to the Ninth Circuit. The appeal is currently in briefing.

A district court granted New Jersey's motion to dismiss assisted suicide activists' challenge to the state's residency requirements in *Govatos v. Murphy*. The assisted suicide activists subsequently appealed the case to the Third Circuit. In the past couple of years, Oregon and Vermont settled lawsuits against their assisted suicide residency requirements, and their state legislatures later repealed their residency requirement provisions. These cases have raised concerns about suicide tourism.