



I. ACLJ's Protection of Life Across the Country

For over thirty years, the American Center for Law and Justice (ACLJ) has been at the forefront of the fight to defend the sanctity of human life. For instance, ACLJ counsel have presented oral arguments, represented parties, and submitted *amicus* briefs before the United States Supreme Court—including multiple *amicus* briefs in *Dobbs v. Jackson Women's Health Organization*¹—and many other courts in cases involving the right to life and pro-life speech and activities.²

The ACLJ has also worked hand-in-hand with state legislators to craft pro-life legislation, and ACLJ counsel have presented testimony before state and federal legislative bodies to defend pro-life laws and oppose radical abortion bills. For instance, in states like **North Dakota**³ and **Oklahoma**,⁴ the ACLJ has fought to defend pro-life laws that require counseling services to be provided to women from a third-party pregnancy center, and the ACLJ has worked with legislators to craft laws that create a wrongful death cause of action for young mothers and their families for coerced or fraudulent abortions. Additionally, ACLJ counsel have testified and provided legal analysis to legislative bodies in states such as **California** and **Maryland**⁵ that are attempting to expand abortion rights throughout all nine months of pregnancy, while also discouraging investigations of infanticide.

In light of the Supreme Court's decision in *Dobbs*, which restored the States' broad constitutional authority to regulate and restrict abortion, it is helpful to have a general understanding of the variety of state laws that are currently in place.

¹ Walter M. Weber, *ACLJ Dismantles the Legal Fallacies of Roe v. Wade in Three Supreme Court Briefs* (Aug. 2, 2021), <https://aclj.org/pro-life/aclj-dismantles-the-legal-fallacies-of-roe-v-wade-in-three-supreme-court-briefs>.

² See, e.g., *Schenck v. Pro-Choice Network of W.N.Y.*, 519 U.S. 357 (1997); *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263 (1993); *June Medical Services v. Russo*, 140 S. Ct. 1101 (2020); *Dobbs v. Jackson Women's Health Org.*, No. 19-1393 (Sup. Ct.); *Zimmerman v. City of Austin*, 620 S.W.3d 473 (Tex. App. 2021); *Allegheny Reprod. Health Ctr. v. Pa. Dep't of Hum. Servs.*, No. 26 MAP 2021, on appeal from No. 26 M.D. 2019, 249 A.3d 598 (Pa. Commw. Ct. 2021).

³ Walter M. Weber, *Planned Parenthood on Trial: The South Dakota Abortion Case* (Dec. 17, 2021), <https://aclj.org/pro-life/planned-parenthood-on-trial-the-south-dakota-abortion-case>.

⁴ Benjamin P. Sisney, *Oklahoma Passes Bill ACLJ Assisted with that Allows Families to File "Wrongful Death" Lawsuits for Coerced or Fraudulent Abortions* (May 28, 2020), <https://aclj.org/pro-life/oklahoma-passes-bill-aclj-assisted-with-that-allows-families-to-file-wrongful-death-lawsuits-against-abortionists-for-coerced-or-fraudulent-abortions>.

⁵ Olivia F. Summers, *California Follows Maryland's Lead with Disturbing Bill that Could Effectively Legalize Infanticide* (Mar. 28, 2022), <https://aclj.org/pro-life/california-follows-marylands-lead-with-disturbing-bill-that-could-effectively-legalize-infanticide>.

II. A Nationwide Patchwork of Laws

Prior to the *Dobbs* decision, *Roe v. Wade* was an indefensible obstacle to state efforts to protect pre-born life. Contrary to a popular myth, the overruling of *Roe* in the *Dobbs* decision did not create a nationwide protection for pre-born life. Rather, it restored to the states their rightful constitutional authority to regulate whether, and under what conditions, abortion should be permitted within the state. The 50-state patchwork of abortion-related laws that existed under *Roe* will become even more diverse after *Dobbs*; everything from a robust embrace of a *Roe*-like standard to a fulsome protection of life at conception will be on the table for discussion and/or enforcement in various states.

It is precisely because issues of this magnitude are so controversial that our constitutional system entrusts the state legislatures to craft the very best public policy responses. It is this system that will provoke vigorous debate on every proposal, and which will ultimately provide the best realization of the legal protections of life promised by our founding documents.

For nearly 50 years, the holding in *Roe*—as well as subsequent rulings in *Planned Parenthood of Southeastern Pennsylvania v. Casey* and other cases—proved decisively problematic for a litany of state-level efforts to protect pre-born life. As discussed in our state-by-state summary in the next section of this document, a number of states have enacted laws or constitutional amendments that restrict “pre-viability” abortions (such as abortions after a fetal heartbeat is detected or after 15 weeks of pregnancy), but many of those laws were successfully challenged under the reasoning of *Roe* and *Casey*. Additionally, numerous states enacted “trigger” laws or constitutional provisions that would only take effect in the event that *Roe* was overturned. Other states that do not currently have life-affirming laws will likely consider enacting them now that they have the opportunity.

In each of these instances, we are preparing to defend life-affirming state efforts across the country. We stand ready to assist states with constructing and enacting life-affirming protections, as well as defending them in court. We will also work to defeat attempts to enshrine a *Roe*-like standard in state statutes and constitutions. Further, it will be important for states and pro-life groups and individuals to continue to vigorously oppose efforts to enshrine an abortion right into federal law. Most notably, the so-called Women’s Health Protection Act (WHPA), which would eviscerate State law—including post-viability restrictions as well as restrictions unrelated to viability—has already passed the U.S. House and been narrowly defeated twice in the U.S. Senate. Should legislation like the WHPA be enacted, states would be severely hampered from protecting both pre-born babies and their mothers. Here are just a few examples of state legislation that would be threatened by the WHPA:

- **Informed Consent Laws:** These laws ensure that expectant mothers are provided access to crucial medical information when deciding whether to obtain an abortion. This often includes access to state-of-the-art ultrasound technology, as well as scientifically accurate information about development of the child in utero.
- **Health and Safety Standards:** These laws ensure that abortion facilities comply with relevant sanitary and safety standards. Without these laws, abortion clinics are often

permitted to operate well beneath the standards required of other ambulatory facilities, compromising the safety of mothers.

- **Hospital Admitting Privileges:** Complications can and do arise from abortion procedures. Therefore, it is appropriate for states to ensure that abortion facilities have the ability to admit a mother for emergency hospital care should it become necessary. Repeal of these laws poses a direct threat to the lives of mothers.
- **Parental Notification/Consent:** These laws ensure that minors are not coerced or pressured into undergoing a serious procedure without the assistance of their parents. This is especially important because it is well documented that many young mothers face intense pressure from the father of the child they are carrying to abort. Parental notification/consent laws ensure minor mothers have the appropriate support they need in these life-altering situations.

Additionally, as the Supreme Court emphasized in *Dobbs*, the regulation of abortion is primarily a state law issue. Congress should reject attempts to legislatively reinstate a federal *Roe*-like stranglehold on the states' ability to pass reasonable protections for its most vulnerable residents. This type of unconstitutional Congressional overreach would also be contrary to the ideal set forth in our Declaration of Independence that "all men are created equal" and "are endowed by their Creator with certain unalienable Rights," including the right to life.

III. State-by-State Analysis

Below is a brief look at each state's most important abortion-related laws and court decisions. Fourteen states have trigger laws or constitutional provisions that may take effect (barring any state court order to the contrary) now that *Roe* has been overturned (◊); about eight states have pre-*Roe* statutes that have not been invalidated (▲); and twelve states have enacted heartbeat bills (♥), most of which were enjoined prior to the *Dobbs* decision. Conversely, several states (and the District of Columbia) impose little to no restrictions upon abortion at any stage of gestation (☪).

The status of the law in various states may change rapidly as legislation is enacted or repealed, ballot propositions are considered by voters, and new lawsuits raising state constitutional arguments are filed. We have already seen the issuance of preliminary injunctions in some states that prevent the enforcement of certain abortion restrictions on state constitutional grounds. If your state is not where you would like it to be, and you would like the ACLJ's assistance in working to bolster protections for life in your state, please contact us at www.ACLJ.org/help.

Key

- ◊ – Trigger laws making abortion illegal if *Roe* is overturned
- ▲ – Pre-*Roe* statutes not invalidated
- ♥ – Heartbeat bill
- ☪ – No abortion restrictions at any state of gestation

State Abortion Laws

Brief Overview

Alabama ▲

An amendment to the Alabama Constitution, which was [enacted in 2018](#), declares that “it is the public policy of this state to recognize and support the sanctity of unborn life and the rights of unborn children, including the right to life,” and “to ensure the protection of the rights of the unborn child in all manners and measures lawful and appropriate.” The provision also states that “[n]othing in this constitution secures or protects a right to abortion or requires the funding of an abortion.”

A statute that pre-dates *Roe* prohibits abortion except when necessary to preserve the mother’s life or health. [Ala. Code § 13A-13-7](#). In 2019, Alabama enacted the [Human Life Protection Act](#), which makes it illegal to provide abortions except “to prevent a serious health risk to the unborn child’s mother.” Ala. Code § 26-23H-4. This statute is enforceable in light of *Dobbs*.

Alaska

The Alaskan Supreme Court [has ruled](#) that the right to an abortion is a fundamental right protected by the Alaskan Constitution. *Valley Hosp. Ass’n v. Mat-Su Coalition for Choice*, 948 P.2d 963, 968-69 (Alaska 1997). Alaska voters will decide this fall [whether a state constitutional convention](#) should be held, and the right to abortion would be a likely subject of debate if a convention is held. Abortion rights will continue in Alaska absent the enactment of a state constitutional amendment stating there is no abortion right.

Arizona ▲

A statute that pre-dates *Roe* prohibits abortion except to save the mother’s life. [Ariz. Rev. Stat. § 13-3603](#). This statute [was held unconstitutional](#) in light of *Roe*. *Nelson v. Planned Parenthood Ctr.*, 19 Ariz. App. 142, 505 P.2d 580 (Ct. App., Div. Two 1973). [A statute](#) enacted in 2012 that bans abortion of a fetus of at least twenty weeks of age, except in a medical emergency, [has been enjoined](#). *Isaacson v. Horne*, 716 F.3d 1213 (9th Cir. 2013). The state can seek to have these injunctions lifted in light of *Dobbs*. Earlier this year, Arizona [enacted a ban](#) on most abortions after 15 weeks of pregnancy that will go into effect 90 days after the end of the legislative session.

Arkansas ▲◇

Amendment 68, § 2 of the Arkansas Constitution, enacted in 1988, [states that](#) “[t]he policy of Arkansas is to protect the life of every unborn child from conception until birth, to the extent permitted by the Federal Constitution.” Arkansas’s pre-*Roe* broad prohibition of abortion (Ark. Code Ann. [§ 5-61-102](#)) is still on the books, but [has been enjoined](#) from being enforced against physicians. *Smith v. Bentley*, 493 F. Supp. 916 (W.D. Ark. 1980). The state can seek to have the injunction lifted in light of *Dobbs*.

In 2019, Arkansas enacted the “[Human Life Protection Act](#),” which bans abortion “except to save the life of a pregnant woman in a medical emergency.” Ark. Code Ann. §§ 5-61-301 *et seq.* The Act has taken effect in light of the *Dobbs* decision. 2019 Ark. Acts 180, § 2.

California

In California, there is a [statutory right](#) to an abortion, and the State will not deny or interfere with that right except in limited circumstances. Those circumstances include prohibiting abortion [after viability](#) or when the abortion is performed by someone who is not an [authorized health care provider, but abortion is permitted when necessary to protect the life or health of the woman](#). Calif. Health & Safety Code § 123462. The right to an abortion will remain in California, absent legislative changes.

Colorado

In Colorado, legislation passed earlier this year sets forth [a statutory right](#) to an abortion *through all nine months of pregnancy*. Supporters of a [ballot initiative](#) (Number 56), which would prohibit most abortions in Colorado through the enactment of a statute, are in the process of collecting signatures. The existing statutory abortion right in Colorado will remain absent legislative changes.

Connecticut

In Connecticut, [state law provides](#) that “[t]he decision to terminate a pregnancy prior to the viability of the fetus shall be solely that of the pregnant woman in consultation with her physician,” and “[n]o abortion may be performed upon a pregnant woman after viability of the fetus except when necessary to preserve the life or health of the pregnant woman.” Conn. Gen. Stat. § 19a-602(a)-(b). The right to an abortion will remain in Connecticut, absent legislative changes.

Delaware

In Delaware, there is [a statutory right](#) to an abortion before viability, which will continue absent legislative changes. Del. Code, Title 24, § 1790(a). After viability, [abortion is prohibited](#) unless necessary for the health or life of the mother, “or in the event of a fetal anomaly for which there is not a reasonable likelihood of the fetus’s sustained survival outside the uterus without extraordinary medical measures.”

District of Columbia

In the District of Columbia, there is a statutory right to abortion, and that right is not limited to pre-viability. [D.C. Code § 2-1401.06](#). The District of Columbia is unique, as it is federal land, and, thus, subject to the oversight of the federal government. As such, abortion within the District of Columbia can be regulated by Congress. [U.S. Const. art. I, § 8, cl. 17](#).

Florida

The Supreme Court of Florida [has held](#) that the right of privacy contained in Article I, Section 23 of the state constitution is implicated by abortion restrictions, and such restrictions are subject to strict scrutiny and are presumptively unconstitutional. *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243 (Fla. 2017); *N. Fla. Women’s Health & Counseling Servs., Inc. v. Florida*, [866 So. 2d 612](#) (Fla. 2003); *In re T.W.*, [551 So. 2d 1186](#) (Fla. 1989).

Recently, Florida [enacted a ban](#) on abortions after 15 weeks (with a few exceptions) that will take effect in July. Fla. Stat. § 390.0111. Florida statutes restricting abortion will remain subject to strict scrutiny, absent a constitutional amendment.

Georgia♥

In 2019, [a Georgia statute](#) was enacted that bans abortion after there is a detectable fetal heartbeat, except in a few specific circumstances. Ga. Code Ann. § 16-12-141. Enforcement of these provisions [has been enjoined](#), *SisterSong Women of Color Reproductive Justice Collective v. Kemp*, 472 F. Supp. 3d 1297 (N.D. Ga. 2020), but the state can seek to have the injunction lifted in light of *Dobbs*.

Hawaii

In Hawaii, there is [a statutory right](#) to an abortion before viability and at any time to protect the life or health of the mother. Haw. Rev. Stat. § 453-16(c). This right to an abortion will remain in Hawaii, absent legislative changes.

Idaho♥◇

In 2020, Idaho [enacted a statute](#) that bans abortions with a few exceptions. Idaho Code § 18-622. The statute will take effect 30 days after the issuance of the judgment in *Dobbs*.

Earlier this year, Idaho [enacted a ban](#) on abortions where a fetal heartbeat is detected, with certain exceptions (Senate Bill 1309). The ban [has been enjoined](#), but the state can seek to have the injunction lifted in light of *Dobbs*.

Illinois

In Illinois, there is [a statutory right](#) to an abortion, 775 Ill. Comp. Stat. 55/1-15(b), that will remain in effect absent legislative changes. [Moreover](#), “[a] fertilized egg, embryo, or fetus does not have independent rights under the laws of [Illinois].” After viability, abortion is [allowed only if](#) “the abortion is necessary to protect the life or health of the patient.”

Indiana

Indiana prohibits abortion in various circumstances, such as after viability except when necessary to prevent a substantial permanent impairment of the life or physical health of the mother. [Ind. Code § 16-34-2-1](#). Enforcement of some provisions, such as Indiana’s ban on abortions due to the infant’s sex, disability, or race (Ind. Code §§ 16-34-4-1 *et seq.*) has been enjoined. *Planned Parenthood of Ind. & Ky., Inc. v. Comm’r of the Ind. State Dep’t of Health*, [888 F.3d 300](#) (7th Cir. 2018). The state can seek to have the injunction lifted in light of *Dobbs*.

Iowa♥

In 2018, [the Supreme Court of Iowa held](#) that the Iowa Constitution’s protection of liberty includes decisions whether to have an abortion, and state restrictions of abortion are subject to strict scrutiny. *Planned Parenthood of the Heartland v. Reynolds ex re. State*, 915 N.W.2d 206 (Iowa 2018). In light of this precedent, a state court [struck down](#) a statutory ban on abortions after a fetal heartbeat is detected. In a recent decision, however, the Supreme Court of Iowa [overruled its 2018 decision and held](#) that there is no fundamental right to an abortion in Iowa’s Constitution. *Planned Parenthood of the Heartland, Inc. v. Reynolds*, No. 21-0856 (Iowa June 17, 2022).

Kansas

Kansas statutes prohibit (with exceptions) an abortion of “an unborn child having reached the gestational age of 22 weeks or more.” Kans. Stat. Ann. §§ [65-6723](#), [65-6724\(a\)](#). In 2019, however, the [Supreme Court of Kansas held](#) that the state constitution’s Bill of Rights includes protection of a right to have an abortion, and abortion restrictions are subject to strict scrutiny. *Hodes & Nauser, MDs, P.A. v. Schmidt*, 440 P.3d 461 (Kan. 2019).

On August 2, 2022, Kansas voters will decide whether to [amend the state constitution](#) to provide that nothing in the constitution creates a right to abortion and that the legislature has the authority to pass laws regarding abortion. Kansas statutes restricting abortion will remain subject to strict scrutiny, absent a constitutional amendment.

Kentucky♥◇

A [Kentucky statute](#) prohibits abortion after viability, “except when necessary to preserve the life or health of the woman.” Ky. Rev. Stat. § 311.780. The enforcement of other statutes that prohibit abortion after fifteen weeks, and also when a fetal heartbeat is detected, is currently enjoined. Ky. Rev. Stat. §§ [311.7705](#), [311.781-783](#). The Commonwealth can seek to have the injunction lifted in light of *Dobbs*.

In 2019, Kentucky [enacted a broad ban](#) on abortion – with minimal exceptions – that has taken effect in light of the reversal of *Roe*. Ky. Rev. Stat. § 311.772. On November 8, 2022, Kentucky voters will [decide whether to amend](#) the Kentucky Constitution to state that nothing in the constitution creates a right to abortion or requires public funding for abortion.

Louisiana♥◇

In 2006, Louisiana [enacted a broad ban](#) on abortion – with minimal exceptions – that has taken effect in light of the reversal of *Roe*. La. Rev. Stat. § 40:1061. A Louisiana court recently issued a preliminary injunction to halt enforcement of the trigger ban. Another Louisiana law prohibits most abortions post-viability. [La. Rev. Stat. § 40:1061.13](#). A statute that bans most abortions after a fetal heartbeat is detected has taken effect in light of *Dobbs*. [La. Rev. Stat. § 40:1061.1.3](#).

In 2020, Louisiana’s voters [approved an amendment](#) to the Louisiana Constitution’s Declaration of Rights that states, “To protect human life, nothing in this constitution shall be construed to secure or protect a right to abortion or require the funding of abortion.” Art. I, § 20.1.

Maine

In Maine, there is [a statutory right](#) to an abortion before viability, and after viability when necessary to preserve the life or health of the mother. Maine Rev. Stat. § 1598(1). Maine will continue to have a right to an abortion, absent legislative changes.

Maryland

In Maryland, there is [a statutory right](#) to an abortion before viability, and at any time when necessary to protect the life or health of the mother or in cases where the unborn child has a genetic anomaly or serious physical deformity. Maryland Health-General § 20-209(b). Abortion supporters are attempting to get [a proposal added to the November 2022 ballot](#) that would amend the state constitution to add a right to abortion. The right to an abortion will remain in Maryland, absent legislative changes.

Massachusetts

In *Moe v. Secretary of Administrative & Finance*, 417 N.E.2d 387, 398 (Mass. 1981), the Massachusetts Supreme Judicial Court [held that](#) the rights announced in *Roe*, which includes the right to an abortion, are an integral part of Massachusetts state jurisprudence. [Statutory law](#) also broadly protects abortion before 24 weeks, and permits abortion after 24 weeks in several circumstances (such as to preserve the mother’s physical or mental health). The right to an abortion will remain in Massachusetts, absent a constitutional amendment.

Michigan▲

Post-viability abortions are generally prohibited in Michigan. [Mich. Comp. Laws § 750.323](#); *Larkin v. Wayne Prosecutor*, [389 Mich. 533, 208 N.W.2d 176 \(1973\)](#). A statute enacted in 1931 bans abortion except when necessary to preserve the mother’s life. [Mich. Comp. Laws § 750.14](#). This statute could be enforced after the *Dobbs* decision. *See People v. Bricker*, [389 Mich. 524, 208 N.W.2d 172 \(1973\)](#); *People v. Higuera*, [244 Mich. App. 429, 625 N.W.2d 444 \(2001\)](#).

A 1997 court of appeals decision held that the Michigan Constitution does not guarantee a right to have an abortion. *Mahaffey v. Attorney Gen.*, [222 Mich. App. 325, 564 N.W.2d 104 \(1997\)](#). In a [pair of recently filed lawsuits](#), however, the plaintiffs seek rulings from Michigan courts that declare the existence of such a right. Pro-abortion groups are also attempting to have a proposition added to the November 2022 ballot that [would amend the state constitution](#) to provide for a right to abortion. Michigan can enforce its existing abortion restrictions and enact additional restrictions, barring a state court order or constitutional amendment that says otherwise.

Minnesota

The [Minnesota Supreme Court held](#) in *Women of the State of Minnesota v. Gomez*, 542 N.W.2d 17, 27, 31 (Minn. 1995), that there was a right to an abortion in the state constitution, and legislation may not violate that fundamental right. Minnesota has a statutory ban on abortion after viability, but this statute was [held unconstitutional](#) in *Hodgson v. Lawson*, 542 F.2d 1350 (8th Cir. 1976). The reversal of *Roe* may not have any practical effect on the enforceability of this legislation in light of the *Gomez* decision. A broad abortion right will remain in Minnesota absent a constitutional amendment or a reversal of *Gomez*.

Mississippi ▲♥◇

In 2007, Mississippi banned abortion “except in the case where necessary for the preservation of the mother’s life or where the pregnancy was caused by rape.” [Miss. Code Ann. § 41-41-45](#). This statute can now take effect in light of *Dobbs. Id.* A pre-*Roe* statute with similar abortion restrictions is still on the books. [Miss. Code Ann. § 97-3-3](#).

A Mississippi statute bans abortion after twenty weeks, with some exceptions. [Miss. Code Ann. § 41-41-137](#). Other statutes that impose restrictions after a fetal heartbeat is detected, and after fifteen weeks, have been enjoined, Miss. Code Ann. §§ [41-41-34.1](#), [41-41-191](#), but the state should be permitted to begin enforcing those laws in light of *Dobbs*.

Missouri◇

In 2019, Missouri [enacted a ban](#) on abortion, except in cases of medical emergency, that has now taken effect in light of *Dobbs*. Mo. Rev. Stat. § 188.017. A Missouri statute bans post-viability abortions (with exceptions). [Mo. Rev. Stat. § 188.030](#). A ban on abortion after eight weeks ([Mo. Rev. Stat. § 188.056](#)) is currently enjoined, but the state can seek to have the injunction lifted in light of *Dobbs*. Missouri voters will decide this November whether to [call for a state constitutional convention](#), and abortion rights would be a likely topic of discussion if a convention is held. Missouri can enforce its existing abortion restrictions..

Montana

The [Supreme Court of Montana has held](#) that the Montana Constitution’s protection of the right of privacy includes the right to access abortion, and abortion restrictions are subject to strict scrutiny. *Armstrong v. State*, 1999 MT 261, 989 P.2d 364 (1999). In one pending case, the State of Montana has [asked the state supreme court](#) to overturn this decision.

A statute with broad language prohibiting most abortions ([Mont. Code Ann. § 50-20-109](#)) has been held to only apply post-viability. A ban on most abortions after twenty weeks enacted in 2021 ([Mont. Code Ann. § 50-20-603](#)) has been enjoined. Montana statutes restricting abortion will remain subject to strict scrutiny, absent a constitutional amendment or a reversal of *Armstrong*.

Nebraska

A [Nebraska statute](#) prohibits abortion after “the unborn child clearly appears to have reached viability, except when necessary to preserve the life or health of the mother.” Rev. Stat. Nebr. § 28-329. Earlier this year, a bill that would have made most abortions illegal in Nebraska in the event that *Roe* is overturned [was narrowly defeated](#). Nebraska can enforce its existing abortion restrictions and enact additional restrictions.

Nevada

In Nevada, there is a statutory right to an abortion “[w]ithin 24 weeks after the commencement of the pregnancy,” and “[a]fter the 24th week of pregnancy only if the physician has reasonable cause to believe that an abortion currently is necessary to preserve the life or health of the pregnant woman.” [Nev. Rev. Stat. § 442.250\(1\)](#). The right to an abortion will remain in Nevada absent legislative changes.

New Hampshire

In New Hampshire, there is [a statutory right](#) to an abortion up to the 24th week of pregnancy that will continue, absent legislative changes. In November 2022, New Hampshire [voters will decide](#) whether a state constitutional convention should be held, and abortion rights could be a topic of debate if a convention does occur.

New Jersey

In New Jersey, not only is there [a statutory right](#) to an abortion, but the [New Jersey Supreme Court has determined](#) that the right to an abortion is a fundamental right under the state constitution. *Right to Choose v. Byrne*, 450 A.2d 925, 934 (N.J. 1982). Abortion will remain a right in New Jersey absent constitutional and statutory changes.

New Mexico

In New Mexico, the pre-*Roe* abortion ban [was repealed in 2021](#). N.M. Stat. Ann. §§ 30-5-1 through 30-5-3, *repealed by* S.B. 10, 55th Leg., Reg. Sess. (N.M. 2021). New Mexico does ban partial-birth abortions. [N.M. STAT. ANN. § 30-5A-3](#). An abortion right will continue in New Mexico, absent legislative changes.

New York

In New York, there is a statutory right to an abortion within 24 weeks from the start of a pregnancy, if there is an absence of fetal viability, or if the abortion is necessary to protect the life or health of the mother. N.Y. Pub. Health Law §§ [2599-aa](#), [2599-bb](#). The right to an abortion will remain in New York absent legislative changes.

North Carolina

A North Carolina statute permits abortion prior to twenty weeks and after that in the case of medical emergencies. [N.C. Gen. Stat. § 14-45.1](#). Another statute that predates *Roe* broadly prohibits abortion. [N.C. Gen. Stat. § 14-44](#). Enforcement of these statutes has been limited by court order in light of *Roe*. *Bryant v. Woodall*, [363 F. Supp. 3d 611 \(M.D.N.C. 2019\)](#), *aff'd* [1 F.4th 280](#), 2021 U.S. App. LEXIS 17972 (4th Cir. June 16, 2021). These statutes should be enforceable in light of *Dobbs*, and North Carolina could also enact new abortion restrictions.

North Dakota♥◇

A [North Dakota statute](#) that prohibits most abortions will soon take effect in light of *Dobbs*. N.D. Cent. Code § 12.1-31-12. Other statutes prohibit most abortions post-viability ([N.D. Cent. Code § 14-02.1-04\(3\)](#)) and after twenty weeks ([N.D. Cent. Code § 14-02.1-05.3\(3\)](#)). Enforcement of statutory provisions that limit abortion after a heartbeat is detected ([N.D. Cent. Code §§ 14-02.1-05.1 & 14-02.1-05.2](#)) has [been enjoined](#), *MKB Mgmt. Corp. v. Stenehjem*, 795 F.3d 768 (8th Cir. 2015), but the state can seek to have the injunction lifted in light of *Dobbs*.

Ohio♥◇

Ohio statutes prohibit most abortions after viability ([Ohio Rev. Code § 2919.17](#)) and after twenty weeks ([Ohio Rev. Code § 2919.201](#)). Enforcement of an Ohio statute that prohibits most abortions after a fetal heartbeat has been detected ([Ohio Rev. Code § 2919.195](#)) has [been enjoined](#), *Preterm-Cleveland v. Yost*, 394 F. Supp. 3d 796, 804 (S.D. Ohio 2019), but the state can seek to have the injunction lifted in light of *Dobbs*.

A bill that [would prohibit most abortions](#) in the event that a United States Supreme Court decision reverses *Roe* (House Bill 598) was introduced in March 2022. Ohio can enforce its existing abortion restrictions and enact additional restrictions.

Oklahoma▲♥◇

In 2021, Oklahoma [enacted a law](#) that prohibits abortion in most circumstances, which has now gone into effect in light of *Dobbs*. S.B. 918 of 2021. There are also statutes that pre-date *Roe* still on the books that prohibit most abortions. [21 Okla. Stat. §§ 861, 862](#).

An Oklahoma statute prohibits most abortions after twenty weeks. [63 Okla. Stat. § 1-745.5](#). In 2021, Oklahoma [prohibited most abortions](#) (59 Okla. Stat. § 509(20); H.B. 1102 of 2021), including most abortions after a [fetal heartbeat is detected](#) (63 Okla. Stat. § 1-731.3; H.B. 2441 of

2021), but enforcement of these provisions [has been enjoined](#). *Okla. Call for Reprod. Just. v. O'Connor*, Okla. Sup. Ct. No. 119918. The state can seek to have the injunction lifted in light of *Dobbs*.

Earlier this year, Oklahoma [enacted a ban](#) on most abortions (S.B. 612 of 2022) that would take effect in late August. A bill that will allow the [filing of private civil actions](#) to enforce a prohibition on most abortions after a fetal heartbeat is detected (S.B. 1503 of 2022) was passed by the legislature and signed into law on May 3, 2022.

Oregon

In Oregon, there is [a statutory right](#) to an abortion. OR Rev. Stat. § 659.880. In November 2022, Oregon [voters will decide](#) whether the state constitution should be amended to declare that cost-effective, clinically appropriate, and affordable health care is a fundamental right; this may effectively make taxpayer-funded abortion a state constitutional right in Oregon. Abortion will remain legal in Oregon, absent legislative changes.

Pennsylvania

In Pennsylvania, abortion is allowed during the first 24 weeks of pregnancy, or to avert the death or substantial and irreversible impairment of a major bodily function of the mother. [18 Pa. Consol. Stat. § 3211\(a\)-\(b\)](#). The Legislature [has stated](#) its intent, however, “to protect the life and health of the child subject to abortion,” and, as such, “[i]n every relevant civil or criminal proceeding in which it is possible to do so without violating the Federal Constitution, the common and statutory law of Pennsylvania shall be construed so as to extend to the unborn the equal protection of the laws and to further the public policy of this Commonwealth encouraging childbirth over abortion.” 18 Pa. Consol. Stat. § 3202(a), (c).

Rhode Island

In Rhode Island, there is [a statutory right](#) to an abortion before viability, and after viability to protect the life or health of the mother. R.I. Gen. Law § 23-4.13-2. This right will continue in Rhode Island, absent legislative changes. However, Rhode Island’s Constitution specifically does not guarantee a right to abortion: “Nothing in this section shall be construed to grant or secure any right relating to abortion or the funding thereof.” [Art. 1, sec. 2](#).

South Carolina♥

In South Carolina, abortion is prohibited after 20 weeks, except in the case of fetal anomaly or to avert the death or serious risk of substantial and irreversible physical impairment of a major bodily function of the mother. [S. Car. Code § 44-41-450\(A\)](#).

In 2021, South Carolina passed the [Fetal Heartbeat and Protection from Abortion Act](#), which prevents an abortion once a fetal heartbeat is detected. A federal court enjoined the Act from going into effect, based on *Roe* and its progeny, and a federal appeals court affirmed that decision. *Planned Parenthood v. Wilson*, [527 F. Supp. 3d 801, 817 \(D. S.C. 2021\)](#), *aff’d*, [26 F.3d 600 \(4th](#)

[Cir. 2022](#)). The state can seek to have the injunction lifted in light of *Dobbs*, and can also enact further legislation that restricts abortion.

South Dakota◇

In South Dakota, abortion is prohibited at 22 weeks LMP except in cases of medical emergencies. [S.D. Codified Laws § 34-23A-5](#). In 2005, South Dakota passed a trigger law, which has now gone into effect, that outlaws abortion except to preserve the life of the mother. [S.D. Codified Laws § 22-17-5.1](#).

Tennessee♥◇

In Tennessee, abortions are prohibited after the 20th week of pregnancy unless the unborn child is not viable. [Tenn. Code. §§ 39-15-211\(a\)\(7\), 212\(a\)](#). In 2014, [Tennessee amended its Constitution](#) as follows: “Nothing in this Constitution secures or protects a right to abortion or requires the funding of an abortion. The people retain the right through their elected state representatives and state senators to enact, amend, or repeal statutes regarding abortion, including, but not limited to, circumstances of pregnancy resulting from rape or incest or when necessary to save the life of the pregnant woman.” Tenn. Const. art. I, § 36.

In 2019, Tennessee [passed a trigger law](#) that will go into effect 30 days after *Dobbs* was decided. Under this law, the performance or attempted performance of an abortion is a criminal offense, except if the abortion is necessary to prevent the death or a serious risk of substantial and irreversible impairment of a major bodily function of the mother. Tenn. Code § 39-15-213. And in 2020, [a law \(H.B. 2263\) was enacted that](#) “would ban abortions after a fetal heartbeat is detected or if a person seeking an abortion did so based on race, sex, or Down syndrome diagnosis of a fetus.” This statute has been blocked from taking effect by a federal court, but the injunction should be lifted in light of *Dobbs*.

Texas▲♥◇

In Texas, abortions are allowed until a fetal heartbeat is detected, and private parties may enforce the statute. [Tex. Health & Safety Code § 171.204-12](#). This law was the subject of the United States Supreme Court’s [Whole Woman’s Health v. Jackson](#) decision and is being challenged [in other litigation](#) as well, which will be directly impacted by the *Dobbs* decision.

In 2021, Texas [enacted a trigger law](#) that will ban abortion except to avert the death or substantial impairment of a major bodily function of the mother; that law will go into effect 30 days after the *Dobbs* decision was issued. Tex. Health & Safety Code § 170A.002; H.B. No. 1280, 87th Legislature § 3 (2021). Texas’s pre-*Roe* abortion restrictions, which were the subject of *Roe v. Wade*, are still on the books and should be enforceable in light of *Dobbs*.

Utah◇

In Utah, an abortion is allowed after viability, to protect the life and health of the mother, and in cases of rape or incest. [Utah Code § 76-7-302](#). In 2020, Utah [passed a trigger law](#) that states

that abortions are only permitted to avert the death or substantial and irreversible impairment of a major bodily function of the mother, and in cases of rape or incest. S.B. 174, 2020 Gen. Sess. (Utah), creating contingency effective Utah Code §§ 76-7a-101, 201, 301. This law has taken effect in light of *Dobbs*, but a Utah court recently issued a preliminary injunction to halt enforcement of the law.

Vermont

In Vermont, abortion is considered a “fundamental right” and is [statutorily protected](#). 18 Vt. Stat. Ann. § 9493(b). Vermont [voters will decide](#) in November 2022 whether to amend the state constitution to add a right to abortion. In 2014, the Vermont legislature [expressly repealed](#) a pre-*Roe* statute that criminalized abortion. Vermont will continue to recognize an abortion right, absent legislative changes.

Virginia

In Virginia, there is a statutory right to an abortion, Va. Code §§ [18.2-72](#) through [18.2-74.1](#), that will remain absent legislative changes. “[Partial birth infanticide](#)” is illegal in Virginia, and abortion [after the third trimester is prohibited](#) unless “the continuation of the pregnancy is likely to result in the death of the woman or substantially and remedially impair the mental or physical health of the woman.”

Washington

In Washington, there is [a statutory right](#) to an abortion before viability or to protect the life and health of the mother. Wash. Rev. Code §§ 9.02.100, *et seq.* A law passed in 2022 [further protects](#) abortion rights and abortion providers. The right to an abortion will continue in Washington, absent legislative changes.

West Virginia ▲

In West Virginia, abortion is [permitted by statute](#) up to 20 weeks post-fertilization, or to avert the death or serious risk of substantial and irreversible physical impairment of a major bodily function of the mother. W. Va. Code §§ 16-2M-2(7), 16-2M-3, 16-2M-4(a). West Virginia has a pre-*Roe* law that prohibits abortion, [W. Va. Code § 61-2-8](#), but that law [was held to violate](#) the federal constitution based on *Roe. Doe v. Charleston Area Med. Ctr.*, 529 F.2d 638, 644-45 (4th Cir. 1975). That law should be enforceable again in light of *Dobbs*.

In 2018, the following provision was [added to the West Virginia Constitution](#): “Nothing in this Constitution secures or protects a right to abortion or requires the funding of abortion.” W. Va. Const. art. VI, § 57. Abortion can be significantly restricted in West Virginia based on its pre-*Roe* law and its Constitution.

Wisconsin

In Wisconsin, abortion is permitted by statute up to 20 weeks post-fertilization, before viability, in the case of a medical emergency, or to avert the death or substantial and irreversible physical impairment of a major bodily function of the mother. Wis. Stat. §§ [253.107\(3\)](#), [940.15](#). Wisconsin also has a state law, [Wis. Stat. § 940.04](#), that the Wisconsin Supreme Court [has construed as a feticide statute](#) (not an abortion statute) that prohibits “the intentional destruction of an unborn quick child presumably without the consent of the mother.” *State v. Black*, 188 Wis. 2d 639, 646-47 (Wis. 1994). Abortion will still be legal in many situations in Wisconsin, absent legislative changes.

Wyoming◇

In Wyoming, an abortion may not be performed after viability except in limited circumstances. [Wyo. Stat. Ann. § 35-6-102](#). In 2022, Wyoming [passed a trigger ban](#) of abortion (except in limited circumstances) that can take effect in light of *Dobbs*. H.B. 92, 66th Leg. Reg. Sess. (Wyo. 2022), amending Wyo. Stat. Ann. § 35-6-102.

Conclusion

Dobbs did not end the abortion debate. Rather, it returned the issue of abortion policy-making to the states, signaling the start of a new, long chapter in the battle to protect innocent human life. The ACLJ will continue its work to defend life across the country vigorously. Again, if you would like the ACLJ’s assistance in working to bolster protections for life in your state, please contact us at www.ACLJ.org.