

THE  
**STATE** OF  
**ABORTION**  
IN THE UNITED STATES

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JANUARY 2014

**The State of Abortion in the United States** is a report issued by the National Right to Life Committee (NRLC). Founded in 1968, National Right to Life, the federation of 50 state right-to-life affiliates and more than 3,000 local chapters, is the nation's oldest and largest national grassroots pro-life organization. Recognized as the flagship of the pro-life movement, NRLC works through legislation and education to protect innocent human life from abortion, infanticide, assisted suicide and euthanasia.

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## **CAROL TOBIAS** National Right to Life President

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January 22, 2014 marks the 41<sup>st</sup> anniversary of the United States Supreme Court's twin decisions in *Roe v. Wade* and *Doe v. Bolton*, which allowed unrestricted abortion on demand, and which have resulted in the tragic deaths of more than 56 million unborn children.

In the intervening years, the right-to-life movement has worked, to the extent possible allowed by the courts, to enact laws that protect unborn children and offer support and life-affirming alternatives to their mothers.

Laws enacted at the state level have helped immensely in reversing the disturbing trend established by *Roe* and *Doe*. In 1990, the annual number of abortions reached their peak at just over 1.6 million. Since that time, we have seen that number decrease to just over 1.1 million if current trends continue to bear out in the data. That's 500,000 lives saved every single year because of laws that actively work to promote life and treat mothers facing an unexpected pregnancy with compassion.

At the federal level, laws like the Partial-Birth Abortion Ban Act, enacted in 2003 and upheld by the U.S. Supreme Court in 2007, helped raise nationwide awareness to the gruesome and deadly reality of late abortions allowed under *Roe* and *Doe*. It is estimated that the Hyde Amendment, named for its original sponsor, the late Rep. Henry J. Hyde of Illinois, which prevents the use of taxpayer dollars to fund abortion in the Medicaid program, has saved well over one million lives since it was first enacted in 1976.

Abortion remains widely available, but any woman seeking an abortion knows someone close to her who would encourage her *not* to kill her baby. And after years of being told that abortion was "the best choice" or "their only choice," women are learning that there are alternatives to abortion that affirm their lives and the lives of their children.

This report looks at the current tragic state of abortion in the United States, but the bottom line is simple: the right-to-life movement is succeeding because even after 41 years and more than 56 million abortions, the conscience of our nation knows that killing unborn children is wrong.

## THE SUPREME COURT & ABORTION

### A Brief Synopsis of Cases



#### ***Roe v. Wade (1973)***

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

#### ***Doe v. Bolton (1973)***

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

#### ***Bigelow v. Virginia and Connecticut v. Menillo (1975)***

*Bigelow* allowed abortion clinics to advertise. *Menillo* said that despite *Roe*, state prohibitions against abortion stood as applied to non physicians. *Menillo* also said states could also authorize non physicians to perform abortions.

#### ***Planned Parenthood of Central Missouri v. Danforth (1976)***

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

#### ***Maher v. Roe and Beal v. Doe (1977)***

States are not required to fund abortions, though they can if they choose. A state can use funds to encourage childbirth over abortion.

#### ***Poelker v. Doe (1977)***

In *Poelker*, the Court ruled that a state can prohibit the performance of abortions in public hospitals.

# THE SUPREME COURT & ABORTION

## A Brief Synopsis of Cases

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### ***Colautti v. Franklin (1979)***

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

### ***Bellotti v. Baird (II)\* (1979)***

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

### ***Harris v. McRae (1980)***

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

### ***Williams v. Zbaraz (1980)***

The Court ruled that states are not required to fund abortions that are not funded by the federal government, but can opt to do so.

### ***HL v. Matheson (1981)***

Upholding a Utah statute, the Court ruled that a state could require an abortionist to notify one of the minor girl’s parents before performing an abortion without a judicial bypass.

### ***City of Akron v. Akron Center for Reproductive Health (1983)***

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

### ***Planned Parenthood Association of Kansas City v. Ashcroft (1983)***

The Court upheld a Missouri law requiring that post-viability abortions be attended by a second physician and that a pathology report be filed for each abortion.

***Simopoulos v. Virginia (1983)***

The Court affirmed the conviction of an abortionist for performing a second-trimester abortion in an improperly licensed facility.

***Thornburgh v. American College of Obstetricians and Gynecologists (1986)***

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

***Webster v. Reproductive Health Services (1989)***

The Court upheld a Missouri statute prohibiting the use of public facilities or personnel for abortions and requiring abortionists to determine the viability of the unborn child after 20 weeks.

***Hodgson v. Minnesota and Ohio v. Akron Center for Reproductive Health (1990)***

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

***Rust v. Sullivan (1991)***

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

***Planned Parenthood of Southern Pennsylvania v. Casey (1992)***

To the surprise of many observers, the Court narrowly (5-4) reaffirmed what it called the “central holding” of *Roe*, that “a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.” However, the Court also indicated a shift in its doctrine that would allow more in the way of state regulation of abortion, including pre-viability regulations: “We reject the rigid trimester framework of *Roe v. Wade*. To promote the State’s profound interest in potential life, throughout pregnancy the State may take measures to ensure that the woman’s choice

is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right.” Applying this “undue burden” doctrine, the Court explicitly overruled parts of *Akron* and *Thornburgh*, and allowed informed consent requirements (that the woman be given information on the risks of abortion and on fetal development), a mandatory 24-hour waiting period following receipt of the information, the collection of abortion statistics, and a required one-parent consent with judicial bypass. A spousal notification requirement, however, was held to be unconstitutional.

### ***Mazurek v. Armstrong* (1997)**

The Court upheld a Montana law requiring that only licensed physicians perform abortions.

### ***Stenberg v. Carhart* (2000)**

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

### ***Gonzales v. Carhart* (2007)**

By a vote of 5-4, the Court in effect largely reversed the 2000 *Stenberg* decision, rejecting a facial challenge to the federal Partial-Birth Abortion Ban Act, enacted by Congress in 2003. This law places a nationwide ban on use of an abortion method—either before or after viability—in which a baby is partly delivered alive before being killed. In so doing, the Court majority, in the view of legal analysts on both sides of the abortion issue, opened the door to legislative recognition of broader interests in protection of unborn human life, and signaled a willingness to grant greater deference to the factual and value judgments made by legislative bodies, within certain limits. For further discussion of the implications of the *Gonzales* case for subsequent abortion-related legislation, see page 17 of this report.

## PUBLIC OPINION & ABORTION By the Numbers



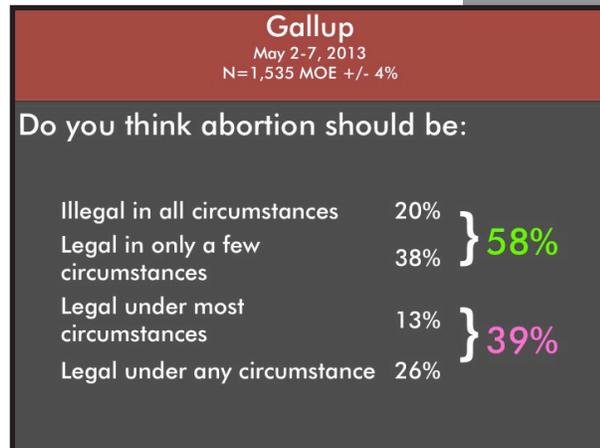
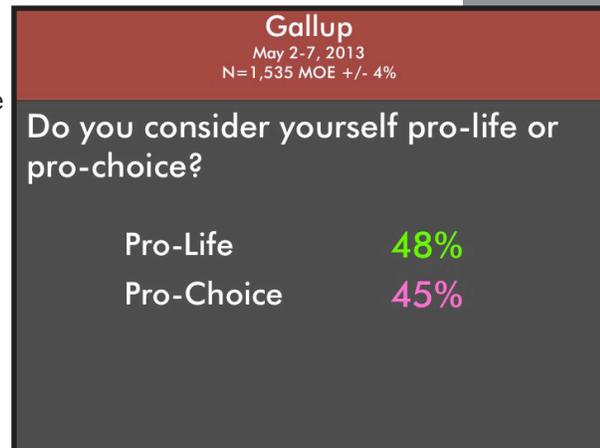
Public opposition to abortion as practiced in the United States under the *Roe v. Wade* doctrine has continued for more than two decades, though many media reports would have the public believe otherwise. Media reports tend to rely on a question that asks respondents to self-identify as either “pro-life” or “pro-choice.” This question tells us how someone would label their views on abortion based on their personal understanding of those terms and provides valuable insights into how the American public view the pro-life and pro-choice movements.

The most recent poll conducted by Gallup in May 2013 found that a plurality—48%—identified themselves as “pro-life,” compared to just 45% who identified themselves as “pro-choice.” But this question doesn’t tell the whole story and reporters who rely solely on this question to discern American attitudes on abortion do so at their own peril.

The same Gallup poll asked respondents: “Do you think abortion should be 1) illegal in all circumstances; 2) legal in only a few circumstances; 3) legal under most circumstances; or 4) legal under any circumstances. This question comes closer to revealing American attitudes toward *Roe* and *Doe*’s regime of abortion revealing that only 26% agree with that position (legal under any circumstances), while 58% feel abortion should not be legal at all or legal in only a few circumstances.

While this question goes much further in defining attitudes toward abortion, it falls short by not defining the circumstances in which respondents feel abortion should be legal, leaving the question open to misinterpretation and inaccurate reporting on public opinion regarding abortion.

Beginning in 1989, National Right to Life has regularly commissioned a six-point question which we feel best explores public opinion regarding the legality of abortion.

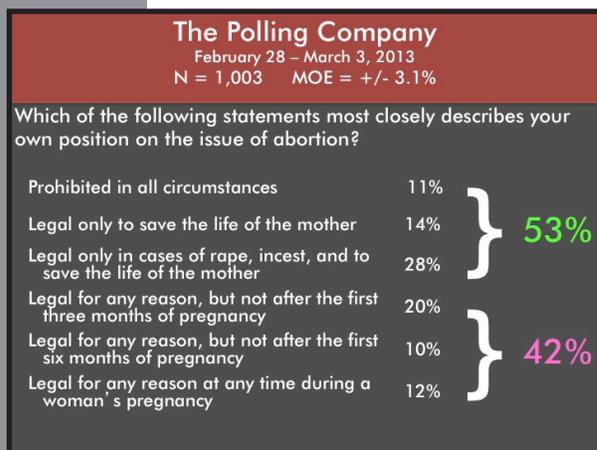


# PUBLIC OPINION & ABORTION

## By the Numbers

continued

First asked in polling conducted by Wirthlin Worldwide, and subsequently in polls fielded by Zogby International and The Polling Company, this six-point question asks respondents: “Which of the following statements most closely describes your own position on the issue of abortion: 1) Abortion should be prohibited in all circumstances; 2) Abortion should be legal only to save the life of the mother; 3) Abortion should be legal only in cases of rape or incest, and to save the life of the mother; 4) Abortion should be legal for any reason, but not after the first three months of pregnancy; 5) Abortion should be legal for any reason, but not after the first six months of pregnancy; or 6) Abortion should be legal for any reason at any time during a woman’s pregnancy.”



to save the life of the mother; 3) Abortion should be legal only in cases of rape or incest, and to save the life of the mother; 4) Abortion should be legal for any reason, but not after the first three months of pregnancy; 5) Abortion should be legal for any reason, but not after the first six months of pregnancy; or 6) Abortion should be legal for any reason at any time during a woman’s pregnancy.”

In the question’s most recent fielding by The Polling Company, February 28-March 3, 2013, only 12% said their position—legal for any reason at any time during a woman’s pregnancy—matched that of the policy advocated by the abortion lobby. And only another 10% would allow abortion through the first six months of pregnancy. Thus, at most, 22% supported the effect of *Roe v. Wade*. Another 20% would allow abortion but restrict it to the first trimester. A majority—53%—indicated that they would either restrict abortion in all circumstances, or allow it only when the mother’s life was in danger, or in cases of rape, incest—reasons which account for very few abortions.



As demonstrated in the line graph on this page, this latest result tracks with results from virtually every other poll in which the question has been asked since November 1989. A solid and steady majority of Americans disagree with the current policy that allows abortion for any reason at any time during pregnancy.

Combined with the most recent Gallup poll, these results show that not only do Americans disagree with the abortion policy established by the U.S. Supreme Court in *Roe* and *Doe*, but they are more willing to embrace the “pro-life” than the “pro-choice” label to describe their position.

More and more this public opinion is being translated into votes for state and federal pro-life candidates who will in turn work in the state legislatures and the U.S. Congress to enact life-affirming legislation that challenges the abortion-for-any-reason regime established in *Roe* and *Doe*.

# FEDERAL LEGISLATION & ABORTION

## A Look at Federal Law



### Overview

In the United States, the basic legal framework governing the legality of abortion and the legal status of unborn human beings has been “federalized” primarily by decisions of the United States Supreme Court, rather than by acts of Congress.

Certainly, in the four decades since the U.S. Supreme Court handed down *Roe v. Wade* and *Doe v. Bolton* in 1973, there have been many proposals in Congress to overtly challenge or overturn the *Roe* doctrine by statute or constitutional amendment, or conversely to ratify and reinforce the *Roe* doctrine by federal statute, but neither approach has ever been enacted into law.

However, that does not mean that the Congress has not played an important role in shaping abortion-related public policies. Certainly, Congress has enacted laws that have impacted on the number of abortions performed. For example, the Hyde Amendment, limiting abortion funding in Medicaid and certain other programs, has prevented well over one million abortions by even the most conservative extrapolations. Conversely, certain provisions of Obamacare, if fully implemented, can be expected to ultimately result in wider reliance on abortion as a method of birth control, at least in some states. See <http://www.nrlc.org/uploads/ahc/ProtectLifeActDouglasJohnsonTestimony.pdf>

In addition, the U.S. Senate has played and will continue to be an important influence on abortion policy, due to its role in confirmation of nominees to the U.S. Supreme Court and the circuit courts of appeals.

**Forty-one years after *Roe v. Wade*, it does not violate any federal law to kill an unborn human being by abortion, with the consent of the mother, in any state, at any moment prior to live birth.** However, the use of *one specific method* of abortion, partial-birth abortion, has been banned nationwide under a federal law, the Partial-Birth Abortion Ban Act (18 U.S.C. §1531), that was enacted in 2003 and upheld by the U.S. Supreme Court in 2007. Partial-birth abortion, which is explicitly defined in the law, was a method used in the fifth month and later (i.e., both before and after “viability”), in which the baby was partly delivered alive before the skull was breached and the brain destroyed. **All other methods of abortion performed with consent of the mother, up to the moment of birth, remain completely unrestricted as a matter of federal law.**

## FEDERAL LEGISLATION & ABORTION

### A Look at Federal Law

Under the Born-Alive Infants Protection Act (PL 107-207), enacted in 2002, humans who are *born alive*, whether before or after “viability,” are recognized as full legal persons for all *federal law* purposes. This law says that “with respect to a member of the species *homo sapiens*,” the term *born alive* “means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.”

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

It should be noted that while only these few federal statutes provide direct protection for unborn children, it is also true that there are no federal statutes that *prevent* state legislatures from enacting laws to provide broad protections from abortion for unborn children.

Pro-abortion advocacy groups have periodically campaigned for enactment of federal “abortion rights” statutes (e.g., the “Freedom of Choice Act” or, in the current Congress, the “Women’s Health Protection Act”), and have extracted endorsements of such measures from two presidents (Clinton and Obama), but they have never been able to move such a measure through even one house of Congress.

A number of federal laws generally prohibit federal subsidies for abortion in various specific programs, the best known of these being the Hyde Amendment, which governs funds that flow through the annual federal health and human services appropriations bill. However, as discussed below, the Obamacare health law enacted in 2010 contains provisions that sharply depart from the Hyde Amendment principles, primarily by authorizing federal subsidies for purchase of private health plans that cover abortion on demand.

Various federal laws seek to prevent discrimination against health care providers who do not wish to participate in providing abortions (often called “conscience protection” laws), but the Obama Administration has undermined enforcement of those laws and has pursued policies that are directly contrary to the principles that they embody.

### Judicial Federalization of Abortion Policy

Until the 1960s, unborn children were protected from abortion by laws enacted by legislatures in every state. Between 1967 and 1973, some states weakened those protections, beginning with Colorado in 1967. During that era, the modern pro-life movement formed to defend state pro-life laws, and the pro-life side had turned the tide in many states when the U.S. Supreme Court in effect “federalized” abortion policy in its January, 1973 rulings in *Roe v. Wade* and *Doe v. Bolton*. Those rulings effectively prohibited states from placing any value at all on the lives of unborn children, in the abortion context, until the point that a baby could survive independently of the mother (“viability”). Moreover, these original rulings even effectively negated state authority to protect unborn children after “viability.” As *Los Angeles Times* Supreme Court reporter David Savage wrote in a 2005 retrospective on the case:

But the most important sentence appears not in the Texas case of *Roe vs. Wade*, but in the Georgia case of *Doe vs. Bolton*, decided the same day. In deciding whether an abortion [after “viability”] is necessary, Blackmun wrote, doctors may consider “all factors -- physical, emotional, psychological, familial and the woman’s age -- relevant to the well-being of the patient.” It soon became clear that if a patient’s “emotional well-being” was reason enough to justify an abortion, then any abortion could be justified. (See “Roe Ruling More Than Its Author Intended,” *Los Angeles Times*, Sept. 14, 2005, <http://www.nrlc.org/archive/Judicial/Archives/SavageLATimes091405.html>)

In a detailed series on late abortions published in 1996, *Washington Post* medical writer David Brown reached a similar conclusion:

Contrary to a widely held public impression, third-trimester abortion is not outlawed in the United States . . . Because of this definition [the “all factors” definition from *Doe v. Bolton*, quoted by Savage above], life-threatening conditions need not exist in order for a woman to get a third-trimester abortion.” (“Viability and the Law,” *Washington Post*, Sept. 17, 1996.)

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For many years after *Roe* and *Doe* were handed down, a majority of Supreme Court justices enforced this doctrine aggressively, striking down even attempts by some states to discourage abortions after “viability.” However, the reasoning contained in the most recent Supreme Court ruling directly on the substance of an abortion-related law, *Gonzales v. Carhart* (2007), upholding the federal Partial-Birth Abortion Ban Act, suggests that there is now a one-vote majority on the current Supreme Court that is open to broader protections. A number of states have adopted pro-life reforms based on that premise, as discussed in the “State Legislation” section of this report.

### Congressional Action on Federal Subsidies for Abortion

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

However, after *Roe v. Wade* was handed down in 1973, various federal health programs, including Medicaid, simply started paying for elective abortions. Congress never affirmatively voted to require or authorize funding for abortions under any of the programs, but administrators and courts interpreted general language authorizing or requiring payments for medical services as including abortion. By 1976, the federal Medicaid program alone was paying for about 300,000 abortions in a year, and the number was escalating rapidly. Congress responded by attaching a “limitation amendment” to the annual appropriations bill for health and human services – the Hyde Amendment – prohibiting federal reimbursement for abortion, except to save the mother’s life. In a 1980 ruling (*Harris v. McRae*), the U.S. Supreme Court ruled, 5-4, that the Hyde Amendment did not contradict *Roe v. Wade*. The Court said:

By subsidizing the medical expenses of indigent women who carry their pregnancies to term while not subsidizing the comparable expenses of women who undergo abortions (except those whose lives are threatened), Congress has established incentives that make childbirth a more attractive alternative than abortion for persons eligible for Medicaid. These incentives bear a direct relationship to the legitimate congressional interest in protecting potential life. Nor is it irrational that Congress has authorized federal reimbursement for medically necessary services generally, but not for certain medically necessary abortions. Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life.

In later years, as Medicaid moved more into a managed-care model, the Hyde Amendment was expanded to explicitly prohibit any federal Medicaid funds from paying for any part of a health plan that covered abortions (with narrow exceptions). Thus, the Hyde Amendment has long prohibited not only direct federal funding of abortion procedures, but also federal funding of plans that include abortion coverage – a point often misrepresented by Obama Administration officials during the 2009-2010 debate over the Obamacare legislation, and often missed or distorted by journalistic “factcheckers.” The Hyde Amendment reads in pertinent part:

None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion. . . . The term ‘health benefits coverage’ means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

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

Provisions of the 2009 Obamacare health law ruptured this longstanding policy. While the President repeatedly claimed that his legislation would not allow “federal funds” to pay for abortions, and even signed a hollow executive order, the law itself explicitly authorized massive federal subsidies to assist many millions of Americans to purchase private health plans that will cover abortion on demand, in states that fail to pass laws to limit abortion coverage.

Some defenders of the Obamacare law originally insisted that this was not really “federal funding” of abortion because a “separate payment” would be required to cover the costs of the abortion coverage. NRLC and other pro-life groups dismissed this requirement as a mere “bookkeeping gimmick” that sharply departed from the principles of the Hyde Amendment. This discussion of the significance of the “separate payment” has been rendered rather academic by the fact that it has recently become evident that the Obama Administration is ignoring the two-payment requirement in the law – a development that few journalists or “factcheckers” have taken note of, despite the previous credence

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they gave to the “two-payment” gimmick. (See “Bait-and-Switch: The Obama Administration’s Flouting of Key Part of Nelson ‘Deal’ on ObamaCare,” by Susan T. Muskett, J.D., December 9, 2013, <http://www.nationalrighttolifenews.org/news/2013/12/bait-and-switch-the-obama-administrations-flouting-of-key-part-of-nelson-deal-on-obamacare/>).

During 2013, in the same ignore-the-law mode, the Obama Administration interpreted a provision of Obamacare to authorize the Office of Personnel Management (OPM) to collect health care premiums from members of Congress and their staffs, along with subsidies from the legislative branch bureaucracy, for purchase of private health insurance plans that cover elective abortions. The OPM (under instructions from the White House) has gone forward with this plan despite a longstanding law (the Smith Amendment) that explicitly prohibits OPM from spending one penny on administrative expenses connected with the purchase of any health plan that includes any coverage of abortion (except to save the life of the mother, or in cases of rape or incest). The Smith Amendment is the law that continues to prohibit inclusion of abortion coverage in the health plans of over 8 million federal employees and dependents—a limitation that will no longer apply to members of Congress or their staffs, solely because of Obamacare, according to the Obama Administration. See <http://www.nrlc.org/uploads/ahc/NRLCCommentonProposedRuleAndSmithAmendment.pdf>

A likely candidate for House action during 2014 is the No Taxpayer Funding for Abortion Act (H.R. 7), sponsored by Reps. Chris Smith (R-NJ) and Dan Lipinski (D-IL). This legislation would apply the full Hyde Amendment principles in a permanent, uniform fashion to federal health programs, including those created by the Obamacare law. With respect to Obamacare, this would mean that private insurance plans that pay for elective abortions would not qualify for federal subsidies, although such plans could still be sold through Obamacare exchanges, in states that allow it, to customers who do not receive federal subsidies. The House of Representatives approved this legislation during the previous Congress and is expected to do so again. In the Senate, a companion bill (S. 946) introduced by Senator Roger Wicker (R-Ms.) currently has 25 cosponsors.

## Congressional Action on Direct Protection for Unborn Children

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

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

After the election of President George W. Bush, the Partial-Birth Abortion Ban Act was enacted into law in 2003. This law was upheld 5-4 by the U.S. Supreme Court in the 2007 ruling of *Gonzales v. Carhart*, and is in effect today. The law makes it a federal criminal offense to perform an abortion in which the living baby is partly delivered before being killed, unless this was necessary to save the mother’s life. The law applies equally both before and after “viability” (and most partial-birth abortions were performed before “viability”), and it does not contain a broad “health” exception such as the Court had required in earlier decisions.

Analysis of the Court’s reasoning in *Gonzales* has led many legal analysts, on both sides of the abortion issue, to conclude that the Court majority had opened the door for legislative bodies to enact broader protections for unborn children. For examples of commentaries by legal analysts who differ greatly in philosophical perspective but who reached roughly parallel conclusions regarding the implications of *Gonzales*, see “*Gonzales*, Casey, and the Viability Rule,” by Randy Beck, associate professor, University of Georgia School of Law, 103 Nw. U. L. Rev. 249 (2009); and “Capturing the Judiciary: *Carhart* and the Undue Burden Standard,” by Khiara M. Bridges, associate professor, Boston University, 67 Wash & Lee L. Rev. 915 (2010).

In response to the *Gonzales* ruling, NRLC developed the model Pain-Capable Unborn Child Protection Act, which declares that capacity to experience pain exists at least by 20 weeks fetal age, and generally prohibits abortion after that point. As described in the State Legislation section of this report, the NRLC model legislation has now been enacted in 10 states. In addition, a federal version of the bill has been introduced, and NRLC has declared it to be the organization’s top legislative priority for the current Congress.

## FEDERAL LEGISLATION & ABORTION

### A Look at Federal Law

The House bill, H.R. 1797, sponsored by Congressman Trent Franks (R-Az.), passed the House of Representatives on June 18, 2013, by a vote of 228-196. A companion bill (S. 1670) was introduced by Senator Lindsey Graham (R-SC) on November 7, 2013, and currently has 41 cosponsors. Graham has vowed to press for a test vote on the measure during the current congressional session.

See: <http://www.washingtonpost.com/blogs/post-politics/wp/2013/11/07/sen-lindsey-graham-introduces-abortion-bill/>

and

<http://www.nrlc.org/communications/releases/2013/release1107113/>

NRLC has estimated that there are at least 140 abortion providers performing abortions past the point that the federal legislation would allow. See <http://www.nrlc.org/uploads/fetalpain/KeyPointsonPainCapableBan.pdf>

The Obama Administration has placed the Pain-Capable Unborn Child Protection Act under a veto threat. See <http://www.nrlc.org/uploads/fetalpain/AdminPolicyStatement061713.pdf>

On January 13, 2014, the U.S. Supreme Court declined to review a lower-court order blocking enforcement of an Arizona law limiting abortions past 18 weeks fetal age; this is not a law based on the NRLC model act, and in any event, such a denial of review is not a ruling by the high court on the constitutionality of a state law. See

<http://www.nrlc.org/communications/releases/2014/release011314>

### Federal Conscience Protection Laws

Congress has repeatedly enacted federal laws to protect the rights of health care providers who do not wish to participate in providing abortions, including the Church Amendment of 1973 and the Coats-Snowe Amendment of 1996. One of the most sweeping such protections, the Hyde-Weldon Amendment, has been part of the annual health and human services appropriations bill since 2004; this law prohibits any federal, state, or local government entity that receives any federal HHS funds from engaging in “discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.” The law defines “health care entity” as including “an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.”

However, the Obama Administration has undercut enforcement of the various federal conscience laws in various ways. Indeed, this administration has orchestrated attacks on conscience rights in a more sweeping and aggressive fashion than any previous administration, including issuance of Obamacare-based regulations to require many groups, including religious hospitals and schools, to provide health coverage for drugs and procedures that violate their moral or religious convictions. The Health Care Conscience Rights Act (H.R. 940, S. 1204), NRLC-backed legislation to reinforce conscience rights – including creation of a right to sue in federal court to vindicate such rights – currently has 191 cosponsors in the House and 17 cosponsors in the Senate. In addition, the U.S. Supreme Court is expected to rule this term on some of the Administration’s legal arguments with respect to conscience rights.

### **Attempts in Congress to Protect “Abortion Rights” in Federal Law**

During the administration of President George H. W. Bush (1989-93), the Democrat-controlled Congress made repeated attempts to weaken or repeal existing laws restricting inclusion of abortion in various federal programs. President George H.W. Bush vetoed ten measures to protect existing pro-life policies, and he prevailed on every such issue.

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

The FOCA did win approval from committees in both the Senate and House of Representatives in early 1993, but it died without floor votes in either house when the pro-abortion lobby found, much to its surprise, that it could not muster the votes to pass the measure after NRLC engaged in a concerted campaign to educate members of Congress regarding its extreme effects. This episode illustrated that even many lawmakers who endorse “the right to choose” in general terms, recoil when presented with the prospect of voting to endorse legislation to explicitly invalidate many types of state laws that have broad popular support, such as limitations on late abortions, waiting periods, conscience protection laws, and laws prohibiting performance of abortions by non-physicians.

The original drive for enactment of FOCA ended when Republicans gained majority control of Congress in the 1994 elections. The only affirmatively pro-abortion statute enacted during the Clinton years was the “Freedom of Access to Clinic Entrances” statute (18 U.S.C. §248), enacted in 1994, which applies federal criminal and civil penalties to those who interfere with access to abortion clinics in certain ways.

However, starting in 2004, pro-abortion advocacy groups renewed their agitation for FOCA. (See <http://www.nrlc.org/federal/foca/article020404foca/>)

In July, 2007, then-Senator Obama told Planned Parenthood, “The first thing I’d do as president is sign the Freedom of Choice Act. That’s the first thing that I’d do.” After his election, President Obama initially pushed versions of health-care legislation that contained provisions with FOCA-like effects, but those particular provisions were scaled back when abortion-related issues became a major impediment to enactment of sweeping health care restructuring legislation.

In 2013, alarmed by the enactment of pro-life legislation in numerous states, leading pro-abortion advocacy groups again unveiled a proposed federal statute that would invalidate virtually all federal and state limitations on abortion, including various types of laws that have been explicitly upheld as constitutionally permissible by the U.S. Supreme Court. This updated FOCA is formally styled the “Women’s Health Protection Act” (S. 1696, H.R. 3471), although NRLC has dubbed it the “Abortion-on-Demand Until Birth Protection Act.” (See “Pro-abortion Coalition Unveils Sweeping New National Abortion-on-Demand Legislation in Congress,” *National Right to Life News Today*, November 20, 2013, <http://www.nationalrighttolifenews.org/news/2013/11/pro-abortion-coalition-unveils-sweeping-new-national-abortion-on-demand-legislation-in-congress/>)

In an interview with the newspaper *Roll Call*, the chief Senate sponsor of the new bill, Sen. Richard Blumenthal (D-Ct.), said, “As the election approaches, I think the voters are going to want to know where legislators stand on these issues,” referring to the 2014 mid-term congressional elections, in which control of both houses of Congress will be up for grabs. NRLC Federal Legislative Director Douglas Johnson commented, “I certainly agree with Senator Blumenthal on this much: Voters should learn where their federal representatives stand on this legislation.”

## STATE LAWS & ABORTION

### An Overview

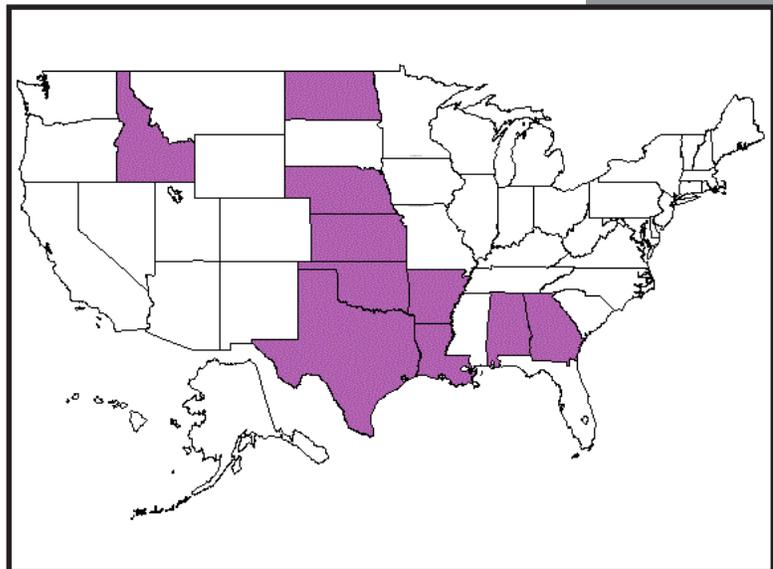


Although NARAL's tally of pro-life state legislation (proposed and passed) differs from National Right to Life's for a host of reasons, we do agree that the past several years have been excellent years for the pro-life movement in many state legislatures. The aggressive legislative outreach by National Right to Life and its network of state affiliates to save unborn babies and protect their mothers begins with National Right to Life's Department of State Legislation. The goal of both National Right to Life and its state affiliates is to shape state legislative proposals in such a way that passage is more likely, and which may ultimately give the Supreme Court the opportunity to rethink elements of its abortion jurisprudence (as it has on previous occasions in decisions like *Bellotti v. Baird (II)*, *Planned Parenthood v. Casey*, *Webster v. Reproductive Health Services*, and *Gonzales v. Carhart*.)

What follows below is a summary of state laws which highlights of several types of key legislation enacted by National Right to Life's network of state affiliates.

### Pain-Capable Unborn Child Protection Act: 10 States

First enacted by the state of Nebraska in 2010, the model Pain-Capable Unborn Child Protection Act, drafted by National Right to Life's Department of State Legislation, is legislation which protects from abortion unborn children who are capable of feeling pain. There has been an explosion in scientific knowledge concerning the unborn child since 1973, when *Roe v. Wade* was decided. Now, for example, there is substantial medical evidence that an unborn child is capable of experiencing pain by 20 weeks after fertilization. These laws protect the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain.



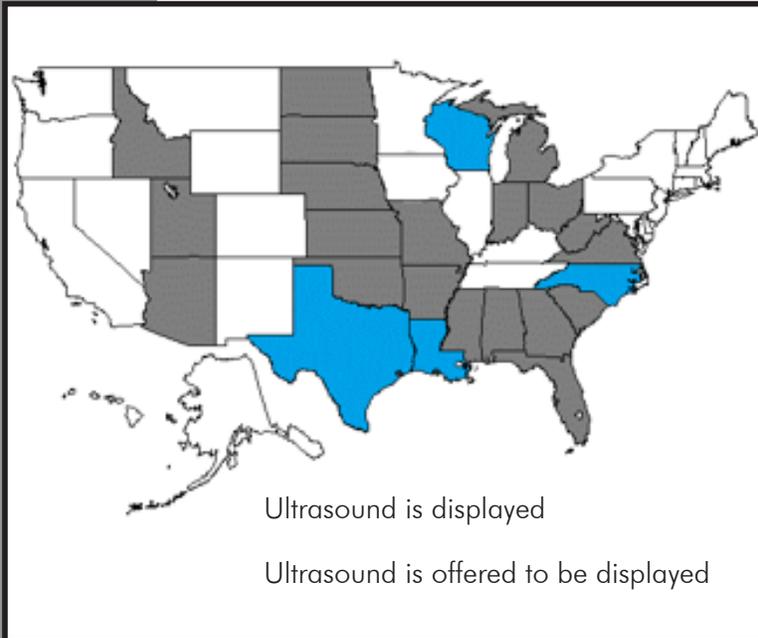
States that protect pain-capable unborn children: Alabama, Arkansas, Georgia\*, Idaho\*, Kansas, Louisiana, Nebraska, North Dakota, Oklahoma, Texas

\*enjoined pending litigation

# STATE LEGISLATION & ABORTION

## An Overview

### A Woman's Right to Know: Ultrasound: 24 States



Providing a “window to the womb,” ultrasound images give a mother the unique opportunity to see her living unborn child in “real time.” Pro-life laws dealing with ultrasound mainly require abortion facilities to offer a pregnant mother the opportunity to view an ultrasound of her unborn child before an abortion is performed.

Four states require that an ultrasound be performed prior to an abortion. The screen must be displayed so the mother can view it and a description of the image of the unborn child must be given. They are Louisiana, North Carolina\*, Texas, and Wisconsin.

Five states require that an ultrasound be performed and that the mother be offered the opportunity to view the ultrasound. They are Alabama, Arizona, Florida, Mississippi and Virginia.

Eleven states require that the mother be provided with an opportunity to view an ultrasound if ultrasound is used as part of the abortion process. They are Arkansas, Georgia, Idaho, Kansas, Michigan, Nebraska, Ohio, Oklahoma, South Carolina, Utah and West Virginia.

Four states require that the mother be provided with the opportunity to view an ultrasound. They are Indiana, Missouri, North Dakota, and South Dakota.

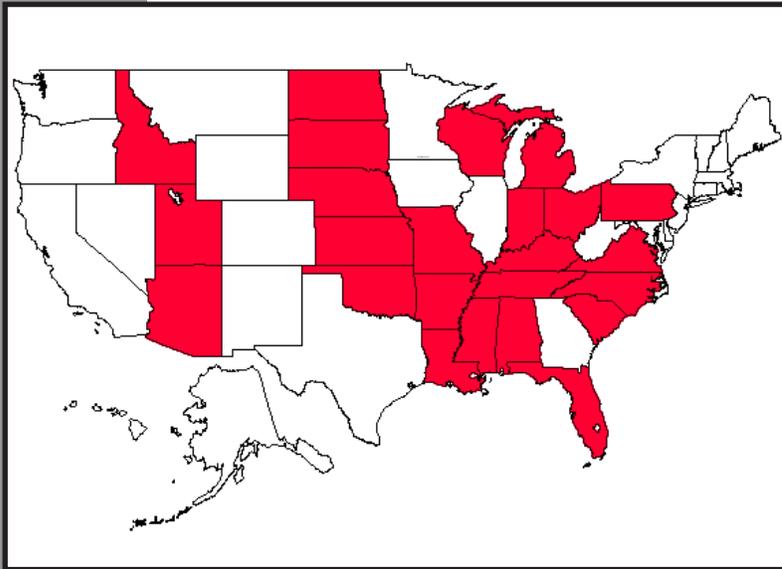
*\*North Carolina is currently in litigation*



# STATE LEGISLATION & ABORTION

## An Overview

### Preventing Taxpayer Subsidy for Abortion: 24 States



The Obama health care law, requires states to operate and maintain a “health insurance exchange” or the Federal government will set one up for them. Health insurance plans offering abortion coverage are allowed to participate in a state’s exchange and to receive federal subsidies unless the state legislature enacts a law to restrict abortion coverage by exchange-participating plans (or unless a state already has a law preventing health insurance in the state from covering elective abortions, except by a separate

rider). Specific language in the Obama health care law authorizes the states to prevent abortion coverage in the exchanges.

States that substantially restrict abortion coverage by plans in the exchange: (as shown in map): Alabama, Arizona, Arkansas, Florida, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, and Wisconsin.

In addition, the following states prohibit elective abortion coverage for plans *outside* of the health insurance exchange: Idaho, Kansas, Kentucky, Michigan, Missouri, Nebraska, North Dakota, Oklahoma, Pennsylvania, Rhode Island, and Utah.

The following states prohibit elective abortion coverage in insurance policies for public employees: Arizona, Colorado, Georgia, Idaho, Illinois, Kansas, Kentucky, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Utah and Virginia.

*(Note: some of the state laws permit coverage for elective abortion through the purchase of a premium rider.)*

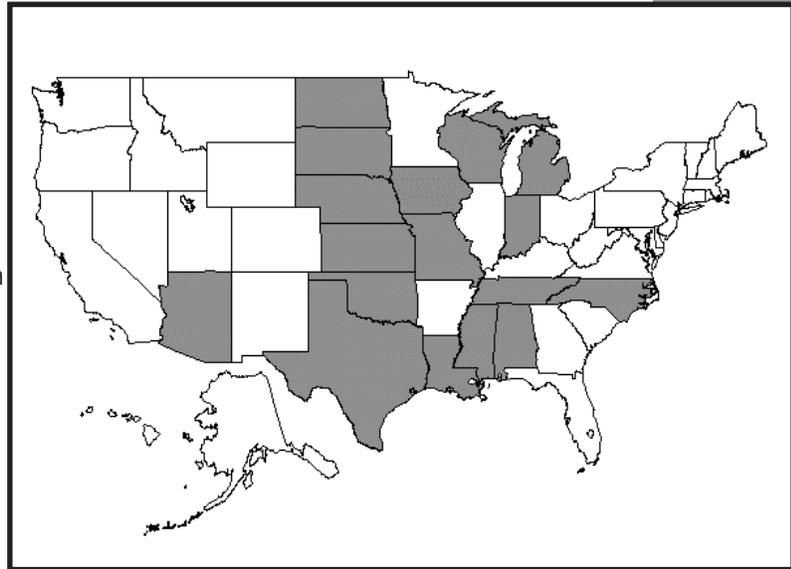
## Web-Cam Abortion Bans: 17 States

“Web-cam” abortions are chemical abortions done via a video conferencing system where the abortionist is located at one location and uses a closed circuit TV to talk over a computer video screen with a woman who is at another location. The abortionist never sees the woman in person because they are never actually in the same room.

This important pro-life legislation prevents web-cam abortions by requiring that, when RU-486 or some other drug or chemical is used to induce an abortion, the abortion doctor who is prescribing the drug must be physically present, in person, when the drug is first provided to the pregnant woman. This allows for a physical examination to be done by the doctor, both to ascertain the state of the mother’s health, and to be sure an ectopic pregnancy is not involved.

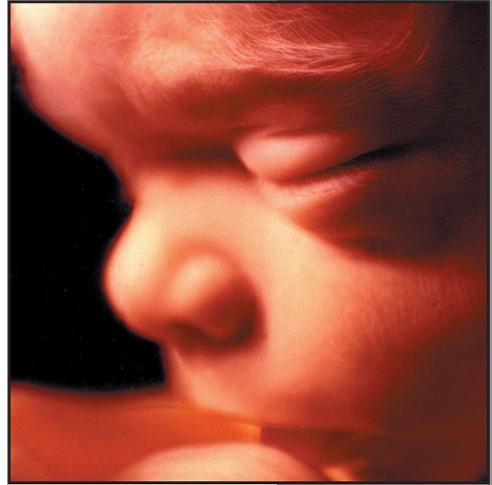
Currently 17 states ban these “web-cam” abortions: Alabama, Arizona, Indiana, Iowa\*, Kansas\*, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota\*, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

*\*Iowa, Kansas, and North Dakota laws are currently enjoined.*





## **ABORTION IN AMERICA** A Look at the Numbers



On the basis of the most recent reports from the U.S. Centers for Disease Control (CDC) and the private research Guttmacher Institute, National Right to Life estimates that there have been more than 56 million abortions in America since 1973, the year that the U.S. Supreme Court legalized abortion on demand with its decision in *Roe v. Wade*.

After reaching an all-time high of over 1.6 million in 1990, the number of abortions performed annually in the U.S. appear to have fallen to around 1.1 million a year.

Abortion rates (the number of abortions per thousand women of reproductive age) and ratios (the ratio of abortions to live births) these last few years are also at their lowest since the earliest days of *Roe*. What this means is that more women are choosing life.

Both the CDC and the Guttmacher Institute, which was once a special research affiliate of abortion chain Planned Parenthood, confirm the downward trend.

The CDC ordinarily develops its annual report on the basis of data received from 52 central health agencies (50 states plus New York City and the District of Columbia). Guttmacher gets its numbers from direct surveys of abortionists conducted every few years.

Because of its different data collection method, Guttmacher consistently obtains higher counts than the CDC. CDC researchers have admitted their approach probably undercounts the total because reporting laws vary from state to state and some abortionists may not report or may under-report.

Increases and decreases for the CDC and Guttmacher usually roughly track each other, though, so both sources provide useful information on abortion trends and statistics. The CDC also stopped reporting estimates for some states in 1998, though, making the discrepancy larger.

Abortions from California and New Hampshire have not been counted by the CDC since 1998, and other states have been missing from the totals

## ABORTION IN AMERICA

### A Look at the Numbers

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during that time frame: Oklahoma in 1998, Alaska from 1998 to 2002, West Virginia in 2003 and 2004, Louisiana in 2005 and 2006, Maryland from 2007 to 2010. For areas that did report, overall declines were seen from 1998 through 2010. The CDC showed significant declines in both 2009 and 2010 of 4.6% and 3.1% respectively.

Guttmacher also shows a similar long term decline, but found slightly higher numbers in 2008 than its previous surveys. These may be due to new chemical abortions and/or the addition of abortionists missed in previous surveys.

A cumulative estimate of the number of abortions since 1973 was generated using Guttmacher figures through 2008 and adjusting the most recent number by the percentage declines the CDC found for 2009 and 2010. The 2010 number was then used as a projection for 2011 through 2013. Then a 3% undercount Guttmacher estimates for its own figures was added, yielding the total below. This figure will be adjusted when Guttmacher publishes new national data.

If the percentages of decline CDC found were applied to Guttmacher's most recent figure, abortions for the United States would now be just over 1.1 million a year, rather than the 1.2 million as Guttmacher said it recorded as recently as 2008. To get an idea of how far we've come, consider that 1.6 million unborn babies died in 1990.

Fifty-six million abortions represent an enormous loss of life. The actual number of lives lost is likely to be much higher once one factors in the number of twins, triplets, etc., included in those abortions. To put that number in perspective, this is not just more than the population of any single U.S. state, but even more than the current population of three of its five most populous states – New York, Florida, and Illinois – combined.

Of course these are more than just numbers.

When a nation loses a population larger than that of countries like Spain, Poland, Argentina, Canada, Venezuela, South Africa, Iraq, or the Sudan, it can't help but have an impact. Fifty-six million fewer lives means not just fewer diapers, baby bottles, baby toys being made and sold, but also fewer jobs for teachers, barbers, nurses, college professors, farmers, manufacturers, and business, and eventually, fewer innovators, entrepreneurs, medical researchers, artists, athletes, and even political activists and community organizers.

continued

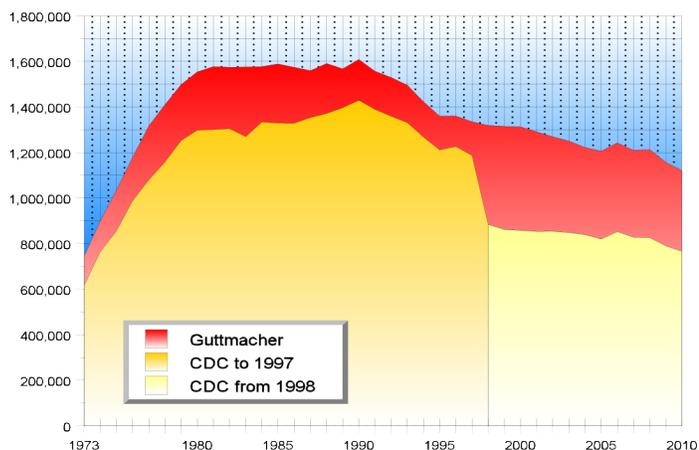
In the end, it means 56 million fewer folks earning, spending, saving, investing, paying taxes, contributing to Social Security, to Medicare, to health insurance pools. With numbers this large, it becomes obvious that abortion is not just an individual, personal decision, but a choice with economic and social repercussions that profoundly impacts the nation as a whole, an event that has not just immediate consequence but forever affects generations to come.

It is not as if abortion offers a solution to a woman's problems. If she has economic challenges, or relationship issues, or if she is the victim of intimate partner violence, abortion will not improve her situation. At best, there may be a temporary feeling of relief, but at some point this may be replaced by a nagging guilt, an aching emptiness, a mind-numbing regret for a child that is no more.

So why do so many women choose abortion? Rather than it being a case of women boldly, confidently exercising their "right to choose," researchers for the abortion industry tell us that it is often because these women feel they have little or no choice. They simply don't see another option, and agenda driven groups like Planned Parenthood with a huge financial incentive to expand abortion services aren't likely to promote alternatives that to them are unprofitable.

The practical assistance offered by thousands of pro-life pregnancy care centers across the country, coupled with not just traditional pro-life education like fetology models and brochures, but also websites, videos, books, and stories and photos from the doctor's office, or the sounds heard on fetal heartbeat stethoscopes or the images seen on the new 4D ultrasounds have all encouraged more women to choose life.

## Reported Annual Abortions 1973 - 2010



1973	744,600	615,831
1974	898,600	763,476
1975	1,034,200	854,853
1976	1,179,300	988,267
1977	1,316,700	1,079,430
1978	1,409,600	1,157,776
1979	1,497,700	1,251,921
1980	1,553,900	1,297,606
1981	1,577,300	1,300,760
1982	1,573,900	1,303,980
1983	1,575,000	1,268,987
1984	1,577,200	1,333,521
1985	1,588,600	1,328,570
1986	1,574,000	1,328,112
1987	1,559,100	1,353,671
1988	1,590,800	1,371,285
1989	1,566,900	1,396,658
1990	1,608,600	1,429,247
1991	1,556,500	1,388,937
1992	1,528,900	1,359,146
1993	1,495,000	1,330,414
1994	1,423,000	1,267,415
1995	1,359,400	1,210,883
1996	1,360,200	1,225,937
1997	1,335,000	1,186,039
1998	1,319,000	884,273*
1999	1,314,800	861,789*
2000	1,313,000	857,475*
2001	1,291,000	853,485*
2002	1,269,000	854,122*
2003	1,250,000	848,163*
2004	1,222,100	839,226*
2005	1,206,200	820,151*
2006	1,242,200	846,181*
2007	1,209,600	827,609*
2008	1,212,400	825,564*
2009	1,156,630‡	789,116*
2010	1,120,775‡	765,651*
2011-13	1,120,775§	

‡ NRLC extrapolation based on CDC figures  
§ NRLC projection for calculation

\*excludes NH, CA and at least one other state

## ABORTION IN AMERICA

### A Look at the Numbers

continued

Unborn pain laws championed by National Right to Life help to not only further educate the public as to the humanity of the unborn, but also help to prevent the sort of barbarities employed by late abortionists, whether the violence takes place in the womb or outside it. Ultrasound Viewing and Right to Know legislation has helped many woman to not only bond with their unborn children but also to find out about realistic alternatives to abortion of which they might not otherwise have known.

So, despite the efforts of Planned Parenthood and its ilk, abortion rates and ratios are down to levels not seen since the first days of *Roe v. Wade*. There are between 400,000 and 500,000 fewer abortions than there were about twenty years ago, about seven million more kids alive than there would have been if abortions had remained at their 1990 peak.

More women are choosing life for themselves and for their babies. But we still have a long way to go.

## **PLANNED PARENTHOOD** The Nation's Largest Abortion Provider



No other organization has been as aggressive in promoting abortion as Planned Parenthood, the nation's largest abortion chain, easily responsible for more than a quarter of all abortions performed in the U.S. and ever angling to corner an even bigger portion of the abortion market.

Planned Parenthood performed 327,166 abortions in 2012, according to its latest annual report. We do not yet have national abortion figures for 2012, but this would represent nearly 27% of the figure of 1,212,400 national abortions given by the Guttmacher Institute for 2008.

It is a percentage that has been steadily increasing, even as abortions have declined nationwide. While national annual totals in the U.S. have declined by more than a quarter from their peak of 1,608,600 in 1990, abortions at Planned Parenthood have risen over 253%!

Planned Parenthood likes to tell people that abortion represents only 3% of its services, but this is an extremely contrived and misleading statistic. If one counts every packet of pills, every pregnancy test, every STD test as a separate "service," as Planned Parenthood does, it does appear as if abortion is a small part of its business. But if one looks in terms of the number of clients receiving abortions, or more appropriately, in terms of relative revenues, one gets a very different accounting.

Though it does not publish a figure every year, Planned Parenthood itself admitted as recently as 2011 that about 12%, or about one in 8 of its clients, received abortions. This is already a far cry from 3%!

Looked at in terms of income, though, abortion is an even more significant part of the group's bottom line. At \$451, the average cost the Guttmacher Institute gives for standard first trimester abortion in its national survey for 2008, the 327,166 abortions performed by Planned Parenthood in 2012 would represent revenues of at least \$147 million, easily more than the expected income from any single other procedure or service that Planned Parenthood offers, whether it be the two million clients being sold birth control pills, the nearly four million being tested for STDs, or the approximately 600,000 or so receiving the breast and cervical "cancer screenings" it touts in its political advertising.

And this doesn't even take into account that Planned Parenthood is adding more expensive chemical abortion services to its offerings at centers all across the country, or that there are Planned Parenthood clinics in at least 32 states, including the District of Columbia that do more expensive second trimester (14 weeks or more) surgical abortions and at least a dozen that offer abortions at 20 weeks or more.

Thus, Planned Parenthood's business model is a lot more dependent on the promotion and performance of abortions than it likes to let on, something the financial data does a lot better job of explaining than some data table or pie chart that counts every "service" equally.

This better explains why the national organization mandated that every affiliate have at least one abortion performing center by the end of 2012, why Planned Parenthood has been pushing chemical abortions with RU486 for the past two decades or more, and why Planned Parenthood is always so intensely defending abortion in Congress and in the courts.

Not satisfied with getting nearly half (45%) of its \$1.2 billion budget from government sources, Planned Parenthood is anxious to tap into the new revenue stream generated by ObamaCare. Already building dozens of giant new megaclinics across the country, this early and unstinting promoter of the Affordable Care Act knows that key roles as ObamaCare "navigators," "in-person assisters," or "certified application counselors" will enable it to channel more clients into Planned Parenthood clinics and expand its abortion empire further.

National Right to Life and its pro-life supporters have made inroads, however, in both exposing the Planned Parenthood agenda and letting the American public see the callousness the abortion industry displays towards not just unborn children, but also to their mothers as well.

It took a long time for the media to finally admit to the horrors practiced behind the doors of Kermit Gosnell's clinic, though it may be a while yet before they own up to the reality that Gosnell was not the only one. Planned Parenthood expressed shock at the revelations in Gosnell's trial, but at the same time ignored abuses going on just down the road in its own clinic in Delaware and fought any safety regulations that would prevent similar tragedies, leading to the obvious question: is Planned Parenthood more concerned about women or its extremely profitable abortion business?

Their lack of concern for the unborn child is certainly clear.

## OBAMACARE'S THREAT TO THE BORN A Special Report



Since its inception, the National Right to Life Committee has been just as committed to protecting from euthanasia, those who have been born, especially older people and people with disabilities, as it has been committed to protecting unborn children from abortion.

Our efforts to protect the vulnerable from euthanasia have been directed at opposing not only direct killing such as assisting suicide but also denial of life-saving medical treatment, food and fluids necessary to sustain life. In particular, we have fought involuntary euthanasia – the denial of life-saving treatment and sustenance to patients against their will. This includes our opposition to government rationing of health care.

**We do not believe that the government should limit the right of Americans, if they choose, to use even their own, private, funds for health care to save their lives and those of their family members. Although under-reported, that is what Obamacare does.**

- **“Excess Benefits” Tax**

Obamacare imposes a 40% excise tax on employer-paid health insurance premiums above a governmentally imposed limit *that does not allow for medical inflation*. A September 30, 2013 Politico article explains: “[The level at which taxes kick in will] be linked to the increase in the consumer price index, but medical inflation pretty much always rises faster than that. Think of the Cadillac tax as the slow-moving car in the right lane, chugging along at 45 miles per hour. It may be pretty far in the distance, but if you’re . . . moving along at a reasonable clip in the same lane – say, 60 miles an hour—and you don’t slow down, you’re going to run smack into it.” [See: David Nather, “How Obamacare affects businesses—large and small” (September 30, 2013), <http://www.politico.com/story/2013/09/how-obamacare-affects-businesses-large-and-small-97460.html>]

The “excess benefits” tax will have the intended result of effectively imposing a price control on health insurance premiums that will not keep up with medical inflation. Consequently, insurance companies will be forced to impose increasingly severe restraints on policy-holders’ access to medical diagnosis and treatment – limits that will not prevent setting broken legs and giving flu shots, but will make it harder and harder to get the often-

# OBAMACARE'S THREAT TO THE BORN

## A Special Report

expensive medicines, surgery, and therapy essential to combat such life-threatening illnesses as cancer, heart disease, and organ failure.

- **Exclusion of Adequate Health Insurance Plans from the “Exchanges”**

The Obamacare state-based health insurance “exchanges” are promoted as marketplaces through which gradually more and more of us will annually select our health insurance plan for the next year. Under Obamacare, however, consumers may only choose plans offered by insurers who do not allow their customers to spend what government bureaucrats deem an “excessive or unjustified” amount for their health insurance. As widely reported in the mainstream media, this means that health insurance plans offered in the exchanges typically have narrow panels of available health care providers that exclude specialist doctors and healthcare centers with a high reputation for successfully offering effective life-saving medical treatment.

[See, e.g., Timothy W. Martin, “Shrinking Hospital Networks Greet Health-Care Shoppers on Exchanges,” *Wall Street Journal* (December 13, 2013); Stephanie Kirchgassner, “New Affordable Care US health plans will exclude top hospitals,” *Financial Times* (December 8, 2013); Megan McArdle, “‘Doc Shock’ On Deck in Obamacare Wars,” *Bloomberg* (December 5, 2013); Annika McGinnis, “Big insurers avoid many state health exchanges,” *USA Today* (October 21, 2013).]

- **Limits on Senior Citizens’ Ability to Use Their Own Money for Health Insurance**

According to an August 2010 Congressional Budget Office estimate, the Obama Health Care Law will cut \$555 billion from Medicare over ten years. (See *The Budget and Economic Outlook: An Update*, CONGRESSIONAL BUDGET OFFICE (Aug. 2010) [www.cbo.gov/sites/default/files/cbofiles/ftpdocs/117xx/doc11705/08-18-update.pdf](http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/117xx/doc11705/08-18-update.pdf)) Most senior citizens know that the law will significantly cut government funding for their Medicare. *What many are not aware of is the law’s provision allowing Washington bureaucrats to prevent older Americans from making up the Medicare shortfall with their own funds—taking away their right to spend their own money to save their own lives.*

Before the enactment of Obamacare, under Medicare senior citizens could choose health insurance plans whose value was not limited by what the government might pay toward it. These plans could set premiums and reimbursement rates for health care providers without upward limits imposed by government regulation. (For information on the nature and history of this option, see <http://www.nrlc.org/medethics/medicare>). Such plans would not be forced to ration treatment, as long as senior citizens were free to choose to pay more for them.

Obamacare, however, enabled federal bureaucrats to refuse to allow senior citizens the choice of insurance plans that permit them to spend more than the bureaucrats think they should be allowed to devote to preserving their lives and health. (Detailed documentation is available in “Obamacare Routes to Rationing” at <http://www.nrlc.org/medethics/healthcarerationing/>)

- **Federal Limits on the Health Care Doctors May Give Their Patients**

Obamacare creates an “Independent Payment Advisory Board” directed to recommend measures to limit *private, nongovernmental* spending on health care to a growth rate *below* medical inflation. (Although most news reports have focused on the Board’s authority to limit government spending in Medicare, little attention has been given to this more sweeping mission.) The federal Department of Health and Human Services, based on these recommendations or on its own initiative, is authorized to place limits on the treatments health care providers may give their patients, and under what circumstances. Essentially, doctors, hospitals, and other health care providers can be told by Washington just what diagnostic tests and medical care are considered to meet “quality and efficiency” standards. Treatment that a doctor and patient deem needed or advisable to save the patient’s life or preserve or improve the patient’s health, but which runs afoul of the imposed standards must be denied, *even if the patient is willing and able to pay for it*. Any doctor who dares to give a patient more or better treatment than the measures allow is made ineligible to contract with any qualified health insurance plan.

**In effect, Obamacare authorizes Washington bureaucrats to create one uniform, national standard of care that is designed to limit what private citizens are allowed to spend to save their own lives.** (Again, detailed documentation is available in “Obamacare Routes to Rationing” at <http://www.nrlc.org/medethics/healthcarerationing/>)



Founded in 1968, National Right to Life is the nation's oldest and largest national pro-life group. National Right to Life works to protect innocent human life threatened by abortion, infanticide, assisted suicide, euthanasia and embryo-killing research. National Right to Life is a non-partisan, non-sectarian federation of 50 state affiliates and more than 3,000 local chapters. National Right to Life is governed by a representative board of directors with a delegate from each state affiliate, as well as eight directors elected at-large.

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

**Abortion:** Abortion stops a beating heart more than 3,000 times a day. National Right to Life works to educate Americans on the facts of fetal development and the truth about abortion; works to enact legislation protecting unborn children and providing abortion alternatives in Congress and state legislatures; and supports activities which help women choose life-affirming alternatives to abortion.

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

**Euthanasia:** Through the work of the Robert Powell Center for Medical Ethics, National Right to Life fights rationing of health care on a national level, such as in the context of Medicare legislation or more general health care reform. NRL speaks out against efforts by the pro-death movement to legalize assisting suicide and euthanasia based on an ethic which says that certain persons do not deserve to live because of a perceived "low quality of life." National Right to Life also makes available to individuals the Will to Live, a pro-life alternative to the living will.

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

- the **National Right to Life Committee (NRLC)**, which provides leadership, communications, organizational lobbying and legislative work on both the federal and state levels.
- the **National Right to Life Political Action Committee (NRL PAC)**, founded in 1979 and the nation's largest non-partisan, pro-life political action committee, which works to elect, on the state and federal level, officials who respect democracy's most precious right, the right to life.
- the **National Right to Life Victory Fund**, an independent expenditure political action committee founded in 2012 with the express purpose of electing a pro-life president and electing pro-life majorities in the U.S. House of Representatives and U.S. Senate.
- the **National Right to Life Educational Trust Fund** and the **National Right to Life Educational Foundation, Inc.** which prepare and distribute a wide range of educational materials and advertisements.
- various **outreach efforts** to groups affected by society's lack of respect for human life: the disability rights community; the post-abortion community; the Hispanic and African-American communities; the community of faith; and the *Roe* generation – young people who are missing brothers, sisters, classmates and friends.
- **National Right to Life NEWS** – published daily Monday-Saturday and available at [www.nationalrighttolifenews.org](http://www.nationalrighttolifenews.org), is the pro-life news source of record providing a variety of news stories and commentaries about right-to-life issues in Washington and around the country.
- the **National Right to Life website**, [www.nrlc.org](http://www.nrlc.org), which provides visitors the latest, most up-to-date information affecting the pro-life movement, as well as the most extensive online library of resource materials on the life issues.

This report may be downloaded from the National Right to Life website at:  
[www.nrlc.org/uploads/communications/stateofabortion2014.pdf](http://www.nrlc.org/uploads/communications/stateofabortion2014.pdf)



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