

August 24, 2023

State of Abortion Landscape Post-Dobbs

The United States Supreme Court's June 2022 decision in *Dobbs v. Jackson Women's Health Organization* overturned the 1973 *Roe v. Wade* decision and returned the abortion issue to Congress and state legislatures. As a result, the unborn are already receiving protections in some states due to various pro-life laws.

Prior to the *Dobbs* decision, states had various responses to protecting unborn children. Before *Roe*, some states had pre-*Roe* laws that protected the unborn by making abortion illegal; after *Roe* was decided, some states enacted trigger laws which would protect the unborn once *Roe* was reversed. Due to *Dobbs*, some states were able to enforce their pre-*Roe* laws. State legislatures across the country had also enacted laws protecting unborn children at various stages from fertilization, or from other developmental markers such as the presence of a heartbeat, or the unborn baby's ability to feel pain.

Some states adopted a neutral position on abortion, clarifying that there is no right to abortion or the funding of abortion in their state constitution. Other states, in opposition to life, have found a right to abortion in a state statute or their state constitution; this has been accomplished either through an unfavorable court decision, the state legislature passing a law, or a ballot initiative which places a question on the ballot that finds a right to abortion in that state's constitution. Some states don't fall into any of the categories; they may potentially favor future legislation to protect as many unborn children as possible.

Below is a brief summary of each state law that either protects the unborn child or protects the abortion industry.

Some laws are currently in litigation. For detailed information on litigation about laws protecting the unborn early in their prenatal development, please click [here](#).

For detailed information on laws protecting the unborn at various stages of their development (gestational protection laws), please click [here](#).

Summary of states laws post-*Dobbs*

STATE	PROTECTS UNBORN	PROTECTS ABORTION	INFO
AL	✓		Alabama protects the unborn child throughout gestation under the <i>Alabama Human Life Protection Act</i> and their pre-Roe law. The laws are in effect.
AK		✓	Alaska recognizes a right to abortion by a court decision.
AZ	✓		Arizona protects the unborn child capable of feeling pain at 15 weeks. The law is in effect.
AR	✓		Arkansas protects the unborn child throughout gestation under their trigger law and the <i>Arkansas Unborn Child Protection Act</i> . These laws are in effect.
CA		✓	California recognizes a right to abortion by constitutional amendment and state law.
CO		✓	Colorado recognizes a right to abortion by state law.
CT		✓	Connecticut recognizes a right to abortion by state law.
DE		✓	Delaware recognizes a right to abortion by state law.
FL		✓ ¹	Florida protects the unborn child capable of feeling pain at 15 weeks. Florida recently passed a law protecting the unborn at 6 weeks gestation with a delayed enforcement pending the outcome of the litigation for the 15-week protection law. The 15-week protection law is in effect.
GA	✓		Georgia protects the unborn child at 6 weeks under their heartbeat protection law. The law is in effect pending litigation.
HI		✓	Hawaii recognizes a right to abortion by state law.
ID	✓		Idaho protects the unborn child throughout gestation under their trigger law. Additionally, the preborn are protected at 6 weeks under the heartbeat protection law and the heartbeat trigger law, which were both challenged but upheld by the state supreme court. These laws are in effect. The Idaho Supreme Court found no right to abortion in the state constitution.
IL		✓	Illinois recognizes a right to abortion by state law.
IN	✓		Indiana protects the unborn child throughout gestation. The law is in effect.
IA	✓		Iowa protects the unborn child at 20 weeks; the law is in effect. Iowa also has a heartbeat law which is not in effect pending litigation.

¹ The FL state Supreme Court found a right to abortion under their state's constitution right to privacy clause. See: *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243 (Fla. 2017).

STATE	PROTECTS UNBORN	PROTECTS ABORTION	INFO
KS	✓		Kansas protects the unborn child at 20 weeks, this law is in effect.
KY	✓		Kentucky protects the unborn child throughout gestation under their trigger law and at 6 weeks under their heartbeat law. These laws are in effect pending litigation.
LA	✓		Louisiana protects the unborn child throughout gestation under their trigger law and protects an unborn child when their heartbeat can be detected These laws are in effect.
ME		✓	Maine protects the abortion industry by state law and has no meaningful limits.
MD		✓	Maryland recognizes a right to abortion by state law and a 1992 referendum.
MA		✓	Massachusetts recognizes a right to abortion by state law and court decision.
MI		✓	Michigan recognizes a right to abortion by state constitutional amendment.
MN		✓	Minnesota recognizes a right to abortion by state law and court decision.
MS	✓		Mississippi protects the unborn child throughout gestation under their trigger law, pre-Roe law, and law that protects an unborn child when their heartbeat can be detected. All laws are in effect.
MO	✓		Missouri protects the unborn child throughout gestation under their trigger law. This law is in effect.
MT		✓	Montana recognizes a right to abortion by a court decision.
NE	✓		Nebraska protects the unborn child at 12 weeks. This law is in effect.
NV		✓	Nevada recognizes a right to abortion by a legislatively referred state statute.
NH	N/A	N/A	New Hampshire protects the unborn child after 24 weeks. This law is in effect.
NJ		✓	New Jersey recognizes a right to abortion by court decision and state law.
NM		✓	New Mexico recognizes a right to abortion by state law.
NY		✓	New York recognizes a right to abortion by state law.
NC	✓		North Carolina protects the unborn child at 12 weeks. This law is in effect
ND	✓		North Dakota protects the unborn child throughout gestation. The law is in effect.
OH	✓		Ohio protects the unborn child at 20 weeks. This law is in effect. Ohio also has a heartbeat law which is currently not in effect pending litigation.
OK	✓		Oklahoma protects the unborn child throughout gestation under their pre-Roe law and trigger law. These laws are in effect.
OR		✓	Oregon recognizes a right to abortion by state law.

STATE	PROTECTS UNBORN	PROTECTS ABORTION	INFO
PA	N/A	N/A	Pennsylvania protects the unborn child at 24 weeks. The law is in effect.
RI		✓	Rhode Island recognizes a right to abortion by state law.
SC	✓ ²		South Carolina protects the unborn child after the detection of a fetal heartbeat; the law is in effect.
SD	✓		South Dakota protects the unborn child throughout gestation under their trigger law. The law is in effect.
TN	✓		Tennessee protects the unborn child throughout gestation under their trigger law and additionally when the heartbeat can be detected. The law is in effect.
TX	✓		Texas protects the unborn throughout gestation under their pre-Roe law and their trigger law. Additionally, the unborn are protected once a heartbeat can be detected. All laws are in effect.
UT	✓		Utah protects the unborn child at 18 weeks. The law is in effect. Utah also has a trigger law which is not in effect pending litigation.
VT		✓	Vermont recognizes a right to abortion by state constitutional amendment and state law.
VA	N/A	N/A	Virginia protects the unborn child after viability. The law is in effect.
WA		✓	Washington State recognizes a right to abortion by a legislatively referred state statute.
WV	✓		West Virginia protects the unborn child throughout gestation under the <i>W.V. Unborn Child Protection Act</i> . The law is in effect.
WI	✓		Wisconsin protects the unborn child throughout gestation under their pre-Roe law. The law is in effect.
WY	✓		Wyoming protects the unborn child after viability; the law is in effect. Wyoming also has a trigger law and a recently enacted law protecting the unborn throughout gestation; both laws are not in effect pending litigation.

² In January 2023, the South Carolina Supreme Court struck a previous Heartbeat bill as violating the right to privacy; see *Planned Parenthood S. Atl. v. State*, No. 28127, 2023 S.C. LEXIS 3 (Jan. 5, 2023). In 2023, the legislature enacted a law protecting the unborn child when a heartbeat is detectable; the law was challenged, but the South Carolina Supreme Court vacated the circuit court's preliminary injunction, and the law is in effect. See: *Planned Parenthood S. Atl. v. State*, S.C., No. 2023-000896, 8/23/23.