

STATE LAWS & ABORTION



“Unborn babies are a source of profound joy for those who view them. Expectant parents eagerly share ultrasound photos with loved ones. Friends and family cheer at the sight of an unborn child. Doctors delight in working with their unborn patients—and experience an aesthetic injury when they are aborted.”

- Judge James Ho,
United States Court of Appeals for the Fifth Circuit, in Alliance Hippocratic Medicine v. FDA
(August 16, 2023)

Synopsis of State Laws

The following pages provide a summary of state laws highlighting key legislation enacted by National Right to Life Committee's (NRLC's) network of state affiliates over the past 25 years. For a more comprehensive list of laws by NRLC's grassroots network of affiliates, please visit the state legislation page at <https://www.nrlc.org/statelegislation/>.

In 2023—the first full year post-*Dobbs*—there were pro-life victories and disappointing anti-life setbacks in state legislatures across the country. Pro-life legislators and activists pursued many protections for unborn children and their mothers, but our challenges were great, including the passage of radical pro-abortion amendments to state constitutions. As NRLC President Carol Tobias said, 2023 was like “drinking from a firehose.” This coming year may bring more of the same.

National Right to Life and our network of state affiliates worked closely with lawmakers to enact upwards of 60 bills that protect mothers and children in over a dozen states. The positive working relationships our affiliates have with lawmakers always yield compassionate and purposeful protections and assistance for mothers, unborn children, and families in need.

Pro-life laws were enacted that protect unborn children throughout gestation or once there is a presence of a heartbeat; prevent the trafficking of a minor to obtain an abortion; prohibit chemical abortions or prohibit them via telemedicine; restrict dismemberment abortions; and enact the Born-Alive Infants Protection Act. There were laws enacted allowing women to know about the possibility of abortion pill reversal (APR); funding of state abortion alternatives programs and pregnancy resource centers; laws expanding postpartum benefits for women and expanding the use of safe haven

“baby boxes,” and providing tax credits for adopting a child or for supporting a pregnancy resource center. Other life-affirming laws included allowing abortions to only be performed in hospitals, tax breaks on baby needs and other assistance to pregnant mothers during and post-pregnancy.

Perseverance in the Face of Trials

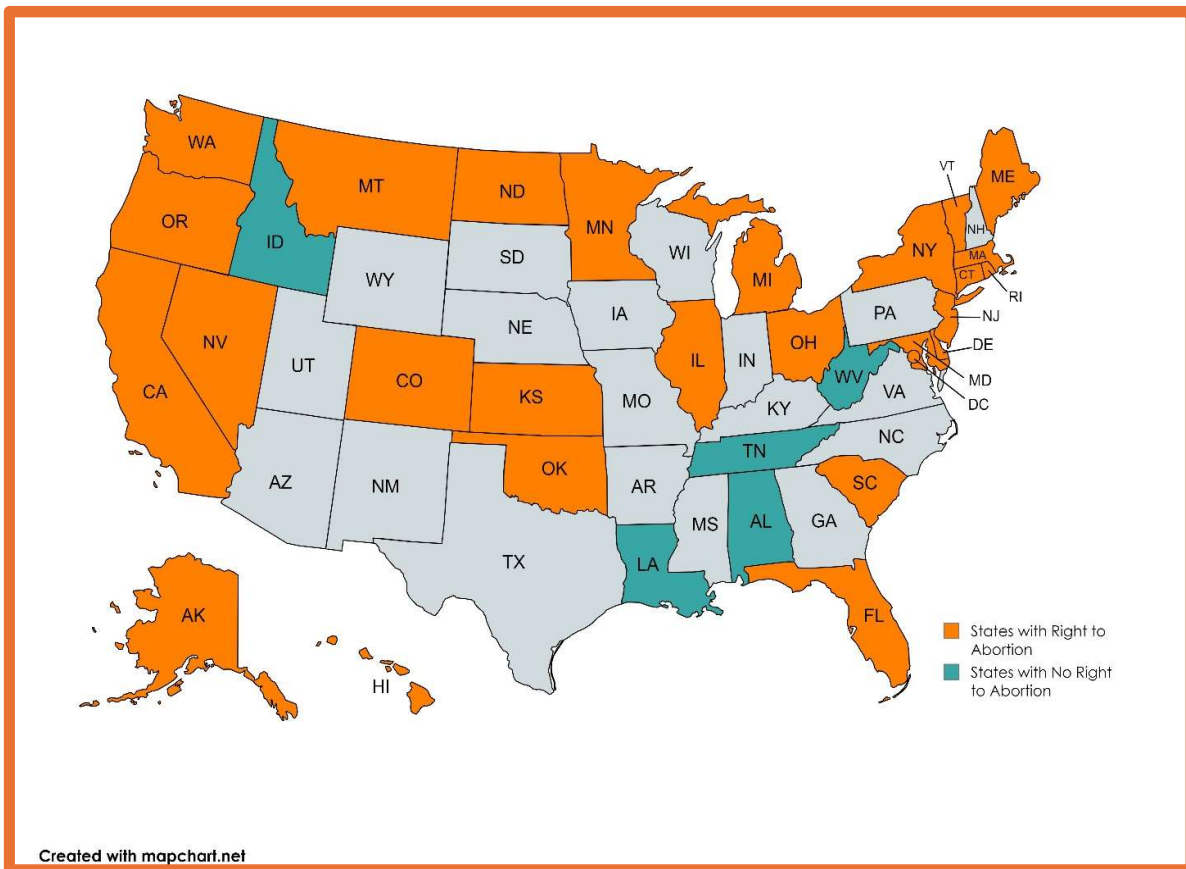
The year 2023 was challenging for the pro-life cause: pro-abortionists, backed by big money and a media that regurgitates their misleading words verbatim, enshrined unlimited abortion-on-demand into various state constitutions using intentionally vague language to “protect” an unfettered right to terminate life. As a result, some state pro-life protections have been repealed and enacting future pro-life legislation is in jeopardy. Abortion advocates have been rabid in pushing easy access to dangerous chemical abortion pills, which brutally end the life of a child and subject a woman to physical, mental, and emotional trauma while experiencing a painful and drawn-out abortion alone.

Pro-lifers know that we will continue to face trials in our fight for mothers and their unborn children—we have faced obstacles for over 50 years of fighting for life. But we know that these trials yield perseverance, and perseverance yields results.

For more information and updates on the following laws and maps, please visit the [National Right to Life State Legislation Center](#).

STATE LAWS AND ABORTION

Right to Abortion by Interpretation of State Constitution, State Constitutional Amendment or State Legislative Statute



The state constitutions in 5 (five) states do not provide for a state right to abortion. Four of these specifically excluded abortion and abortion funding through state constitutional amendments (Alabama, Louisiana, Tennessee, and West Virginia). The constitution in one state (Idaho) was interpreted by a court decision to exclude the right to abortion.

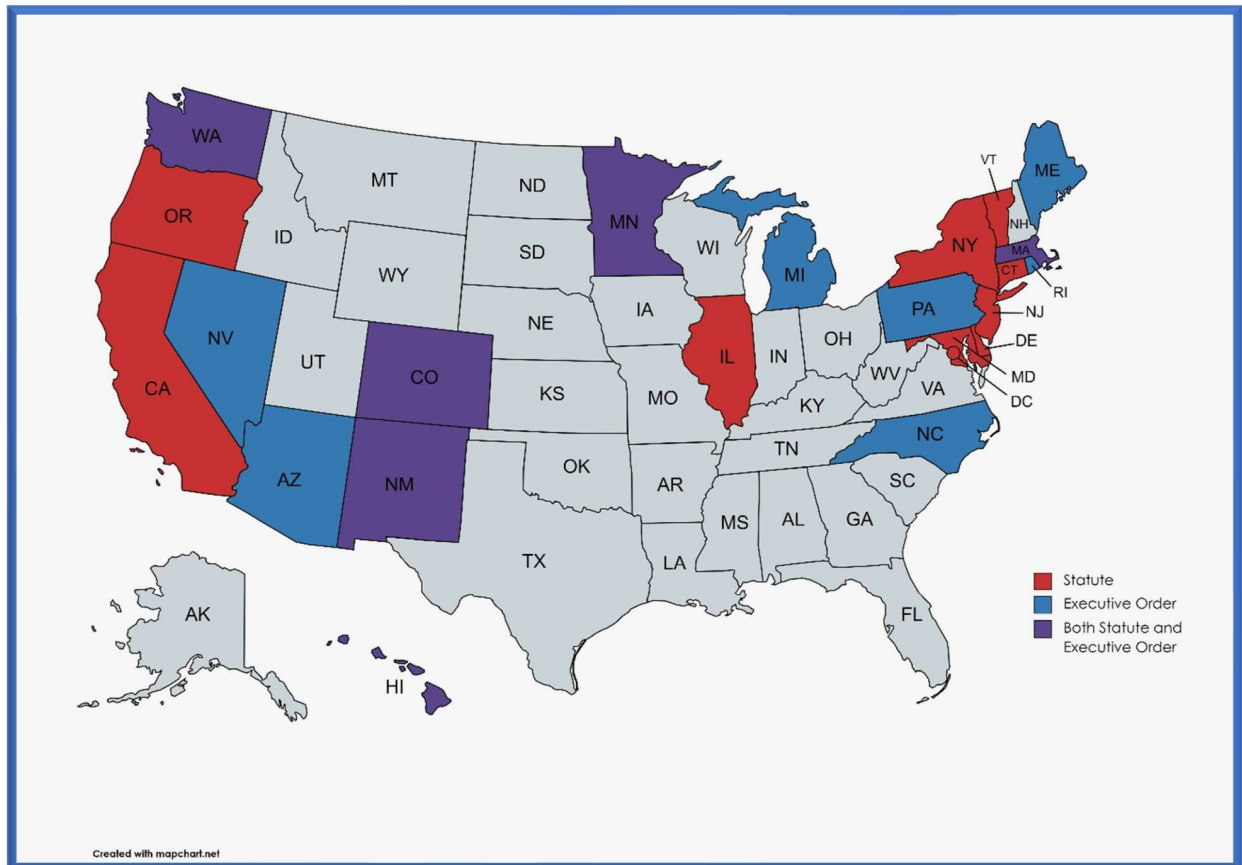
A total of 26 states and the District of Columbia have guaranteed a right to abortion by either a court decision, constitutional amendment or state legislative statute: Alaska (court decision), California (constitutional amendment and statute), Colorado (statute), Connecticut (statute), Delaware (statute), District of Columbia (statute), Florida* (court decision), Hawaii (statute), Illinois (state statute), Kansas (court decision), Maine (statute), Maryland (statute), Massachusetts (court decision and statute), Michigan (constitutional amendment), Minnesota (court decision), Montana (court decision), New Jersey (court decision and statute), New York (statute), Nevada (legislatively referred state statute), North Dakota** (court decision), Ohio (constitutional amendment), Oklahoma*** (court decision), Oregon (statute), Rhode Island (statute), South Carolina (court decision), Vermont (constitutional amendment and statute), and Washington (legislatively referred state statute).

*In 1989, a case established a right to abortion in Florida. Currently a 2022 Florida law that protects unborn children when they are capable of feeling pain at 15 weeks is in effect while it is being litigated.

**In 2023, the North Dakota Supreme Court, in declining to vacate a preliminary injunction on the state's trigger law, held that the state constitution provides a fundamental right to an abortion when necessary to preserve the life or health of a mother.

***In 2023, the Supreme Court of Oklahoma held that "the Oklahoma Constitution creates an inherent right of a pregnant woman to terminate a pregnancy when necessary to preserve her life."

State Laws and Executive Orders Insulating Abortionists From Lawsuits ("Shield Laws")

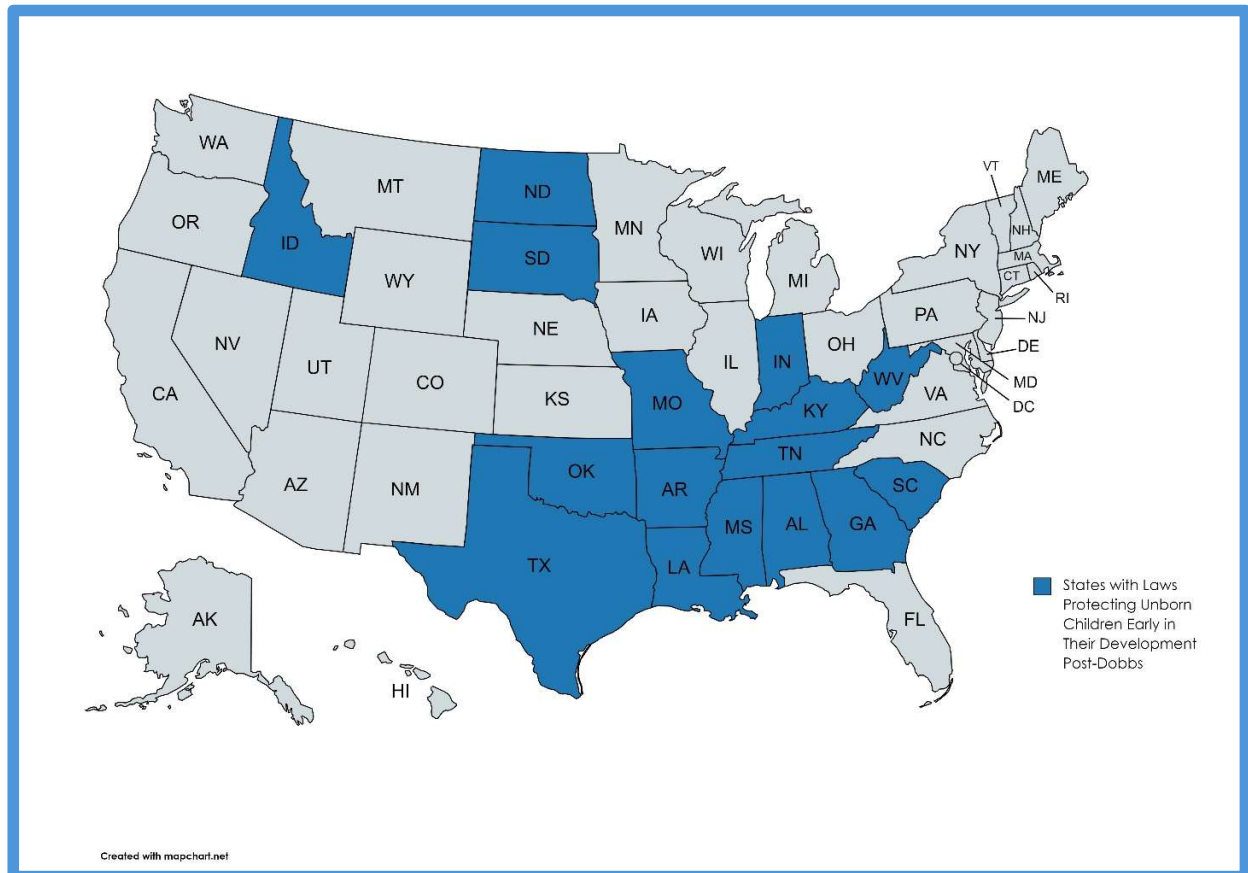


Immediately after the United States Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, some legislatures moved to enact laws, and some governors issued executive orders, that would insulate abortionists by preventing any state government or law enforcement entity from participating in an out-of-state investigation of the abortionist. These laws and orders are dangerous, and they provide cover for bad actors similar to notorious abortionist Kermit Gosnell or people who commit the crime of human trafficking.

The following 22 states and the District of Columbia have enacted laws, or a governor has issued an executive order, or both, insulating abortionists from investigations: Arizona, California, Connecticut, Colorado, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

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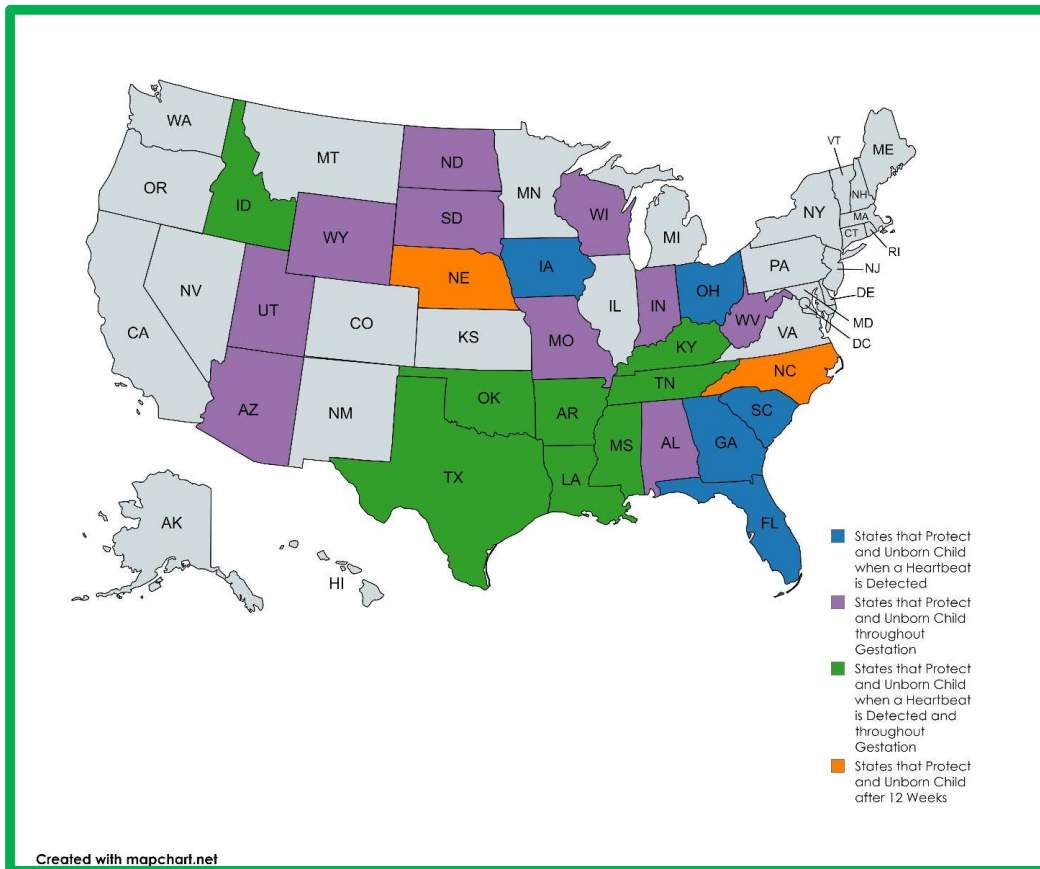
Laws Protecting Unborn Children Post-*Dobbs*



After the *Dobbs v. Jackson Women's Health Organization* decision that invalidated *Roe v. Wade*, states either activated previously passed laws on the books that protected unborn children but were not in effect due *Roe v. Wade*, or passed new laws to protect unborn children at an early stage.

Currently sixteen (16) states protect the unborn child either throughout gestation or once a heartbeat has been detected: Alabama, Arkansas, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, West Virginia.

Abortion Protections in Early Pregnancy and Fetal Heartbeat Protection Laws



Several states have enacted laws that protect the unborn child throughout gestation or once the heartbeat of the baby can be detected. The heart is the first organ to form in an unborn child. An unborn child's heart begins to beat after eighteen (18) days.

Beginning in 2013, several states have enacted laws protecting unborn children from abortion after the unborn child's heartbeat is detected. A total of five (5) states: **Florida***, **Georgia***, **Iowa***, **Ohio***, and **South Carolina** have laws protecting the unborn child once a heartbeat is detected.

Ten (10) states have enacted laws protecting unborn children throughout gestation: **Alabama**, **Arizona***, **Indiana**, **Missouri**, **North Dakota**, **South Dakota**, **Utah***, **West Virginia**, **Wisconsin***, and **Wyoming***.

Eight (8) states have laws that both protect the unborn when their heartbeat can be detected, and throughout gestation: **Arkansas****, **Idaho**, **Kentucky**, **Louisiana**, **Mississippi**, **Oklahoma****, **Tennessee**, and **Texas**.

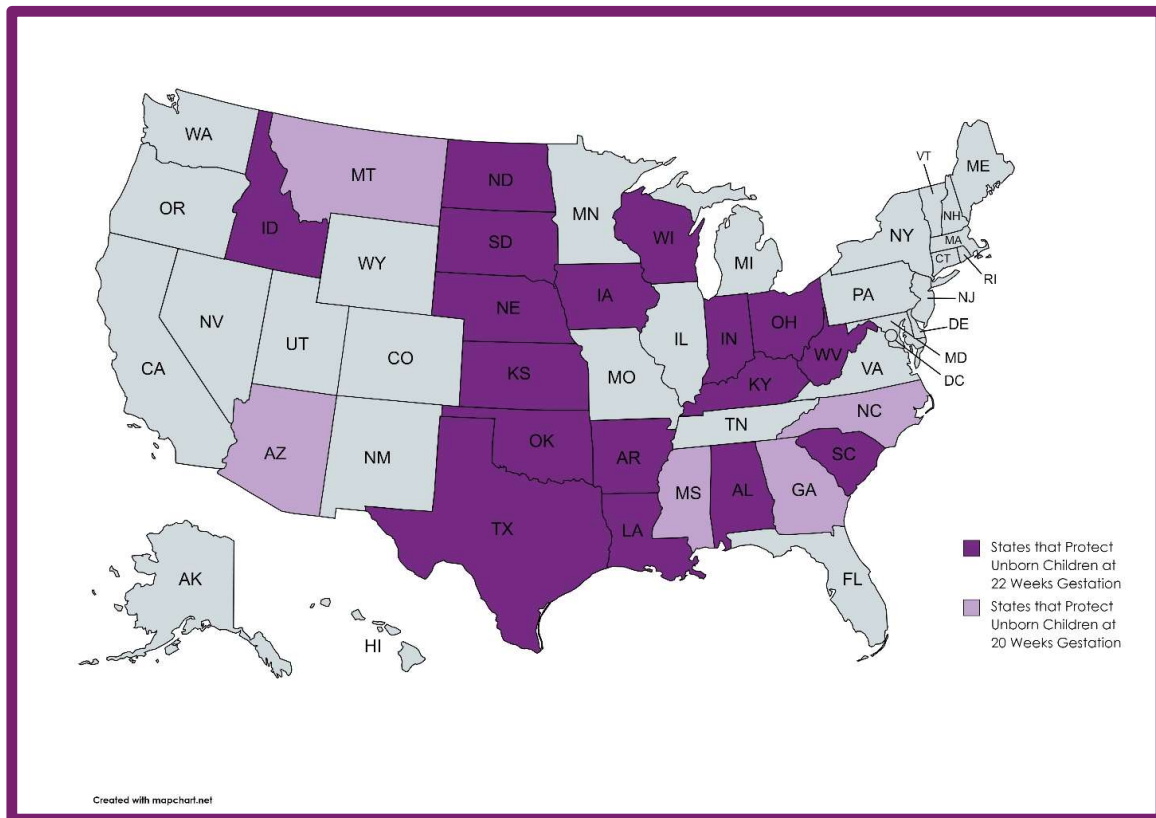
Two (2) states have laws that protect the unborn child after 12 weeks: **Nebraska** and **North Carolina**.

*Laws not in effect due to litigation.

** The heartbeat laws are not in effect in these states but the laws protecting the unborn child throughout gestation remain in effect.

For more detailed information please visit: www.nrlc.org/uploads/stateleg/EarlyAbortionandHeartbeatBans.

Pain-Capable Unborn Child Protection Act and Gestational Age Protection Act



The “Pain Capable Unborn Child Protection Act” (PCUCPA) and “Gestational Age Protection Act” are laws that protect the lives of developing unborn children. Some of these laws protect unborn children who are capable of feeling pain; some protect unborn children at various gestational ages. There has been an explosion in scientific knowledge concerning the unborn child since 1973, when *Roe v. Wade* was decided. These laws protect the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain. Drafted by National Right to Life’s Department of State Legislation, and first enacted by the state of Nebraska in 2010, the “Pain-Capable Unborn Child Protection Act” protects from abortion unborn children who are capable of feeling pain. In 2010, substantial medical evidence demonstrated that unborn children are capable of experiencing pain, certainly by 22 weeks gestation. Since 2016, scientific evidence demonstrates that the structures responsible for pain show signs of sufficient maturation by at least 15 weeks of gestation.

Seventeen (17) states have enacted pain-capable laws protecting babies at 22 weeks gestation; 1 law is not in effect (Idaho). States that protect pain-capable unborn children at 20 weeks post-fertilization age (22 weeks gestation):

Alabama, Arkansas, Idaho*, Indiana, Iowa, Kansas, Kentucky, Louisiana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, West Virginia^, and Wisconsin.

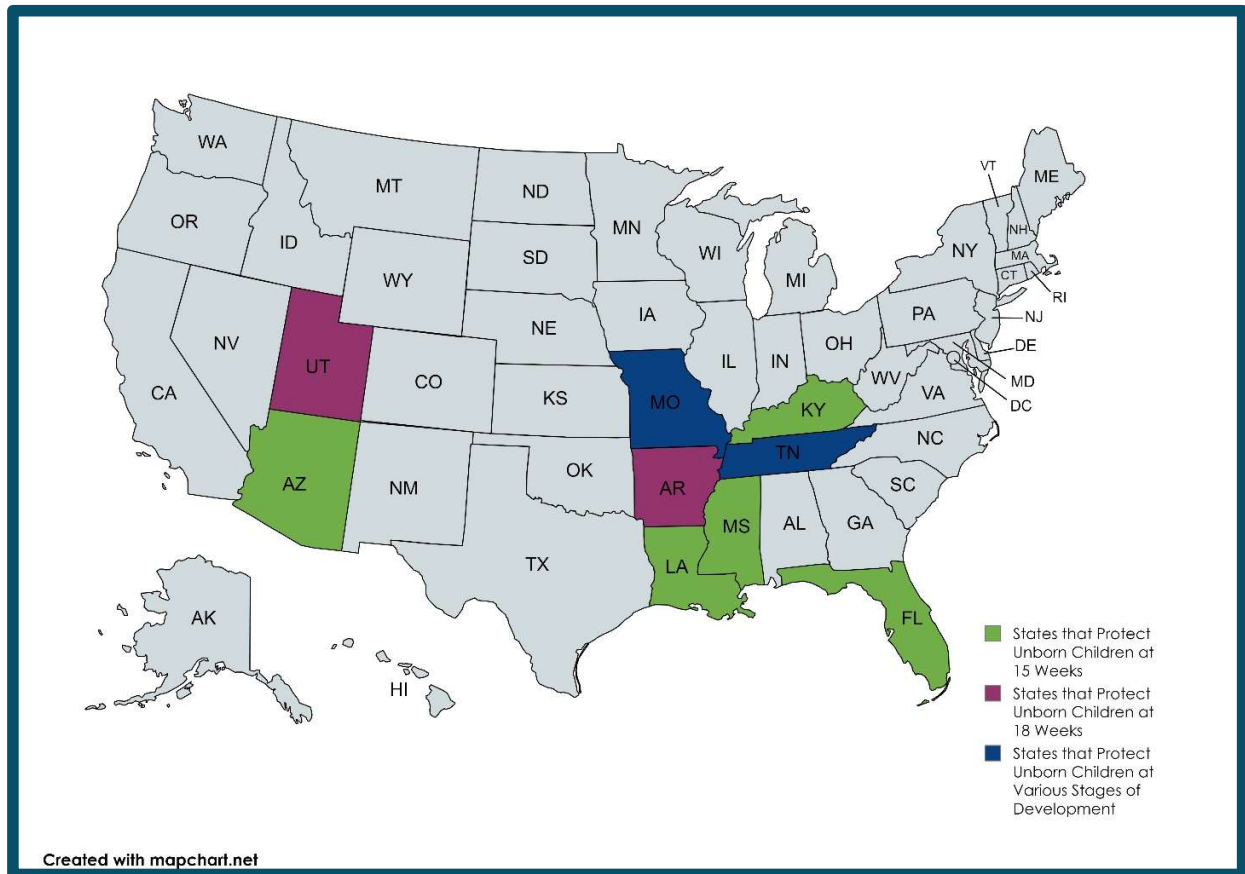
Five (5) states have enacted pain-capable laws protecting babies at 20 weeks gestation: Arizona*, Georgia*, Mississippi, Montana*, and North Carolina.

*These laws have been challenged in court. Arizona’s law is permanently enjoined. Georgia’s law is now in effect. Idaho’s law was declared unconstitutional and is enjoined. Montana’s law is enjoined and is not in effect.

^ The West Virginia law rendered ineffective with passage of the Unborn Child Protection Act W. Va. Code § 16-2R-1 et seq.

Va. Code § 16-2R-1 et seq. W.Va. Code § 16-2R-1 et seq.

Laws that Protect Unborn Children at Certain Gestational Ages (18 Weeks, 15 Weeks, and Cascading Week Protections)



The advancement of science has demonstrated that the structures responsible for pain show signs of sufficient maturation by at least 15 weeks of gestation.

Because of these advancements in our understanding of the pain capability of the unborn child:

Five (5) states protect the unborn at 15 weeks: **Arizona, Florida, Kentucky, Louisiana, and Mississippi.**

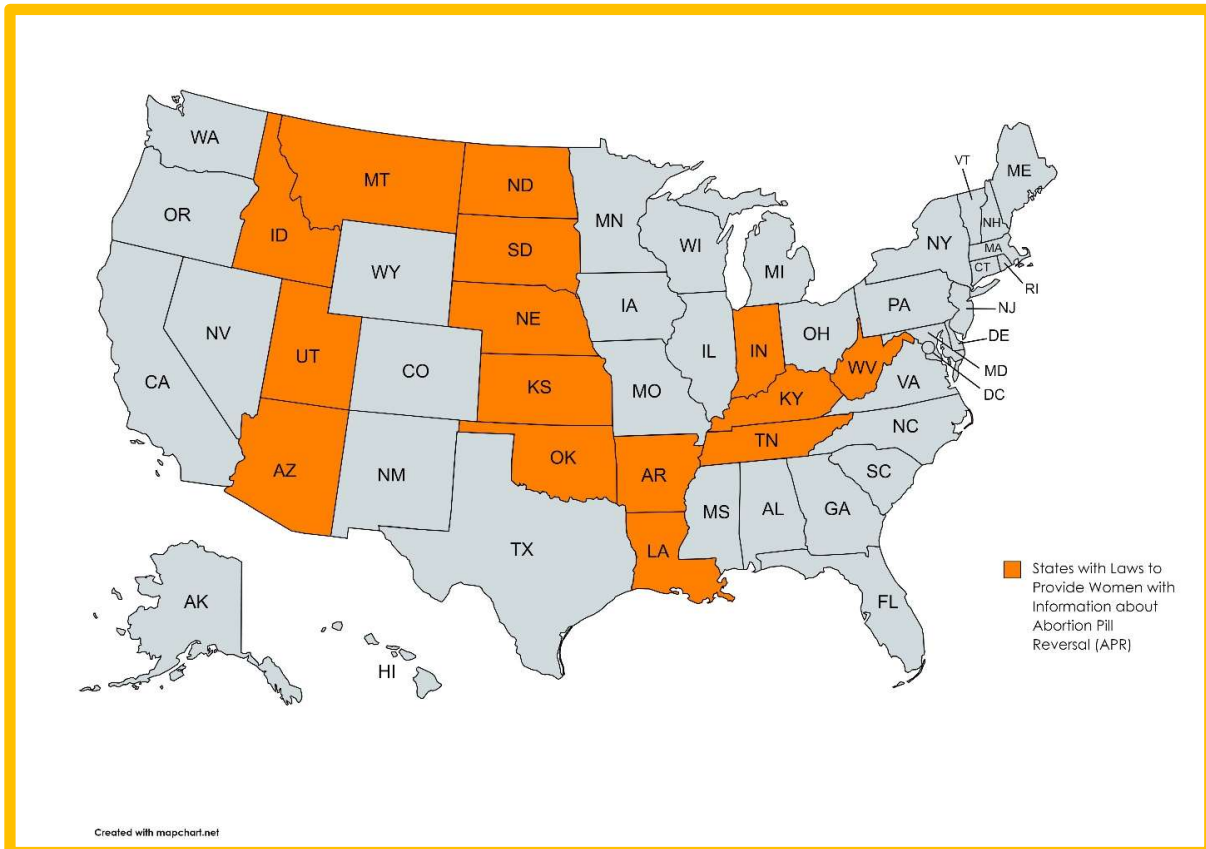
Two (2) states protect the unborn at 18 weeks: **Arkansas and Utah.**

Two (2) states protect the unborn at various stages of development (cascading laws): **Missouri¹ and Tennessee²**

1 In Missouri, the law would protect unborn children starting at 8, 14, 18, and 20 weeks, except in case of a medical emergency.

2 Tennessee's law has legal protections for unborn children starting at 6, 8, 10, 12, 15, 18, 20, and 24 weeks, except in case of a medical emergency.

A Woman's Right to Know: Abortion Pill Reversal Laws



Most recently, states have moved to enact a form of informed consent law that requires abortion facilities to inform a woman prior to or soon after the first step of a chemical abortion that if she changes her mind, it may be possible to reverse the intended effects of the chemical abortion, but that time is of the essence.

Currently, this protocol has saved over 5,000 babies.

For more detailed information on abortion pill reversal, visit <https://lifeatrisk.org>

Currently fifteen (15) states have enacted laws requiring this information to be provided: Arizona, Arkansas, Idaho, Indiana, Kansas, Kentucky, Louisiana, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Utah, and West Virginia*.

*The West Virginia law was rendered ineffective by the W.V. Legislature with the passage of the Unborn Child Protection Act, W. Va. Code § 16-2R-1 et seq.

Born-Alive Infants Protection Laws

