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# “MISSOURI PREAMBLE”: A FRAMEWORK FOR DEFINING AND PROTECTING PERSONHOOD

Model Legislation & Policy Guide

*For the 2016 Legislative Year*



*Accumulating Victories, Building Momentum,  
Advancing a Culture of Life in America*

# INTRODUCTION

In June 1986, Missouri Governor John Ashcroft signed legislation which, in pertinent part, amended existing state laws concerning unborn children and abortions. The first provision of the new law, or the “preamble,” contained legislative findings that “[t]he life of each human being begins at conception,” and that “unborn children have protectable interests in life, health, and well-being.”<sup>1</sup> The new law also required that all Missouri laws be interpreted to provide unborn children with the same rights enjoyed by other persons, subject to the federal Constitution and U.S. Supreme Court's precedents.<sup>2</sup>

Not surprisingly, abortion proponents quickly challenged the law including the preamble.<sup>3</sup> And in 1989, the U.S. Supreme Court overturned a lower court’s sweeping determination that the preamble was unconstitutional.<sup>4</sup> Importantly, the Supreme Court declined to definitively rule on the preamble’s constitutionality because “the extent to which the preamble's language might be used to interpret other state statutes or regulations is something that only the courts of Missouri [could] definitively decide”<sup>5</sup> and because the language of the preamble had not been applied “to restrict the activities of [abortion providers] in some concrete way.”<sup>6</sup>

As a result, the “Missouri Preamble” has been in effect for decades, guiding the interpretation and application of Missouri law and protecting unborn children to the fullest extent possible (given existing U.S. Supreme Court precedent on abortion).

Drawing on the precise language of the “Missouri Preamble,” AUL has drafted the enclosed model language to provide states with a legislative vehicle to ensure that their laws recognize and protect the unborn. The preamble may be introduced as stand-alone legislation or as part of other life-affirming legislation.

This language has several advantages. First, it can be explained for public understanding before it is enacted, and its legislative history can (later) guide judicial application. The model language withstood a court challenge and is so clear, simple, and practical that it should not have any unexpected or unintended consequences. Further, it could be easily amended if negative consequences unexpectedly arise. Finally, it will also have a positive educational impact without costing a lot of money to enact or implement.

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<sup>1</sup> Mo. Rev. Stat. §§ 1.205.1(1), (2) (1986).

<sup>2</sup> *Id.* at § 1.205.2.

<sup>3</sup> *See Reprod. Health Servs. v. Webster*, 662 F. Supp. 407 (W.D. Mo. 1987).

<sup>4</sup> *Webster v. Reprod. Health Servs.*, 492 U.S. 490, 506 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

For more information and drafting assistance, please contact AUL's Legislative Coordinator at (202) 289-1478 or [Legislation@AUL.org](mailto:Legislation@AUL.org).

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HOUSE/SENATE BILL No. \_\_\_\_\_  
By Representatives/Senators \_\_\_\_\_

## Section 1. Text of Preamble.

The [*Legislature*] of the State of [*Insert name of State*] finds that:

- (a) The life of each human being begins at conception;
- (b) Unborn children have protectable interests in life, health, and well-being; and
- (c) The natural parents of unborn children have protectable interests in the life, health, and well-being of their unborn children.

## Section 2. Effective Date, Interpretation, and Application.

Effective [*Insert effective date*], the laws of the State of [*Insert name of State*] shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of the State of [*Insert name of State*], subject only to the Constitution of the United States [, *and*] decisional interpretations thereof by the United States Supreme Court [, *and specific provisions to the contrary in the statutes and constitution of the State of* [*Insert name of State*]].

## Section 3. Definitions.

As used in this [*Section, Title, or other appropriate term*], the terms “**unborn child**” or “**unborn children**” means the offspring of human beings from conception until birth.

## Section 4. Exclusions.

Nothing in this [*Section, Title, or other appropriate term*] shall be interpreted as creating a cause of action against a woman for indirectly harming her unborn child by failing to properly care for herself or by failing to follow any particular program of prenatal care.

More detailed information about the need and justification for laws protecting the unborn can be found in AUL's annual publication *Defending Life*.

*Defending Life 2015* is available online at [AUL.org](http://AUL.org).

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