



2013 State Legislative Session Report

OVERVIEW

Americans United for Life and AUL Action spearheaded 2013 state legislative efforts to enact life-affirming laws that both built on 2011 and 2012's significant gains and laid the groundwork for future victories in 2014 and beyond. AUL's groundbreaking accomplishments include North Dakota's enactment of a first-in-the-nation prohibition on abortions performed for genetic abnormalities. The prohibition was based on AUL model legislation which also bans sex-selective abortions.

As many of our 2013 victories show, AUL remains the leading advocate for ensuring that abortion clinics are properly monitored and regulated, for protecting girls by mandating parental involvement for minors considering abortion, for protecting girls from a parasitic abortion industry that too often fails to report suspected sexual abuse, and for ending the abortion industry's admitted and growing abuse of dangerous abortion-inducing drugs.

To further highlight our work and outline this year's state-based, pro-life activity, Americans United for Life and AUL Action (collectively "AUL") provide this "State Legislative Session Report."

AUL VICTORIES

In 2013, AUL's legal and policy experts helped enact 16 new pro-life measures:

- **Alabama** enacted an omnibus abortion measure which included requirements, based on AUL's *Abortion-Inducing Drugs Safety Act*, requiring that abortion-inducing drugs be administered by a physician and mandating that the physician examine the woman before administering the drugs.
- Alabama also enacted a provision, inspired by AUL model language, requiring that abortion clinics meet the same medically appropriate standards of patient care as ambulatory surgical centers.

- **Arkansas** enacted a measure, based on AUL model language, which adds employees and volunteers at “reproductive health facilities” to the list of mandatory reporters of suspected sexual abuse of minors.
- In consultation with AUL experts, Arkansas also enacted a measure expanding its existing fetal homicide law to protect an unborn child beginning at the moment of conception.
- Arkansas became the third state to enact AUL’s *Pregnant Woman’s Protection Act*, permitting women to use force to defend their unborn children from criminal violence.
- **Florida** enacted a measure providing that an infant born alive during or immediately after an attempted abortion is entitled to the same rights, powers, and privileges as any other child born alive in the course of natural birth and requiring healthcare providers to take reasonable and medically appropriate measures to preserve the life and health of born-alive infants. AUL President and CEO Dr. Charmaine Yoest testified in support of this requirement after Planned Parenthood’s representative testified that the decision whether to save the life of a child born alive should be left solely to the mother and her abortionist.
- **Indiana** enacted a measure, based on AUL model legislation, requiring that a physician examine a woman before providing abortion-inducing drugs.
- **Mississippi** likewise enacted a measure, partially based on AUL’s *Abortion-Inducing Drugs Safety Act*, requiring that a physician examine a woman before providing abortion-inducing drugs.
- **Missouri**, with the assistance of AUL’s state director, enacted a measure allowing contributions to pregnancy resource centers to be eligible for tax credits.
- **Montana** enacted a law requiring notarized parental consent and proof of identification for a minor’s abortion without the governor’s signature. The measure is based on AUL model language.
- **North Dakota** enacted a law, based on AUL model legislation, to prohibit abortions sought solely on account of a child’s sex or because the child has been diagnosed with a genetic abnormality. North Dakota became the first state in the nation to enact a ban on abortions performed for genetic abnormalities.
- **Oklahoma** enacted a measure, based on AUL model language, requiring a parent to provide government-issued proof of identification before a minor’s abortion. The measure also amends the state’s existing judicial bypass procedure to require that the proceedings be initiated in the county in which a minor resides and delineates specific factors a judge must consider in assessing whether a minor should have an abortion without parental involvement.
- **Texas** enacted a requirement that abortion clinics meet the same patient care standards as other facilities performing outpatient surgeries. The measure was inspired by AUL’s *Abortion Patient Enhanced Safety Act*.

- Texas also enacted a measure, based on AUL’s *Abortion-Inducing Drugs Safety Act*, regulating the provision of abortion-inducing drugs such as RU-486.
- Working with a coalition of national and state pro-life groups, AUL helped Texas enact a measure banning abortions at and after five months based upon medical evidence that an unborn child at that stage of development feels pain.
- Similarly, AUL and its allies helped Texas enact a measure requiring individual abortion providers to have hospital admitting privileges.

Importantly, AUL also helped to defeat two prominent anti-life initiatives:

- In **New York**, AUL helped to defeat Governor Andrew Cuomo’s *Women’s Equality Act*. The measure would have elevated abortion to a fundamental legal right in the state, eliminated all existing legal protections for women considering abortion, and rescinded protections for unborn victims of violence.
- In **Washington** State, AUL testified against and helped to defeat a bill mandating health insurance plans covering maternity care to also cover abortions.

Further, AUL provided legal and policy resources to 39 states, while AUL Action, through our state representatives and other allies, worked in 31 states to promote life-affirming legislation and to defeat anti-life initiatives.

DETAILED ACTIVITY AND ANALYSIS

Newly Enacted State Laws and Adopted Legislative Resolutions

In 2013, at least 97 new life-affirming legal requirements,¹ including at least 69 requirements related to abortion,² were enacted. Additionally, at least six pro-life state resolutions were adopted. In total, in 2013, at least 35 states made progress in defending Life.

Newly enacted laws and other significant developments include:

Alabama

- Enacted a measure, inspired by AUL model language, requiring abortion clinics to meet the same patient care standards as facilities performing other outpatient surgeries.

¹ This count does not include some end-of-life measures enacted in 2013 as the life-affirming impact of these measures is questionable.

² Moreover, to gauge properly the impact of this year’s state legislative sessions, the component requirements of omnibus abortion-related measures are discussed and have been counted separately.

- Enacted a measure requiring that abortion-inducing drugs be administered by a physician and that a physician examine the woman before administering the drugs. The provision is based on AUL’s *Abortion-Inducing Drugs Safety Act*.
- Adopted a requirement that abortion providers have admitting privileges at a local hospital.
- Enacted a measure requiring abortion clinics to report suspected child sexual abuse.

Arizona

- Enacted a measure requiring that Medicaid providers cover family planning services that do not include abortion or abortion counseling.

Arkansas

- Enacted AUL model legislation adding employees and volunteers at “reproductive health facilities” to the list of mandatory reporters for suspected child sexual abuse. The new law also prohibits intentionally causing, aiding, abetting, or assisting a child to obtain an abortion without parental consent and requires the collection of forensic samples when an abortion is performed on a minor under the age of 14.
- Overrode a veto by Governor Mike Beebe to prohibit an abortion if an unborn child’s heartbeat is detected, and the unborn child is at 12 weeks of development or greater.
- Enacted a measure prohibiting abortion at five months of development based upon the pain felt by the unborn child.
- Enacted a provision requiring, when an abortion is performed, that the abortion provider report information related to the post-fertilization age of the unborn child.
- Continued the state’s policy of prohibiting the use of state funds for abortion referrals or services in public schools.
- Enacted a law prohibiting abortion coverage in their state health insurance Exchanges (required to be operational next year under the *Affordable Care Act*).
- Enacted a measure, with assistance from AUL, to expand its existing fetal homicide law to protect an unborn child from conception.
- Became the third state to enact AUL’s *Pregnant Woman Protection Act*, permitting women to use force to defend their unborn children from criminal violence.

Colorado

- Enacted a “one-victim” law providing for enhanced criminal penalties when a pregnant woman is assaulted, but not recognizing the child as a potential second victim.
- Enacted legislation allocating funding to its *Adult Stem Cells Cure Fund*.

Connecticut

- Established an advisory council on palliative care.

Florida

- Enacted a measure, working with AUL, providing that an infant born alive, during or immediately after an attempted abortion, is entitled to the same rights, powers, and privileges as any other child born alive in the course of natural birth and requiring healthcare providers to take reasonable and medically appropriate measures to preserve the life and health of the born-alive infant.

Idaho

- Enacted a technical change to its *Medical Consent and Natural Death Act* which was recently strengthened to provide protections for a patient who has expressed a desire to continue life-sustaining care (through advance directives or those authorized to consent for him or her).

Indiana

- Enacted a measure requiring that a physician examine a woman before administering abortion-inducing drugs and providing that the drugs cannot be administered past nine weeks post-fertilization age unless the FDA has approved them for such use. The measure is partially based on AUL model legislation.
- Increased its possible criminal penalties when an abortion is performed that is not expressly provided for in the state statutes.
- Enacted a measure requiring that clinics providing chemical abortions meet the same patient care standards as facilities providing surgical abortions.
- Enacted a measure requiring informed consent information to include information on the risks of abortion-inducing drugs and amending the information to be included in state-sponsored informed consent materials.
- Mandated that the auscultation of fetal heart tone be made audible, if possible, unless the woman signs a form indicating that she does not wish to hear the heart tone.
- Enacted a measure requiring an ultrasound before an abortion. The image must also be displayed unless the woman signs a form indicating that she did not desire to see the image.
- Enacted a measure allocating \$250,000 for “prenatal substance use and prevention” for pregnant women.

Iowa

- Enacted a measure requiring abortion providers to meet certain informed consent requirements before performing abortions for which they plan to seek reimbursement from the state and requiring the governor's office to consent to reimbursement for any abortions for which public funding is permitted.

Kansas

- Enacted a measure prohibiting sex-selective abortions.
- Enacted an omnibus measure that includes a provision amending the state's late-term abortion prohibition and clarifying that a "medical emergency" must be physical in nature—and not resulting from the woman's own behavior—in order for the exception to apply.
- Adopted a "delayed enforcement" provision prohibiting abortion should *Roe v. Wade* be overturned.
- Amended the state's informed consent requirements to include information on fetal pain, as well as the risks of breast cancer and pre-term birth following abortion. The measure also expands the definitions of "counselor" and "qualified person" (who may provide the required information) and adds detailed information on fetal development to state-sponsored informed consent materials.
- Enacted a requirement that any private office, freestanding surgical outpatient clinic, or other facility or clinic in which abortions are performed include a link on its website to the state's website providing informed consent materials.
- Amended the information that must appear on anti-coercion signs posted in abortion facilities. This information now includes the address for the state's pregnancy resources website.
- Enacted a requirement that the state's informed consent materials inform a woman that she has the right to view an ultrasound image of her child.
- Enacted a requirement that women in "medically challenging pregnancies" be given a list of websites for national perinatal assistance including information regarding which entities provide such services free of charge.
- Authorized grants, contracts, or cooperative agreements to help families after they learn that their child has Down syndrome or other prenatally or postnatally diagnosed conditions.
- Enacted a measure providing that no state funds may be expended for any abortion and prohibiting tax benefits for abortions or abortion providers.
- Prohibited abortions in state-run or state-leased facilities (except when necessary to save the woman's life).

- Enacted a prohibition on school districts, district employees or volunteers, or educational service providers contracting with a school district to provide abortion services (except when necessary to save the woman’s life).
- Enacted a prohibition on wrongful birth and wrongful life lawsuits.
- Enacted legislation amending its stem cell therapy statute to require reporting on expenditures.

Kentucky

- Enacted continuing medical education requirements for pain management and palliative care.

Louisiana

- Enacted a measure prohibiting a person from performing an abortion unless that person is currently enrolled in or has completed a residency in obstetrics and gynecology or family medicine.
- Adopted a measure adding coerced abortion to the definition of “child abuse” and authorizing a court to issue a temporary restraining order prohibiting activities associated with a coerced abortion.
- Enacted a measure requiring the presence of a physician when abortion-inducing drugs are administered or dispensed, and requiring the scheduling of a follow-up appointment for the woman.

Maine

- Enacted a measure requiring a healthcare provider involved in the delivery or care of an infant suspected to have been exposed to drugs *in utero* to report the suspected exposure to the state Department of Health and Human Services.

Maryland

- Passed a fiscal year 2014 budget that continues a (relatively weak) prohibition on the use of money from the general fund for an abortion except when the mother’s life or health, including mental health, are in danger, when the unborn baby has abnormalities, or when the pregnancy is the result of rape or incest.
- Enacted a measure requiring a healthcare provider to report the delivery of an infant exposed to controlled substances to a local social services office. The measure specifically provides that the report alone will not automatically trigger a child abuse or neglect investigation.

- Established palliative care pilot programs in certain hospitals.

Mississippi

- Enacted a measure, based in part on AUL model language, requiring a physician to examine a woman before providing abortion-inducing drugs. The physician must follow “the standard of care,” and the physician or his or her agent must also schedule a follow-up appointment for the woman.
- Enacted three appropriations measures prohibiting state funds from being used in research in which a human embryo is killed or destroyed.

Missouri

- With the assistance of AUL’s state representative, enacted a measure allowing contributions to pregnancy resource centers to be eligible for tax credits.
- Enacted a law which requires that the initial dose in an abortion-inducing drug regimen be administered in the presence of a physician, and requiring the physician, or an agent of the physician, to make all reasonable efforts to ensure that the woman comes back for a follow-up appointment.

Montana

- Enacted a measure, based on AUL model language, requiring notarized parental consent and proof of identification before a minor’s abortion. The new law also provides a specific consent form.
- A bill that permits the prosecution of a third-party who intentionally kills an unborn child (who has reached at least eight weeks development) became law without the governor’s signature.

Nebraska

- Appropriated funding for biomedical research, but specifically excluded funding for research on fetal tissue from abortions or human embryonic stem cells.

New Hampshire

- Enacted a measure clarifying that, for the purposes of an advanced directive, life-sustaining treatment includes medically administered nutrition and hydration.

New Jersey

- Governor Chris Christie vetoed legislation that would have restored public funding for family planning services including those provided by Planned Parenthood.

New Mexico

- Enacted a law adding fire stations and law enforcement agencies to a list of places where an infant may be legally relinquished.
- Enacted a measure providing for both reports of “spontaneous fetal death” (for an unborn child who has reached at least 20 weeks development) and for certificates of stillbirth.

New York

- Rejected the *Women’s Equality Act* which would have elevated abortion to a fundamental legal right in the state, eliminated all existing legal protections for women considering abortion, and rescinded protections for unborn victims of violence.

North Carolina

- Enacted an omnibus measure that includes a provision prohibiting sex-selective abortion and providing civil penalties for violations of the prohibition.
- Enacted a provision that gives the state Department of Health discretion to apply ambulatory surgical center standards to abortion facilities.
- Limited funding for abortion through the health insurance plans offered through the health insurance Exchanges (required to be operational next year under the *Affordable Care Act*) or offered through local governments.
- Enacted a provision requiring informed consent before an abortion. As part of the new informed consent requirements, North Carolina now requires that a physician be present for the administration of the first drug of an abortion-inducing drug regimen.
- Enacted a measure requiring public schools to teach children that there is a link between abortion and pre-term birth. The instruction will be part of a mandated public health curriculum.
- The state’s budget appropriated \$250,000 to Carolina Pregnancy Care Fellowship.
- Enacted *Lily’s Law*, a measure providing that the crime of homicide includes situations where a child is born and dies from injuries received *in utero*.
- Enacted a provision protecting the rights of conscience of healthcare providers.

North Dakota

- Enacted a measure, based on AUL model language, prohibiting an abortion when it is sought solely on account of the child's sex or because the child has been diagnosed with a genetic abnormality. North Dakota became the first state to enact a ban on abortions for genetic abnormalities.
- Adopted legislation providing that, in 2014, the citizens of the state will vote on an amendment which provides that "[t]he inalienable right to life of every human being at any stage of development must be recognized and protected."
- Enacted a measure prohibiting an abortion when there is a detectable heartbeat which could be as early as six weeks development.
- Enacted a measure prohibiting abortion at five months development based upon the pain felt by an unborn child.
- Adopted a measure requiring abortion clinics to have a staff member trained in cardiopulmonary resuscitation.
- Enacted a requirement that abortion providers have admitting privileges at a local hospital and be board certified in obstetrics/gynecology.
- Enacted a provision requiring physicians, when an abortion is performed, to report the post-fertilization age of the unborn child.

Ohio

- Mandated as part of a budgetary measure, that before an abortion, the physician must attempt to determine if there is a fetal heartbeat. If a fetal heartbeat is detected, the abortion provider may not perform an abortion until 24 hours after he or she has informed the pregnant woman in writing that her baby has a fetal heartbeat and of the statistical probability of bringing the baby to term based on the child's stage of development.
- Enacted a prohibition on publicly funded hospitals from entering into transfer agreements with abortion providers. Under current law, abortion providers must maintain a written transfer agreement with a hospital to facilitate care for women experiencing abortion complications.
- Adopted a "tiering system" for the allocation of family planning funding including funding for which abortion providers might be eligible. Under the measure, first priority for funding is given to public entities that are operated by state or local government entities.
- Established a program to "provide services for pregnant women and parents or other relatives caring for children 12 months of age or younger" and to "promote childbirth, parenting, and alternatives to abortion." Recipients of these funds cannot be involved in or associated with any abortion activities.

Oklahoma

- Enacted legislation, based on AUL model language, which requires a parent or guardian to provide government-issued proof of identification before a minor’s abortion. The measure also amends the judicial bypass procedure to require that such proceedings be initiated in the county in which a minor resides and sets out specific factors a court must weigh in assessing whether a minor should have an abortion without parental involvement.
- Enacted a separate measure requiring parental notice before abortion, without the option of a judicial bypass
- Amended its abortion reporting statute to require the provision of additional information including a screenshot of the ultrasound image.
- Enacted a measure requiring a prescription for the so-called “morning-after” pill (“Plan B One-Step, or its generic equivalent”) for women under the age of 17. (This measure was enacted prior to the FDA’s decision to make “Plan B” available over-the-counter to girls of any age.)
- Enacted a measure prohibiting a healthcare provider from withholding “life-preserving health care”—that the provider makes available to other patients and “the provision of which is directed by the patient” or the patient’s proxy—on a discriminatory basis.

Pennsylvania

- Enacted a law prohibiting abortion coverage in their state health insurance Exchanges (required to be operational next year under the *Affordable Care Act*).

Rhode Island

- Enacted a measure prohibiting cloning for the purposes of reproduction.
- Enacted a measure establishing a palliative care advisory council and educational program.

South Dakota

- Enacted a measure amending its 72-hour reflection period to exclude Saturdays, Sundays, and federal and state holidays.

Tennessee

- Enacted a measure requiring publicly funded substance abuse facilities to give preference to pregnant women and requiring any facility capable of accommodating a pregnant

woman to provide such treatment. The measure also prohibits state officials from filing for protective services for the child if the mother is less than 20 weeks into her pregnancy and seeks substance abuse treatment as part of her prenatal care.

- Enacted legislation related to embryo adoption, specifically providing for the relinquishment of rights to an embryo.

Texas

- Inspired by AUL model legislation, enacted a measure requiring abortion clinics to meet the same patient care standards as facilities performing other outpatient surgeries.
- Enacted regulations, based in part on AUL model legislation, on the provision of abortion-inducing drugs, including requiring a physician to examine a woman before providing the drugs--effectively prohibiting “telemed” abortions.
- Enacted a measure prohibiting abortions at five months development based upon the pain felt by an unborn child.
- Mandated that individual abortion providers maintain admitting privileges at a local hospital.
- Enacted legislation creating a body to provide grants or funds for ethical research. The measure also states that blood obtained by a blood bank may be used for the collection of adult stem cells if the donor consents and allows hospitals to use adult stem cells if certain conditions are met.

Utah

- Amended its abortion reporting statute to require information on the race of the woman.

Virginia

- Enacted a measure setting up their state health insurance Exchange (required to be operational next year under the *Affordable Care Act*) which included a provision prohibiting abortion coverage. This measure furthered a policy adopted by Virginia in 2011.

Washington

- Rejected a measure that would have required insurance providers to cover abortions in policies that also provide maternity care.

Wisconsin

- Enacted a measure requiring individual abortion providers to maintain admitting privileges at a local hospital.
- Mandated an ultrasound before an abortion.

Legislative resolutions adopted in 2013 include:

- The *Kansas* House and Senate adopted a resolution commending pregnancy resource centers.
- The *Louisiana* House and Senate adopted a resolution urging the state Department of Health and Hospitals and other state entities to investigate and monitor the practices of Planned Parenthood Gulf Coast (PPGC) to determine whether the organization is in compliance with state and federal laws. Further, the resolution specifically requests that all grants and reimbursements under PPGC's Medicaid provider agreement be suspended pending the outcome of an investigation into allegations against PPGC, and that it be denied any economic incentives for building, purchasing, or operating any facilities.
- The *South Dakota* House and Senate adopted a measure urging the United States Supreme Court to revisit *Roe v. Wade* and overturn the decision.
- The *Texas* House and Senate adopted a resolution commending pregnancy resource centers.
- The Texas House also specifically honored the Prestonwood Pregnancy Center in Dallas.
- The *West Virginia* Senate adopted a resolution commending pregnancy resource centers.

2013 LEGISLATIVE TRENDS

Abortion

- Overall, 2013 state legislative activity, related to abortion, approximated 2012 activity levels. This year, 48 states considered approximately 360 measures related to abortion. The majority of these measures were life-affirming.
- Alabama, Arkansas, Indiana, Kansas, North Dakota, and Texas made the most significant progress in implementing life-affirming and protective agendas.
- Texas considered at least 35 individual bills related to abortion – by far the most abortion-related bills considered in any state.
- In 2013, measures related to abortion funding continued to garner considerable interest with 28 states considering related measures.
- Similarly, in the wake the Kermit Gosnell trial and numerous instances of substandard abortion care in other states, abortion clinic regulations and other abortion provider requirements generated significant interest among legislators.

- Other protective measures such as informed consent, parental involvement, and ultrasound requirements also continued to generate significant interest.
- Notably, this year saw a significant increase in the number of states considering prohibitions on abortion. In 2013, 28 states considered significant abortion limitations and prohibitions, a 60 percent increase from 2012 activity levels.
- Specifically, the number of states considering prohibitions on sex-selective abortions rose dramatically. In 2013, 16 states considered prohibiting abortion based on the gender of the unborn child, a more than three-fold increase from 2012 activity levels.

Legal Recognition and Protection of the Unborn

- In 2013, at least 27 states considered nearly 60 measures providing legal recognition and protection to unborn children in contexts other than abortion.
- Arkansas, Montana, and North Carolina increased legal protection for unborn victims of violence.
- Nearly a quarter of the states considered measures to limit and treat prenatal drug use and abuse.

Bioethics and Biotechnologies

- In 2013, at least 29 states considered approximately 80 measures related to biotechnologies, a slight increase from 2012 activity levels. However, a majority of these measures were not life affirming.
- States continued to overlook the risks to women posed by human egg harvesting.

Freedom of Conscience

- North Carolina enacted a measure protecting freedom of conscience of healthcare providers.
- In light of the *Affordable Care Act*'s coercive mandates, a number of states continued to debate measures to better protect freedom of conscience.

End of Life

- More than 200 measures related to the end of life were introduced in 2013, approximating 2012 activity levels.
- While many states considered measures creating or modifying traditional advance planning documents (*e.g.*, advance directives, Living Wills), the trend of adopting Physician Orders for Life-Sustaining Treatment (POLST) Paradigm programs continues. A POLST program is typically designed “to convert patient preferences for life-sustaining treatment into immediately actionable medical orders” using standardized

forms that provide specific treatment orders for cardiopulmonary resuscitation, medical interventions, artificial nutrition, and antibiotics.

Abortion

In 2013, 48 states considered at least 360 measures related to abortion. This level of activity is essentially identical to 2012 activity levels (when approximately 359 measures were considered in 41 states).

Abortion Prohibition and Limitations

At least 28 states including Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Texas, Virginia, West Virginia, Wisconsin, and Wyoming considered measures to prohibit or limit abortions.

Kansas enacted omnibus legislation that included a provision amending the state’s late-term abortion prohibition and clarifying that a “medical emergency” must be physical in nature—and not resulting from the woman’s own behavior—in order for the exception to apply.

Kansas also enacted a “delayed enforcement” provision prohibiting abortion should *Roe v. Wade* be overturned.

Indiana enacted a provision amending the criminal penalty (from a Class C felony to a Level 5 felony) when an abortion that is not expressly provided for in the state statutes is performed.

Conversely, New York considered the *Women’s Equality Act*, which would have repealed the state’s longstanding prohibition on abortion after 24 weeks and replaced it with a virtually limitless “health” exception, allowing abortion-on-demand up until birth. The Act was defeated.

Five-Month Limitations

At least 11 states considered measures to ban abortion at 5 months (*i.e.*, 20 weeks) development: Arkansas, Illinois, Indiana, Iowa, Kentucky, Maryland, North Dakota, Oregon, South Carolina, Texas, and West Virginia.

Arkansas and North Dakota enacted measures prohibiting abortion at five months development based upon the pain felt by the unborn child. The measure in Arkansas was enacted over Governor Mike Beebe’s veto.

In a special legislative session, Texas enacted a measure prohibiting abortions at five months development based upon the pain felt by an unborn child.

Indiana considered hybrid legislation which would have prohibited abortions based on sex, race, or genetic abnormality after five months development.

Conversely, Arizona considered measures repealing its current five month limitation and replacing it with language prohibiting abortion after viability, while Georgia considered a similar measure changing its five month prohibition to a post-second trimester prohibition.

Bans on Abortion Based on Sex, Race, or Genetic Abnormality

At least 16 states considered measures to ban abortion based on the child's sex, race, and/or diagnosed genetic abnormality: Colorado, Florida, Indiana, Iowa, Kansas, Massachusetts, Missouri, New York, North Carolina, North Dakota, Oregon, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin.

Kansas and North Carolina enacted bans on sex-selective abortions.

North Dakota enacted a measure, based on AUL model language, prohibiting an abortion when it is sought solely on account of the child's sex or because the child has been diagnosed with a genetic abnormality.

"Heartbeat" Bans

At least eight states considered measures prohibiting an abortion when an unborn child has a heartbeat: Arkansas, Kansas, Kentucky, Mississippi, New Hampshire, North Dakota, South Carolina, and Wyoming.

The Arkansas legislature overrode a veto by Governor Mike Beebe to prohibit an abortion if an unborn child's heartbeat is detected, and the unborn child has reached at least 12 weeks development.

North Dakota enacted a similar measure prohibiting an abortion when there is a detectable heartbeat, which could be as early as six weeks development.

Partial-Birth Abortion Bans

At least three states considered measures to ban partial-birth abortion: Hawaii, Massachusetts, and Rhode Island.

Conversely, Arizona considered legislation removing civil remedies from its existing partial-birth abortion prohibition.

Abortion Clinic Regulation and Abortion Provider Requirements

Abortion Clinic Regulations

At least 17 states including Alabama, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New York, North Carolina, North Dakota, Oregon, Texas, Virginia, and West Virginia considered measures regulating abortion clinics.

With the help of AUL, Alabama enacted a measure requiring abortion clinics to meet the same patient care standards as facilities performing other outpatient surgeries.

Indiana enacted a measure requiring that clinics providing chemical abortions meet the same patient care standards as facilities providing surgical abortions.

North Carolina enacted a measure authorizing the state Department of Health to apply any requirement for the licensure of ambulatory surgical centers to clinics certified by the department for the performance of abortions.

North Dakota enacted legislation requiring abortion clinics to have a staff member trained in cardiopulmonary resuscitation.

Texas now requires abortion clinics to meet the same patient care standards as facilities performing other outpatient surgeries.

At the behest of abortion advocates, Virginia considered—but defeated—six measures to repeal or weaken a 2011 law defining abortion clinics as a subset of “hospitals.”

Individual Provider Requirements

At least 15 states including Alabama, Arizona, California, Florida, Illinois, Kentucky, Louisiana, Missouri, New York, North Carolina, North Dakota, South Carolina, Texas, West Virginia, and Wisconsin considered measures delineating the qualifications for individual abortion providers.

Alabama enacted a measure requiring that abortion providers have admitting privileges at a local hospital.

Louisiana enacted a measure prohibiting a person from performing an abortion unless that person is currently enrolled in or has completed a residency in obstetrics and gynecology or family medicine.

North Dakota enacted legislation requiring abortion providers to have admitting privileges at a local hospital and be board certified in obstetrics/gynecology.

Ohio enacted a prohibition on publicly funded hospitals from entering into transfer agreements with abortion providers. Under current law, abortion providers must maintain a written transfer agreement with a hospital to facilitate care for women experiencing abortion complications.

Texas and Wisconsin also enacted measures requiring abortion providers to have local hospital admitting privileges.

Conversely, California considered legislation that would allow nurse practitioners, certified nurse-midwives, or physician assistants to perform surgical abortions and administer abortion-inducing drugs.

New York's proposed *Women's Equality Act* would have repealed a provision in state law permitting only physicians to perform abortions.

Abortion Reporting

At least ten states including Arkansas, Iowa, Maryland, Michigan, Missouri, New York, North Dakota, Oklahoma, Texas, and Utah considered measures related to abortion reporting.

Arkansas and North Dakota enacted legislation requiring, when an abortion is performed, the reporting of information related to the post-fertilization age of the unborn child.

Oklahoma amended its reporting statute to require the reporting of additional information including a screenshot of the required ultrasound image.

Utah amended its reporting statute to require information on the race of the woman.

Sex Abuse Reporting By Abortion Providers

At least five states considered measures to require individual abortion providers and other abortion clinic personnel to report suspected child sexual abuse: Alabama, Arkansas, Louisiana, Mississippi, and Texas.

Alabama and Arkansas enacted measures requiring abortion clinics to report suspected child sexual abuse. The new Arkansas law, based on AUL model language, adds employees and volunteers at “reproductive health facilities” to the list of mandatory reporters and requires the collection of forensic samples when an abortion is performed on a minor under the age of 14.

The Louisiana House and Senate adopted a resolution urging the state Department of Health and Hospitals and other state entities to investigate and monitor the practices of Planned Parenthood Gulf Coast in order to determine whether the organization is in compliance with state laws on the mandatory reporting of child sexual abuse.

Informed Consent and Informed Consent Enhancements

At least 26 states including Alabama, Arizona, Arkansas, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Missouri, Mississippi, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Ohio, Rhode Island, South Dakota, Tennessee, Texas, Virginia, and Wyoming considered measures related to informed consent for abortion.

Indiana enacted measures allowing midwives to provide the information required under the state’s informed consent law, mandating that the requisite informed consent material include specific information on risks of abortion-inducing drugs, and amending the information to be included in the state-sponsored informed consent materials.

Iowa enacted a measure requiring abortion providers to meet certain informed consent requirements before performing abortions for which they plan to seek reimbursement from the state.

Kansas enacted omnibus legislation amending the state’s informed consent requirements to include information on fetal pain and the risks of breast cancer and pre-term birth following abortion. The measure expands the definitions of “counselor” and “qualified person” (who may provide the required information) and adds detailed information on fetal development to the state-sponsored informed consent materials.

Kansas also enacted a requirement that any private office, freestanding surgical outpatient clinic, or other facility or clinic in which abortions are performed include a link on its website to a state’s website providing informed consent materials.

The Louisiana House and Senate adopted a resolution urging the state Department of Health and Hospitals and other state entities to investigate and monitor the practices of Planned Parenthood Gulf Coast in order to determine whether the organization is in compliance with state laws related to informed consent.

North Carolina enacted a measure requiring informed consent for abortion.

North Carolina also enacted a measure requiring public schools to teach children that there is a link between abortion and pre-term birth. The instruction will be part of a mandate public health curriculum.

Conversely, Arizona considered legislation removing civil remedies from its informed consent law, while Virginia considered a measure allowing informed consent information to be given without examining the woman.

Reflection Period Before Abortion

At least seven states including Arkansas, Maine, New Hampshire, New York, Ohio, South Dakota, and Texas considered measures requiring or amending a reflection period (usually 24 hours) before a woman may undergo an abortion.

South Dakota enacted legislation amending its 72-hour reflection period to exclude Saturdays, Sundays, and federal and state holidays.

“Heartbeat” Informed Consent

At least six states including Alabama, Indiana, Kentucky, Mississippi, New York, and Ohio considered measures giving a woman the opportunity to hear the heartbeat of her unborn child before an abortion and/or requiring her to be informed whether the child has a heartbeat.

Indiana now requires the auscultation of fetal heart tone to be made audible, if possible, unless the woman signs a form that she does not wish to hear the heart tone.

As part of a budgetary measure, Ohio mandated that, before an abortion, the provider must attempt to determine if there is a fetal heartbeat. If a fetal heartbeat is detected, the abortion provider may not perform an abortion until 24 hours after he or she has informed the pregnant woman in writing that her baby has a fetal heartbeat and of the statistical probability of bringing the baby to term based on the stage of development.

Anti-Coercion Measures

At least seven states including Kansas, Louisiana, Michigan, Missouri, Tennessee, Texas, and Virginia considered measures prohibiting the use of coercion to compel a woman’s decision on

abortion, informing women that no one may use coercion to compel a decision about abortion, or otherwise penalizing abortion coercion.

As part of an omnibus measure, Kansas amended the information that must appear on anti-coercion signs posted in abortion facilities. This information now includes the address for the state's pregnancy resources website.

Louisiana enacted a measure adding coerced abortion to the definition of "child abuse" and authorizing a court to issue a temporary restraining order prohibiting activities associated with a coerced abortion.

Informed Consent Concerning Prenatal Diagnosis

Kansas enacted an omnibus measure requiring that women in "medically challenging pregnancies" be given a list of websites for national perinatal assistance, including information regarding which entities provide such services free of charge.

Kansas also enacted a measure authorizing grants, contracts, or cooperative agreements to help families after they learn that their child has Down syndrome or other prenatally or postnatally diagnosed conditions.

Ultrasound Requirements

At least 19 states including Alabama, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, New York, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and Wyoming considered ultrasound requirements for abortion.

Indiana now requires that an ultrasound image must be displayed unless the woman signs a form indicating that she did not desire to see the image.

Kansas now requires that the state's informed consent materials inform a woman that she has the right to view an ultrasound image of her child.

Wisconsin enacted a measure requiring an ultrasound before an abortion.

On the other hand, Virginia considered—but defeated—legislation to rescind or weaken its current ultrasound requirement.

Parental Involvement and Minors

At least 19 states including Alabama, Arkansas, California, Connecticut, Georgia, Hawaii, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, New Mexico, New York, Oklahoma, Texas, Washington, and Wyoming considered parental involvement (notification or consent) requirements for abortion.

As part of a measure related to the reporting of suspected child sexual abuse, Arkansas enacted a prohibition on intentionally causing, aiding, abetting, or assisting a child to obtain an abortion without parental consent.

The Louisiana House and Senate adopted a resolution urging the state Department of Health and Hospitals and other state entities to investigate and monitor the practices of Planned Parenthood Gulf Coast in order to determine whether the organization is in compliance with state parental consent requirements.

Montana enacted a measure, based on AUL model language, requiring notarized parental consent and proof of identification before a minor's abortion. The new law also provides a specific consent form.

Oklahoma enacted legislation, based on AUL model language, which requires a parent or guardian to provide government-issued proof of identification. The measure also amends the judicial bypass procedure to require that such proceedings be initiated in the county in which a minor resides and sets out specific factors a court must weigh in assessing whether a minor should have an abortion without parental involvement.

Oklahoma also enacted a separate measure requiring parental notice before abortion without the option of a judicial bypass.

Conversely, Arizona considered legislation removing civil remedies from its parental consent law.

Abortion Inducing Drugs and "Telemed" Abortions

At least 11 states including Alabama, Arizona, Arkansas, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, North Carolina, and Texas considered measures regulating the provision of abortion-inducing drug regulations and/or the practice of so-called "telemed" abortions.

Alabama enacted a measure, based on AUL's *Abortion-Inducing Drugs Safety Act*, requiring that abortion-inducing drugs be administered by a physician and requiring that the physician examine the woman before administering the drugs.

Indiana enacted a measure requiring that a physician examine a woman before administering abortion-inducing drugs and stating that the drugs cannot be provided past nine weeks post-fertilization age unless the FDA has approved them for such use.

Louisiana enacted a measure requiring the presence of a physician when abortion-inducing drugs are administered or dispensed and requiring the scheduling of a follow-up appointment for the woman.

In Missouri, a measure requiring that the initial dose in an abortion-inducing drug regimen be administered in the presence of a physician and requiring the physician or an agent of the physician to make all reasonable efforts to ensure that the woman comes back for a follow-up appointment became law without the governor's signature.

With help from AUL, Mississippi enacted a measure requiring a physician to examine a woman before providing abortion-inducing drugs. The physician must follow "the standard of care," and the physician or his agent must schedule a follow-up appointment for the woman.

North Carolina enacted a requirement that a physician be present for the administration of the first drug in an abortion-inducing drug regimen.

Using AUL model language, Texas enacted regulations on the provision of abortion-inducing drugs including a requirement that a physician examine a woman before providing the drugs, effectively prohibiting "telemed" abortions.

Conversely, Arizona considered a measure removing language from its current law requiring physicians to abide by the FDA-approved protocol when administering abortion-inducing drugs. It also considered a measure to repeal a law providing that a physician assistant cannot prescribe or dispense medication intended to induce an abortion.

Abortion Funding

At least 29 states and the District of Columbia considered measures related to federal and state funding of abortion and/or abortion providers: Alaska, Arizona, Arkansas, Colorado, District of Columbia, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, North Dakota, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington, and West Virginia.

Arizona enacted a measure requiring that Medicaid providers must cover family planning services that do not include abortion or abortion counseling.

Arkansas continued a state policy prohibiting the use of state funds for abortion referrals or abortion services in public schools.

Iowa enacted a measure that requires abortion providers to meet certain informed consent requirements before performing abortions for which they plan to seek reimbursement from the state and that the governor's office consent to reimbursement for any abortion for which public funding is permitted.

Kansas enacted a measure which provides that no state funding may be expended for any abortion and which includes multiple provisions ending or prohibiting tax benefits for abortions or abortion providers.

The Louisiana House and Senate adopted a resolution urging state entities to investigate and monitor the practices of Planned Parenthood Gulf Coast (PPGC) to determine whether the organization is in compliance with state laws related to, among other things, restrictions on public funding of abortion clinics. Further, the resolution requested that all grants and reimbursements under PPGC's Medicaid provider agreement be suspended pending the outcome of an investigation of PPGC, and that it be denied any economic incentives for building, purchasing, or operating any facility.

Maryland's fiscal year 2014 budget continues a (relatively weak) prohibition on the use of money from the general fund for abortions except when the mother's life or health, including mental health, are in danger, when the unborn baby has abnormalities, or when the pregnancy is the result of rape or incest.

New Jersey Governor Chris Christie vetoed legislation that would have restored public funding for family planning services including funding that would have been provided to Planned Parenthood.

Ohio adopted a budgetary measure related to the allocation of family planning funding including funding that potentially could be paid to abortion providers. Under the measure, first priority for such funding is given to public entities that are operated by state or local government entities. Remaining funds may be distributed to nonpublic entities in the following order of descending priority: (a) federally qualified health centers, federally qualified health center look-alikes, or community action agencies; (b) entities that provide comprehensive primary and preventive care services in addition to family planning services, and (c) entities that provide family planning services, but do not provide comprehensive primary and preventive care services. Most abortion facilities would fall into the final category. Notably, the measure does not apply to Medicaid funding.

Alaska considered a bill that would define “medically necessary abortions” and subsequently decrease the number of abortions that state taxpayers pay for through the state’s medical assistance program.

Insurance Coverage of Abortion

At least 21 states considered measures related to insurance coverage of abortion—within the health insurance Exchanges (which must be established in each state by 2014 under the federal healthcare law), through private insurance, and/or for government employees: Alabama, Arkansas, Florida, Georgia, Hawaii, Indiana, Iowa, Kentucky, Maine, Michigan, Missouri, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, Washington, West Virginia, and Wisconsin.

Arkansas, North Carolina, and Pennsylvania enacted laws prohibiting abortion coverage in their state health insurance Exchanges.

Virginia enacted a measure setting up its Exchange which included a provision prohibiting abortion coverage. The measure continued a policy established in Virginia in 2011.

Conversely, Maine enacted a measure requiring an assessment of the state Code of Military Justice and other provisions of state law to ensure that these state laws provide “proper treatment” of state National Guard members who are victims of sexual assault, including insurance coverage of abortions in cases of rape or incest for service women and military family members.

Washington again considered legislation to require health plans which cover maternity care or services to cover abortions. AUL provided written testimony in opposition to this measure, which was subsequently defeated.

Use of State Facilities and Employees for Abortions

At least four states considered measures prohibiting state facilities or employees from performing or aiding in abortions: Indiana, Kansas, Louisiana, and West Virginia.

Kansas enacted a measure prohibiting abortions in state-run or state-leased facilities (except when necessary to save the woman’s life).

Kansas also enacted a requirement prohibiting school districts, district employees or volunteers, or educational service providers contracting with a school district from providing abortion services (except when necessary to save a woman’s life).

The Louisiana House and Senate adopted a resolution urging the state Department of Health and Hospitals and other state entities to investigate and monitor the practices of Planned Parenthood Gulf Coast in order to determine whether the organization is in compliance with state laws prohibiting state contractors from counseling in favor of abortions.

Abortion Alternatives/Pregnancy Resource Centers

At least 13 states including Arkansas, Georgia, Idaho, Illinois, Kansas, Maryland, Michigan, Missouri, North Carolina, Rhode Island, Texas, West Virginia, and Wisconsin considered measures related to state funding for pregnancy resource centers (PRCs) and/or supporting or honoring their life-affirming mission.

State Funding for Pregnancy Resource Centers

The North Carolina budget appropriated \$250,000 to Carolina Pregnancy Care Fellowship.

As part of its fiscal year 2014 budget, Ohio established a program to “provide services for pregnant women and parents or other relatives caring for children twelve months of age or younger” and to “promote childbirth, parenting, and alternatives to abortion.” Recipients of these funds cannot be involved in or associated with any abortion activities.

In addition, at least three states including Arkansas, Idaho, and Missouri considered measures providing tax incentives or exemptions for pregnancy resource centers.

Missouri enacted a measure allowing contributions to pregnancy resources centers to be eligible for tax credits.

“Choose Life” License Plates; Proceeds Benefit Pregnancy Resource Centers

At least six states including Georgia, Illinois, Michigan, North Carolina, Rhode Island, and Wisconsin considered measures to support pregnancy resource centers through “Choose Life” specialty license plates.

Rhode Island’s measure was vetoed by Governor Lincoln Chafee.

Resolutions Honoring Pregnancy Resource Centers

At least five states including Kansas, Michigan, Texas, West Virginia, and Wisconsin considered resolutions commending the life-saving work of pregnancy resource centers.

Pro-pregnancy center resolutions were adopted in three states: Kansas (House and Senate), Texas (House and Senate), and West Virginia (Senate).

The Texas House also specifically honored the Prestonwood Pregnancy Center in Dallas.

Efforts to Regulate Pregnancy Resource Centers

At least three states including Arizona, New York, and Oregon considered measures to unnecessarily regulate or interfere with the work of pregnancy centers.

Arizona considered a measure hijacking the state's informed consent law to require that each private agency listed on the state's website that claims to assist a woman through pregnancy either to inform its clients of all pregnancy-related options including the right to a legal abortion or to post at least one sign in a conspicuous waiting room location that states that the agency does not provide any information about abortion services.

On the other hand, Missouri considered a measure specifying that the constitutions and laws of the United States and Missouri must protect the rights of "alternatives-to-abortion agencies," as well as a measure ensuring that pregnancy resource centers can freely engage in religious practices.

State Constitutional Amendments

At least eight states including California, Georgia, Iowa, Kansas, Missouri, Montana, North Dakota, and West Virginia considered abortion-related amendments to their state constitutions.

North Dakota adopted legislation providing that, in 2014, the citizens of the state will vote on an amendment providing that "[t]he inalienable right to life of every human being at any stage of development must be recognized and protected."

At least five states including Alabama, Mississippi, Oklahoma, South Carolina, and Washington considered other provisions related to the "personhood" of the unborn child.

State Freedom of Choice Acts

Legislators in at least seven states including California, Georgia, New Hampshire, New York, Oregon, Texas, and Vermont introduced state "Freedom of Choice Acts" (FOCA) or similar measures to protect or support the legal "right" to abortion.

The bill in New York, entitled the *Women's Equality Act*, and would have allowed abortion-on-demand up until birth, rescinded existing state laws limiting or regulating abortion, and

eliminated the possibility of a criminal investigation or prosecution of an abortion provider for causing a woman's death or injury.

Life-Related Resolutions

The South Dakota House and Senate adopted a measure urging the United States Supreme Court to revisit *Roe v. Wade* and overturn its decision.

Conversely, the California Senate adopted a resolution urging the President and the United States Congress to protect and uphold the intent and substance of *Roe v. Wade*.

The Georgia House adopted a resolution commending the National Strategic Action Convening for State Legislators on Reproductive Rights and Justice Center for Women Policy Studies for adopting a policy resolution on "reproductive rights." The measure also named the week of January 22, 2013, as "Reproductive Rights Awareness Week."

The Vermont House adopted a resolution supporting the "right" to abortion and commemorating the 40th anniversary of *Roe v. Wade*.

"Emergency Contraception"

In 2013, at least 13 states considered approximately 37 measures related to "emergency contraception," nearly double 2012 activity levels.

Availability on College Campuses

New York considered a measure to require colleges and universities to make "emergency contraception" available to students.

Emergency Room Availability for Sexual Assault Victims

At least five states considered at least ten measures to require hospital emergency rooms to make "emergency contraception" available to sexual assault victims: Arizona, Hawaii, Michigan, Missouri, and Pennsylvania.

Hawaii's measure was enacted.

Insurance Coverage

Virginia enacted legislation defining state employee health plans to include coverage for “prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.”

Parental Involvement

Two bills were introduced in New York requiring parental or guardian consent before a so-called “emergency contraceptive” could be prescribed or dispensed to a minor by a public school.

Prescription Requirements

Oklahoma enacted a measure requiring a prescription for the so-called “morning-after” pill (“Plan B One-Step, or its generic equivalent”) for women under the age of 17. (The measure was enacted prior to the FDA’s decision to make “Plan B” available over-the-counter to girls of all ages.)

Conscience Protections

In Texas and Virginia, measures protecting conscience in the provision of or payment for “emergency contraception” or calling on federal government to respect conscience (with regard to “emergency contraception”) were introduced.

Legal Recognition and Protection of the Unborn

At least 27 states considered approximately 58 measures providing legal recognition and protection to the unborn (in contexts other than abortion): Alabama, Arkansas, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia.

Fetal Homicide and Assault

At least nine states considered measures related to fetal homicide and assault: Arkansas, Florida, Iowa, Massachusetts, Montana, New York, North Carolina, Pennsylvania, and Rhode Island.

Working with AUL, Arkansas enacted a measure expanding its existing fetal homicide law to protect an unborn child from conception.

In Montana, a bill which permits the prosecution of a third-party who intentionally kills an unborn child (who has reached at least eight weeks development) became law without the governor's signature.

North Carolina enacted *Lily's Law*, a measure providing that the crime of homicide includes situations where a child is born and dies from injuries received *in utero*.

Colorado enacted a "one-victim" law providing for enhanced criminal penalties when a pregnant woman is assaulted, but not recognizing the child as a potential second victim.

A provision in New York Governor Andrew Cuomo's defeated *Women's Equality Act* would have eliminated existing legal protections for unborn victims of violence. New York law currently defines the killing of an unborn child who has reached at least 24 weeks development as homicide.

Wrongful Death

At least three states including Kansas, Maine, and Virginia introduced measures related to wrongful death (civil) causes of action for the deaths of unborn children.

Born-Alive Infant Protection

At least three states considered measures providing protection for infants who survive attempted abortions: Florida, South Carolina, and West Virginia.

With the help of AUL, Florida enacted a measure providing that an infant born alive during or immediately after an attempted abortion is entitled to the same rights, powers, and privileges as any other child born alive in the course of natural birth and requiring healthcare providers to take reasonable and medically appropriate measures to preserve the life and health of the born-alive infant.

Wrongful Birth and Wrongful Life Lawsuits

At least four states considered measures prohibiting wrongful birth and/or wrongful life lawsuits: Kansas, Montana, New Jersey, and South Dakota.

The measure in Kansas was enacted.

Infant Abandonment/“Baby Moses” Laws

At least five states including Louisiana, Missouri, Nevada, New Mexico, and New York considered measures related to the legal abandonment of infants at specified locations where the infants will receive appropriate care and attention.

New Mexico enacted a law adding fire stations and law enforcement agencies to a list of places where an infant may be legally relinquished.

Stillbirth Certificates and Fetal Death Certificates

At least four states considered measures providing for fetal death or stillbirth certificates or requiring registration of such deaths: Illinois, Kansas, New Mexico, and West Virginia.

New Mexico enacted a measure providing for both reports of “spontaneous fetal death” (for an unborn child who has reached at least 20 weeks development) and for certificates of stillbirth.

Pregnant Woman’s Protection Act

Two states considered AUL’s *Pregnant Woman’s Protection Act*, specifically permitting women to use force (including deadly force) to protect their unborn children from third-party criminal assaults: Arkansas and South Carolina.

The measure in Arkansas was enacted.

Substance Abuse by Pregnant Women

At least 12 states considered measures related to the reporting and/or treatment of suspected prenatal exposure to drugs and alcohol: Alabama, Arkansas, Indiana, Maine, Maryland, New Mexico, New Jersey, Oregon, Pennsylvania, Tennessee, Virginia, and West Virginia.

Indiana enacted a measure allocating \$250,000 for “prenatal substance use and prevention.”

Maine enacted a measure requiring a healthcare provider involved in the delivery or care of an infant suspected to have been exposed to drugs *in utero* to report the suspected exposure to the state Department of Health and Human Services.

Maryland enacted a measure requiring a healthcare provider to report the delivery of an infant exposed to controlled substances to a local social services office. The measure specifically provides that the report alone will not automatically trigger a child abuse or neglect investigation.

Tennessee enacted a measure requiring publicly funded substance abuse facilities to give preference to pregnant women and requiring any facility capable of accommodating a pregnant woman to provide such treatment. The measure also prohibits state officials from filing for protective services for a newborn if the mother is less than 20 weeks into her pregnancy and seeks substance abuse treatment as part of her prenatal care.

Conversely, in New Mexico, Governor Susana Martinez vetoed a bill allowing state officials to license a substance abuse treatment facility only if the facility grants admission preference to pregnant women and provides them with the same treatment received by women who are not pregnant.

Biotechnologies

At least 29 states considered nearly 80 measures related to biotechnologies. This represents a slight increase from 2012 (when approximately 70 measures were considered in 20 states). Unfortunately, a significant percentage of these bills were not life-affirming.

Human Cloning

At least three states including Georgia, Mississippi, and New York considered measures prohibiting human cloning for all purposes. Notably, no states considered such restrictions in 2012.

Rhode Island enacted legislation extending the “sunset provision” in its prohibition on cloning-to-produce-children, meaning that only cloning-to-produce-children remains prohibited.

Additionally, at least three states considered legislation promoting cloning-to-produce-children: Connecticut, New Mexico, and Texas.

Connecticut enacted a measure modifying the criminal penalty for violating the state's prohibition on cloning-to-produce-children.

New Mexico considered legislation prohibiting only cloning-to-produce-children, while Texas considered legislation prohibiting institutions of higher education from engaging in cloning-to-produce-children.

Destructive Embryo Research

At least three states including Massachusetts, Mississippi, and Oklahoma considered legislation prohibiting destructive embryo research. This represents only a slight increase from 2012 activity levels, when only two states considered such restrictions.

The legislation in Massachusetts would have stricken portions of its current law that allows destructive embryo research and replaced it with language allowing research using human skin cells.

On the other hand, at least five states including Maryland, Michigan, Missouri, New Mexico, and South Carolina considered measures allowing or regulating destructive embryo research.

Fetal Experimentation

Maine considered a prohibition of experimentation on aborted fetuses.

In a related measure, Florida considered legislation prohibiting fetal experimentation, but the measure only applied to live fetuses (not to those that have been aborted).

Ethical Forms of Research

At least seven states considered legislation promoting ethical forms of research, highlighting the many different ways states can support and promote such research.

Texas enacted legislation creating a body to provide grants or funds for ethical research. The measure also states that blood obtained by a blood bank may be used for the collection of adult stem cells if the donor consents and allows hospitals to use adult stem cells if certain conditions are met.

Texas also considered a measures adding adult stem cell donation to the list of actions entitling a state employee to a leave of absence without a deduction in salary for time, and allowing an applicant for a driver's license the opportunity to consent to the department's release of the

applicant's name, address, and telephone number to an adult stem cell bank in order to facilitate stem cell donation.

Georgia considered legislation creating a study committee on human embryonic research and the methods by which such research can be performed while recognizing and protecting human life.

Hawaii considered a measure encouraging alternate research and treatments including a provision allowing for a leave of absence for a stem cell donor.

Massachusetts considered legislation promoting the use of reprogrammed skin cells, while New Jersey considered legislation designating a "Marrow Donation Awareness Week."

New York considered measures providing for the creation and dissemination of information pertaining to bone marrow and peripheral blood stem cell donation and registration.

State Funding of Biotechnologies

Limitations on Funding of Unethical Forms of Research

Mississippi enacted at least three appropriations measures prohibiting state funds from being used in research in which a human embryo is killed or destroyed. It also considered other measures prohibiting public funding of destructive embryo research and human cloning.

Nebraska appropriated funding for biomedical research, but excluded funding for research on fetal tissue from abortions or human embryonic stem cells.

Michigan considered a measure providing tax credits for participation in clinical trials, but defining "clinical trials" to exclude research or experiments that involve testing, screening, or any other use of human embryos.

Missouri considered a measure excluding cloning-to-produce-children from research qualifying for tax incentives, while New York considered a measure prohibiting funding for cloning-to-produce-children.

Funding of Unethical Forms of Research

At least four states including Connecticut, Illinois, Massachusetts, and New York considered measures funding unethical forms of research, either directly or by failing to specify the type of "stem cell research" being supported.

Massachusetts enacted legislation appropriating funds to the *Massachusetts Stem Cell Research Fund*.

New York enacted legislation appropriating funds to the *Empire State Stem Cell Trust Fund*.

Texas enacted legislation amending reporting requirements to include information on the amount spent by an institution of higher education on embryonic and adult stem cell research.

Funding of Ethical Forms of Research

Colorado enacted legislation allocating funding to its *Adult Stem Cells Cure Fund*.

Kansas enacted legislation amending its stem cell therapy statute to require reporting on expenditures.

Chimeras

At least three states considered measures prohibiting the creation of chimeras (human-animal hybrids): Georgia, Mississippi, and North Dakota.

Assisted Reproductive Technologies

At least five states including Arizona, Arkansas, Mississippi, North Dakota, and New York considered measures regulating assisted reproductive technologies.

Arkansas enacted a measure excluding an unborn child from the definition of “person” in the context of assisted reproductive technologies.

Mississippi and North Dakota considered limiting the number of human embryos created in a single reproductive cycle.

At least six states including California, Connecticut, Massachusetts, Missouri, New Jersey, and Pennsylvania considered measures related to insurance coverage of *in vitro* fertilization (IVF) or other assisted reproductive technologies.

At least two states considered measures related to parentage and/or inheritance rights of children conceived through ART: Nevada and New York.

Surrogacy

At least five states including Delaware, Louisiana, Maryland, Nevada, and New York considered measures allowing or regulating (*i.e.*, implicitly allowing) gestational surrogacy arrangements.

In Louisiana, Governor Bobby Jindal vetoed legislation that would have allowed gestational surrogacy contracts if approved first by a court.

Nevada enacted a measure permitting surrogacy.

Embryo Adoption

At least three states considered measures establishing or regulating embryo adoption: Massachusetts, Mississippi, and Tennessee.

Tennessee enacted legislation providing for the relinquishment of rights to an embryo.

Human Egg Harvesting

At least three states including Mississippi, North Dakota, and New York considered measures prohibiting valuable consideration for human gametes.

Similarly, Texas considered legislation prohibiting institutions of higher education from buying or selling human oocytes for valuable consideration.

Conversely, California considered legislation allowing women harvesting their eggs to be compensated for their time in the same manner as other research subjects.

Freedom of Conscience

In 2013, at least 12 states considered approximately 22 measures related to healthcare freedom of conscience. Conversely, at least three states considered approximately nine bills compelling healthcare professionals and/or institutions to act in violation of their consciences.

Protection for the Freedom of Conscience

Legislation offering comprehensive conscience protections for healthcare providers was introduced in Kentucky and Nebraska. AUL testified before the state legislature's Judiciary Committee in favor of the Nebraska bill.

Measures offering limited protection for healthcare providers (with conscientious objections to specific services) were introduced in at least five states: Alabama, Indiana, Missouri, North Carolina and Pennsylvania.

North Carolina's measure protecting individual healthcare providers who object to participating in abortions was enacted.

At least seven states including Alabama, Indiana, Michigan, North Carolina, Pennsylvania, Texas, and Virginia considered measures offering or expanding existing conscience protections for healthcare payers. However, these state measures would not be enforceable against the so-called "HHS mandate" requirement that nearly all health insurance plans provide full coverage (without co-pay) of all "FDA approved contraceptives," a broad definition which includes the abortion-inducing drug *ella*. Because the HHS mandate is a federal regulation, only a federal conscience protection would be effective against its enforcement.

In Texas, legislation was introduced that would create a tax credit against state taxes in the event that the federal government fines an employer for offering insurance that does not include so-called "emergency contraception."

Coercive Legislation

In at least five states including Arizona, Missouri, New Jersey, New York, and Oklahoma, legislation was introduced that would force pharmacists and/or pharmacies to stock and dispense so-called "emergency contraception."

End of Life

In 2013, at least 214 bills concerning the end of life were considered. This activity level is comparable to 2012's activity.

Assisted Suicide and Euthanasia

At least ten states including Connecticut, Hawaii, Kansas, Massachusetts, Montana, North Carolina, New Hampshire, New Jersey, Vermont, and Washington considered measures related to assisted suicide. This represents an increase from last year's activity levels, when seven states considered related measures.

Vermont enacted a law legalizing physician-assisted suicide. Importantly, the law fails to include some of the most basic legal protections for those considering physician-assisted suicide. A physician who has only examined a patient once is permitted to prescribe life-ending drugs to the patient. The physician is not required to refer the patient for an evaluation by a psychiatrist to determine if the patient is depressed or being coerced to end his or her life. Further, the law does not require witnesses to be present when the patient takes a life-ending medication, increasing the possibility that persons who may wish to hasten a patient's death might be with the patient and pressure the patient to end his or her life or even administer the lethal drugs instead of the patient.

Connecticut, Hawaii, Kansas, Massachusetts, Montana, and New Jersey also considered bills legalizing physician-assisted suicide.

In addition to considering a measure to legalize assisted suicide, Montana considered a measure making it a crime to assist in a suicide.

North Carolina considered legislation making assisted suicide unlawful; however, the bill did not provide a criminal penalty for violations.

In New Hampshire, the governor vetoed a measure that sought to establish a committee to study end-of-life decisions.

Life-Sustaining Treatments and Futile Care

Measures dealing specifically with the withholding or withdrawal of life-sustaining care, particularly nutrition and hydration, were considered in six states this year.

Idaho enacted a technical change to its *Medical Consent and Natural Death Act* which was recently strengthened to provide protections for a patient who has expressed a desire to continue life-sustaining care (through advance directives or those authorized to consent for him or her).

Oklahoma enacted a measure prohibiting a healthcare provider from withholding “life-preserving health care”—that the provider provides to other patients and “the provision of which is directed by the patient” or the patient’s proxy—on a discriminatory basis.

New Hampshire enacted a measure clarifying that, for the purposes of an advanced directive, life-sustaining treatment includes medically administered nutrition and hydration.

New York considered legislation to prohibit hospitals, nursing homes, residential healthcare facilities, or facilities providing health-related services from withholding or withdrawing life-sustaining healthcare treatment from a patient or from discharging a patient from a facility over

the objection of the patient, the patient's designated healthcare agent, or the patient's surrogate healthcare decision-maker. It also considered a measure clarifying that providing nutrition or hydration orally, without reliance on medical treatment, is not health care.

Ohio considered a measure to ensure that an individual's statutory priority to decide whether to withhold or withdraw life-sustaining treatment for a relative is forfeited if that individual is charged with causing the terminal condition of his or her relative.

In Texas, several bills were considered to address concerns that current Texas law permits healthcare providers to withdraw or withhold life-sustaining care against the wishes of a patient or his surrogate.

Advance Planning Documents (e.g., Advance Directives, Living Wills, Healthcare Powers of Attorney, Do Not Resuscitate (DNR) Orders, Proxies, and Physician Orders for Life-Sustaining Treatment (POLST))³

Again this year, while many states are considering measures creating or modifying traditional advance planning documents (e.g., advance directives, Living Wills), the trend of adopting Physician Orders for Life-Sustaining Treatment (POLST) Paradigm programs continues. A POLST program is typically designed “to convert patient preferences for life-sustaining treatment into immediately actionable medical orders” using standardized forms that provide specific treatment orders for cardiopulmonary resuscitation, medical interventions, artificial nutrition, and antibiotics.

At least 28 states including Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New York, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Virginia, and Washington considered or enacted measures related to advance planning documents, with some states considering more than one related measure. This represents a notable increase from 2012 activity levels when 18 states considered such measures.

Indiana, Nevada, and Tennessee created POLST programs.

Colorado enacted a measure requiring verification of Medicaid benefits (when applicable) before a healthcare provider may provide counseling relating to Medical Orders for Scope of Treatment (MOST).

Georgia enacted a bill to make technical changes to the state's existing POLST law.

³ In some states, POLST programs are called by other names (e.g., Medical Orders for Scope of Treatment (MOST)). For sake of simplicity, this analysis refers to all of these programs as POLST programs.

Maryland modified their POLST program to permit physician assistants to update or complete a POLST form at the request of a patient.

Similarly, Connecticut and Kentucky considered bills to establish POLST programs, while California considered a measure requiring specified facilities for the elderly to provide a person with a POLST form upon admission to the facility.

Washington considered a bill providing immunity from civil, criminal, and professional conduct sanctions for a healthcare provider or facility that participates in good faith in the provision of medical care or in the withholding or withdrawal of life-sustaining treatment in accordance with the directives contained in a POLST form.

Similarly, Maine considered a bill providing for “agreements” that patients and their physicians may enter regarding “patient-directed end-of-life care.”

End-of-Life Counseling and Patients’ “Bills of Rights”

Massachusetts considered a bill to give patients certain rights, including the “right to make informed health care decisions, including the right to accept or refuse treatment, the right to receive information about palliative care and end-of-life options, the right to formulate advance healthcare directives, and the right to refuse to participate in experimental research.”

Pain Management and Palliative Care

At least 38 states and the District of Columbia considered or enacted measures relating to pain management and palliative care, with some states considering more than one measure: Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Vermont, Washington, West Virginia, and Wyoming. This represents a marked increase from 2012 activity levels when at least 26 states considered such measures

Rhode Island enacted a measure establishing a palliative care advisory council and educational program.

Provisions enacted in 2013 include regulations of pain management physicians and clinics in Alabama, Georgia, and Tennessee; continuing education requirements in Kentucky; the establishment of an advisory council on palliative care in Connecticut; and the establishment of palliative care pilot programs in certain hospitals in Maryland.

LOOKING FORWARD TO 2014

As the 2013 state legislative sessions close and preparation for 2014 begins, AUL remains a leader in the efforts to protect Life from conception through natural death. AUL will continue to expose the many ways that abortion harms women, to protect women and girls from the increasingly predatory practices of the scandal-ridden abortion industry, and to ensure that American taxpayers are not subsidizing abortions or abortion providers. AUL will also work to provide legal recognition and protection for unborn children, ensure that biotechnologies are used in an ethical and life-affirming manner, protect First Amendment freedom of conscience, and provide for those at the end of life. As we continue to accumulate victories, AUL will continue its innovative and aggressive efforts until all are welcomed in life and protected in law.