



## **2015 Final State Legislative Session Report**

### *Executive Summary*

The states remain a key battleground in the defense of life. State legislatures across the country continue to break new ground protecting women from the negative consequences of abortion and ensuring that the abortion industry is subject to medically appropriate regulation and oversight.

In 2015, AUL and AUL Action realized 15 significant victories for Life, providing the language for or helped to enact 11 new pro-life laws, providing the language for 3 pro-life resolutions, and helping defeat 2 anti-life measures. Notably, AUL nearly doubled our involvement in successful abortion-related measures in 2015, as compared to 2013 activity levels (the last year that all 50 state legislatures met in regular session). In 2013, AUL and AUL Action were involved in 13 of the 69 life-affirming, abortion-related measures enacted (or 19 percent). By contrast, in 2015, AUL was directly involved in 11 of the 30 life-affirming, abortion-related measures enacted (or 37 percent of such measures).

Recognizing that chemical abortions currently account for one-quarter of all abortions performed, states focused significant attention in 2015 on the regulation of dangerous abortion-inducing drugs. Of particular note, Arizona and Arkansas enacted innovative laws, based on AUL model legislation, requiring that women be informed that chemical abortions may be reversed.

Moreover, bans on abortions at five months, abortion facility regulations, and admitting privileges requirements continued to advance at the state-level. In response, abortion advocates continue to actively oppose such protective measures and, in 2015, spearheaded the consideration of at least 27 measures to roll-back recent pro-life gains at the state level. Notably, none of these measures were enacted.

Finally, in a disturbing trend, at least 25 states and the District of Columbia considered measures to legalize physician-assisted suicide, a more than three-fold increase in such measures. Much of the momentum supporting these measures derived from the publicity surrounding the assisted-suicide death of Brittany Maynard in November 2014.

## *AUL/AUL Action: Legislative Victories in 2015:*

In 2015, nine measures based on AUL model legislation were enacted, and three AUL model resolutions were adopted. Further, AUL assisted in the enactment of chemical abortion regulations in Idaho and a budget measure in Ohio that amended an admitting privileges requirement for abortion providers. AUL and AUL Action also helped to defeat anti-life measures in New York and Connecticut:

### *Enacted Measures:*

- **Arizona** enacted SB 1318 which includes AUL model language amending the state's informed requirements to include information on the ability to reverse chemical abortions. Notably, the abortion industry has already challenged this requirement in federal court. With the advice of AUL, SB 1318 also modified an existing state law prohibiting insurance plans purchased through the state health insurance Exchanges (required under the federal healthcare law) from covering abortions.
- **Arkansas** enacted HB 1394, based on AUL's *Abortion-Inducing Drugs Safety Act*, requiring a physician to examine a woman before administering abortion-inducing drugs and requiring the physician to abide by the FDA restrictions on the drugs.
- Arkansas enacted HB 1578, based on AUL's *Women's Right to Know Act*, requiring that women be given information on abortion's risks and alternatives, and on the ability of an unborn child to feel pain at/after 20 weeks (5 months) gestation. In addition, women must receive information on the ability to reverse the effects of chemical abortion.
- Arkansas also enacted HB 1424, based on AUL model language, requiring notarized parental consent before a minor's abortion, as well as proof of identification and the completion of a detailed informed consent form.
- Further, Arkansas enacted HB 569, based on AUL's *Defunding the Abortion Industry and Advancing Women's Health Act*, prohibiting the disbursement of federal and state funds to entities performing abortions or providing abortion referrals.
- **Idaho** enacted HB 88 which requires a physician to examine a woman before administering abortion-inducing drugs. AUL provided a letter in support of the measure.
- **North Dakota** enacted SB 2275, partially based on AUL model legislation, enhancing penalties for sex traffickers who coerce or force their victims to undergo abortions.

- **Ohio**'s budget amends the state's admitting privileges requirement for abortion providers, requiring that privileges be maintained at a hospital within 30 miles of the abortion facility.
- **Oklahoma** enacted SB 642 based on AUL's *Enforcement Module*, providing civil and criminal remedies for violations of the state's abortion-related laws and mandating more comprehensive inspections of abortion facilities.
- **Texas** enacted HB 3994, partially based on AUL model legislation, enhancing its parental consent law. The new law creates a presumption that a patient is a minor unless valid government identification is shown; strengthens the prescribed judicial bypass procedure by limiting the venue options for filing a bypass request; requiring that the minor must be present in court for the hearing (*i.e.*, no teleconferencing); requiring that the judge find by "clear and convincing evidence" that the minor should be granted a judicial bypass of the parental consent requirement; and prescribing the factors the judge will consider in making this determination. The measure also includes a provision amending the state's abortion reporting law to specify that a minor's claim that she is being physically or sexually abused constitutes reason to believe that abuse has occurred.

*Resolutions Adopted:*

- The **Arkansas** House and Senate both adopted resolutions (HR 1019 and SR 24, respectively) which are based on AUL model language and recognize the contributions of pregnancy resource centers.
- The **Colorado** Senate adopted a resolution (SR 15-003) which is based on AUL model language and recognizes the contributions of pregnancy resource centers.

*Defeat of Anti-Life Measures:*

- With the help of AUL legal and policy experts, **New York's** omnibus *Women's Equality Act*, comprised of 10 different provisions including one granting expansive legal protection to abortion and invalidating all current and future protective abortion-related laws was defeated. The different provisions of the law were later separated out, and the legislature subsequently passed only a measure strengthening state laws against human trafficking.
- AUL Action helped allies in **Connecticut** defeat a bill legalizing assisted suicide.

### ***Other Significant AUL Measures in 2015:***

State legislators continue to rely heavily on AUL experts and AUL model language for assistance in crafting life-affirming legislation. In 2015, AUL was actively involved with at least 35 additional measures introduced in 21 states and extending legal protection for life:

#### *Abortion-Related Measures:*

- **Arkansas** considered a requirement that abortion providers maintain hospital admitting privileges (HB 1421) and a measure prohibiting coerced abortions (HB 1578) which were based on AUL model language.
- **Colorado** considered a prohibition on sex-selective abortions (HB 1162) and comprehensive health and safety standards for abortion facilities (HB 1128) which included a mandate for hospital admitting privileges. Both measures were based on AUL model language.
- **Florida** considered an admitting privileges requirement (HB 147) that was based on AUL model language.
- **Idaho** also considered an admitting privileges requirement (SB 1094) that was partially based on AUL model language.
- **Illinois** considered a measure limiting abortions at or after 20 weeks (5 months) gestation (HB 3561) that was partially drafted by AUL to address both maternal health risks and an unborn child's pain. It also considered a measure that was partially based on AUL model language and requiring that, prior to an abortion, a woman be offered the opportunity to receive and view an ultrasound or receive a list of facilities that provide ultrasounds (HB 2701). Further, AUL experts consulted on an Illinois measure that provided for the licensure of "pregnancy termination specialty centers" and prescribed certain health and safety requirements for those centers (HB 3274).
- **Indiana** considered measures that were based on AUL model language and prohibited an abortion based on the child's sex, a diagnosis of Down syndrome, or the diagnosis of a genetic abnormality (HB 1228 and SB 334); and amended the state's parental involvement law to require notarized written consent, proof of identification, and proof of relationship of the parent(s) (HB 1228).
- **Iowa** considered a measure limiting abortions at or after 20 weeks (5 months) gestation which included AUL-drafted legislative findings concerning the maternal health risks of

later-term abortions (SB 91). Iowa also considered a measure requiring informed consent for abortion which was based on AUL's *Women's Right to Know Act* (SB 12).

- **Maine** considered legislation which was based on AUL model language and required parental consent before a minor's abortion (SB 31). The measure also required proof of identification for the parent(s) and a detailed consent form, as well as prohibiting the coercion of the minor to submit to an abortion.
- **Maryland** considered measures limiting abortions at or after 20 week (5 months) gestation which were based on AUL's *Women's Health Defense Act* (HB 961 and SB 511).
- **Missouri** considered a measure based on AUL model language and prohibiting an abortion based on the child's sex, a diagnosis of Down syndrome, or a diagnosis of a genetic abnormality (HB 439). It also considered a measure requiring notarized parental consent, proof of identification, a detailed consent form, the employment of a "clear and convincing evidence" standard in judicial bypass proceedings, and notice to parent(s) if an emergency abortion was performed on a minor (HB 81).
- **Nebraska** considered a measure, partially based on AUL model language, that defined an "ambulatory surgical center" to include any facility where five or more first-trimester abortions are performed during any calendar month (or if any second- or third-trimester abortion is performed) (L 114).
- **New Hampshire** considered limits on abortion funding that were based on AUL model language (HB 677). AUL experts also consulted on a measure repealing the state's abortion clinic buffer ("no free speech") zone (HB 403).
- **New York** considered measures partially based on AUL model language requiring informed consent for abortion (SB 178) and prohibiting sex-selective abortions (AB 6545).
- **Ohio** considered a prohibition, based on AUL model language, on any abortion performed solely because of a Down syndrome diagnosis (HB 135).
- **South Carolina** considered legislation based on AUL model language and requiring a physician to examine a woman before administering abortion-inducing drugs and to administer those drugs only in the manner approved by the FDA (SB 34).

- **Washington** considered a measure based on AUL’s model language and requiring parental notice 48 hours before a minor’s abortion (SB 5289).

*Legal Recognition and Protection of the Unborn:*

- **Colorado** considered a measure based on AUL model language and providing legal protection and recognition to unborn victims of criminal violence (SB 268).
- **Hawaii** considered a measure based on AUL model language and protecting a child born alive following an attempted abortion (HB 1444).
- **Minnesota** considered measures protecting infants born alive following attempted abortions which were partially based on AUL model language (HB 1047 and SB 904).

*Healthcare Freedom of Conscience:*

- **Alabama**, with AUL’s advice and assistance, considered a measure protecting healthcare freedom of conscience (HB 491).
- **Pennsylvania** also considered a measure that was partially based on AUL model language and protected the freedom of conscience for healthcare providers and healthcare institutions (SB 292).

*End of Life:*

- **Alabama** considered a ban on assisted suicide based on AUL model language (HB 496).
- In **Illinois**, AUL and AUL Action spearheaded efforts to defeat an amendment (HB 1564) to the state’s *Health Care Right of Conscience Act* requiring pro-life healthcare providers, including pregnancy resource centers, to discuss and provide information about the so-called “benefits” of abortion as a “treatment option” for all pregnant women. The measure would have also required healthcare providers to facilitate access to other medical procedures and services that violate their consciences.

***AUL/AUL Action: Benchmarks and Other Support Provided in 2015:***

**In 2015, AUL and AUL Action responded to 415 legislative consulting requests in 34 states and the District of Columbia:** Alabama, Alaska, Arkansas, Arizona, California, Colorado, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New

Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Washington, Wisconsin, and Wyoming.

**AUL also distributed 703 AUL legislative policy guides/model language to 33 states:**

Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin, and West Virginia.

**Further, AUL experts provided legislative testimony or letters or other statements in support of 12 pro-life measures:**

- AUL President and CEO Dr. Charmaine Yoest testified in support of **Colorado** HB 1112 based on AUL's *Born Alive Infant Protection Act*. AUL also provided written legal testimony in support of the measure.
- AUL General Counsel Ovide Lamontagne testified in support of Colorado SB 268 which was based on AUL model language and provided legal protection for unborn victims of criminal violence. AUL also provided written testimony in support of the measure.
- AUL also provided written testimony in support of Colorado HB 1162 which was based on AUL model language and prohibited sex-selective abortions.
- AUL provided a written statement explaining the need for an admitting privileges requirement in conjunction with **Idaho** SB 1094.
- AUL provided a letter in support of Idaho HB 88 requiring a physician to examine a woman before administering abortion-inducing drugs.
- AUL testified multiple times against an amendment to the **Illinois** *Health Care Right of Conscience Act* that would require pro-life healthcare providers, including pregnancy resource centers, to discuss and provide information about the so-called "benefits" of abortion as a "treatment option" for all pregnant women.
- AUL provided oral and written testimony in support of **Maryland** HB 961 and SB 511 limiting abortions at or after 20 weeks (5 months) gestation and based on AUL model language. AUL attorneys also prepared witnesses for the legislative hearings on these measures and provided oral and written testimony in support of these measures.

- AUL provided oral testimony in support of **Nebraska** L 114 that was partially based on AUL model language and defined an “ambulatory surgical center” to include any facility where five or more first-trimester abortions are performed during any one calendar month or where any second- or third-trimester abortion is performed.
- AUL provided detailed talking points in support of **Oklahoma** SB 642, based on AUL’s *Enforcement Module*, providing civil and criminal remedies for violations of the state’s abortion-related laws and mandating more comprehensive and regular inspections of abortion facilities.
- AUL provided a letter of support for **Tennessee** HB 950, SB 400, and SB 809 that included comprehensive reporting requirements for the donation of human gametes.
- AUL provided written testimony in support of **Wyoming** HB 156 which was based on (older) AUL model language requiring that a woman be given the opportunity to see the ultrasound or hear her baby’s heartbeat before an abortion.

### *Notable Trends in 2015:*

#### *Abortion:*

- In 2015, **48 states considered approximately 315 measures related to abortion**. This represents a 17 percent increase from 2014 activity levels, when 41 states considered approximately 270 measures.
- While 2015 abortion-related measures were overwhelmingly life-affirming, **there was a notable increase in measures seeking to undermine existing state laws and policies regulating or limiting abortion**. States considered at least 27 measures undermining existing life-affirming laws or supporting the so-called “right” to abortion.
- Significant abortion-related measures in 2015 included **20 week (five month) abortion limitations, abortion facility regulations, admitting privileges requirements, and regulations on the administration abortion-inducing drugs**.

#### *Legal Recognition and Protection of the Unborn:*

- At least 28 states considered at least 62 measures providing legal recognition of and protection for unborn and newly born children in contexts other than abortion.

- Sixteen states considered measures related to fetal assault or homicide, and 13 of those states considered measures protecting an unborn child from conception.

*Biotechnologies:*

- At least 26 states considered approximately 70 measures related to biotechnologies. The number of bills related to biotechnologies has been decreasing annually since 2010.

*Healthcare Freedom of Conscience:*

- More states (nine) considered measures to coerce healthcare professionals into providing care that may violate their consciences than considered measures protecting conscience (seven).

*End of Life:*

- In 2015, states are considering at least 370 bills concerning the end of life. This represents a nearly two-fold increase from 2014 activity levels.
- **Measures in 25 states and the District of Columbia sought to legalize assisted suicide. This represented a three-fold increase from 2014 activity levels** when only 7 states considered measures legalizing assisted suicide.
- At least 40 states and the District of Columbia considered legislation related to pain management and palliative care. This represents a 25 percent increase from 2014 activity levels.
- **At least 27 states have considered legislation concerning the availability of investigative drugs (*i.e.*, not FDA-approved) for persons with terminal illnesses.** These “right to try” measures were enacted in Illinois (*awaiting signature*), Minnesota, Mississippi, Montana, North Dakota, South Dakota, Tennessee, and Utah.

***Other Life-Related Measures Enacted in 2015:***

*Abortion:*

- **Alaska** enacted two Medicaid-related measures which specifically provide that no appropriated funds may be expended for an abortion that is not a “mandatory service,” required under Alaska law.

- **Arizona** enacted a measure requiring physicians who perform abortions to submit verification that they have the required hospital admitting privileges.
- **Arkansas** enacted measures requiring that a physician be present when a woman takes the first drug in an abortion-inducing drug regimen.
- Arkansas enacted a measure requiring that women be given information on the ability of an unborn child to feel pain at or after 20 weeks (5 months) gestation.
- Arkansas also enacted an appropriations measure extending its policy that no funds appropriated to any public school may be used for abortions or abortion referrals.
- **Florida** enacted a measure adopting health and safety requirements for facilities performing first-trimester abortions (*awaiting signature*).
- Florida also enacted a measure requiring that informed consent information be given in person, 24 hours before an abortion. Notably, abortion providers have already initiated a legal challenge against this requirement. Additionally, the measure requires an ultrasound if an abortion is performed after the first trimester.
- **Idaho** enacted a measure regulating “telehealth” and providing that no drug may be prescribed through “telehealth” services for the purpose of causing an abortion.
- **Indiana** enacted a measure amending its existing abortion reporting requirements to including reporting on chemical abortions/abortion-inducing drugs.
- **Indiana** enacted a measure amending the current definition of “abortion provider” to include a “health care provider that provides, prescribes, administers, or dispenses an abortion inducing drug to fewer than five (5) patients per year.”
- **Kansas** enacted a measure applying current requirements and restrictions to hospital administration of abortion-inducing drugs.
- Kansas enacted the *Unborn Child Protection from Dismemberment Abortion Act*, prohibiting some dismemberment abortions. The prohibition has already been challenged in federal court.
- **Kentucky** enacted a measure prohibiting the use of funds appropriated to rape crisis centers to support abortion services or abortion education.

- **New York** enacted a measure explicitly funding Planned Parenthood affiliates.
- **North Carolina** enacted a measure amending its informed consent law to include a 72-hour reflection period.
- North Carolina enacted a measure requiring the reporting of certain information related to later-term abortions.
- **North Dakota** enacted a measure providing that “[e]xcept as provided by federal law, funds of this state or a political subdivision of this state and federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may be used to refer for or counsel for family planning services, but may not be used to perform, refer for, or encourage abortion.”
- **Oklahoma** enacted the *Unborn Child Protection from Dismemberment Abortion Act*, prohibiting some dismemberment abortions.
- Oklahoma enacted a measure amending its informed consent law to require that a woman be told that “[a]bortion shall terminate the life of a whole, separate, unique, living human being”; an abortion provider include a link on its webpage to the state-prepared, abortion information website; and providing for a 72-hour reflection period following the provision of informed consent information on fetal pain, perinatal hospice, and the results of an ultrasound.
- **South Dakota** enacted a measure providing a technical amendment to its abortion reporting requirements and clarifying by what date the state health department is to publish its annual report on abortion.
- South Dakota also enacted a measure prohibiting the acceptance of payment or commitment to pay for an abortion until a consent form is signed (after full compliance with the state’s existing informed consent law).
- **Tennessee** enacted a measure defining "ambulatory surgical treatment centers" to include facilities where 50 or more surgical abortions are performed in a calendar year, subjecting these abortion facilities to more stringent health and safety standards.
- Tennessee also enacted a measure requiring that certain abortion-related records be kept for five years.

- **Texas** HB 1, the state’s budget, allocated \$50 million to the Texas Women’s Health Program (TWHP), the Expanded Primary Health Care Program, and the Family Planning Program. It also funded the state’s Breast and Cervical Cancer Screening (BCCS) program at \$23.7 million. Under Texas law, the state adheres to a tiering system that prioritizes funding to comprehensive healthcare providers such as community health centers. Under this system, abortion providers like Planned Parenthood are relegated to the lowest eligibility tier and are often denied funding.
- Texas enacted a measure requiring training for abortion facility workers and volunteers in identifying and assisting victims of human trafficking.
- **Utah** enacted a measure making minor amendments to the state’s existing informed consent requirements.
- **Virginia** enacted an appropriations measure excluding funding for the performance of or referrals for abortions.
- The **West Virginia** Legislature overrode Governor Earl Ray Tomblin’s veto of a prohibition on abortion at 22 weeks after a woman’s last menstrual period (when the measure defines an unborn child as capable of feeling pain). The measure also included reporting requirements for such abortions.
- Two additional pro-life resolutions were also adopted. The **Oklahoma** House passed a resolution declaring “Rose Day” as a reminder that the fight to save the unborn will continue until all methods of the taking of innocent human life have been eliminated, while the **South Dakota** Legislature amended a prior resolution calling for the reversal of *Roe v. Wade* and added supporting citations.

*Legal Recognition and Protection of the Unborn:*

- **Arkansas** enacted a measure governing the disposal of fetal remains.
- Similarly, **Indiana** enacted a measure requiring the dignified disposition of aborted unborn children.
- **Kentucky** funded substance abuse treatment for pregnant women.
- **North Dakota** enacted a measure creating a task force on substance-exposed newborns.

*Biotechnologies:*

- **Arkansas** enacted a measure governing parentage and inheritance rights when a child is conceived after the death of a parent using assisted reproductive technologies.
- **California** enacted a technical amendment to its *Stem Cell Research and Cures Act*.
- **Connecticut** enacted a measure appropriating \$10 million to the *Regenerative Medicine Research Fund*, funding embryonic and human adult stem cell research (*awaiting signature*).
- **Illinois** (*awaiting signature*) and **Maryland** enacted measures related to insurance coverage for assisted reproductive technologies.
- **Kansas** appropriated funding to the Midwest Institute for Comparative Stem Cell Research/Midwest Stem Cell Therapy Center for adult stem cell research.
- **Maine** enacted a measure defining parentage for *in vitro* fertilization and surrogacy.
- **New York** enacted measures appropriating funds to the Empire State stem cell trust fund account which funds unethical forms of research.
- **Nebraska** enacted a measure appropriating funds for ethical research.
- **Oregon** enacted a measure governing inheritance rights and other matters for children conceived using assisted reproductive technologies.
- **Texas** enacted a measure specifically allowing the use of adult stem cells in hospitals under certain circumstances and creating a funding mechanism for adult stem cell research projects.
- Texas also appropriated \$2.5 million per year in funding for adult stem cell research at the University of Texas Heart Institute. The measure also appropriated \$1 million per year for banking adult stem cells obtained from umbilical blood.
- **Utah** enacted a measure providing children conceived and later born using the donated human eggs and sperm access to donor information.
- **Virginia** repealed a law related to the testing of human gametes.

### *End of Life:*

- **Arizona** enacted a law providing that a patient’s agent, surrogate, or an advance directive trumps a Physician Orders for Life-Sustaining Treatment (POLST) form.
- **Arkansas, Georgia, and Utah** enacted laws preventing the denial of insurance coverage for pain medication when a person has a terminal illness.
- **Illinois** (*awaiting signature*), **Minnesota, Mississippi, Montana, North Dakota, South Dakota, Tennessee, and Utah** enacted “right to try” bills: measures increasing the availability of investigative drugs (*i.e.*, not FDA-approved) for persons with terminal illnesses.
- **Delaware, Georgia, Kentucky, and Wyoming** enacted Physician Orders for Life-Sustaining Treatment (POLST) paradigm programs.
- **Maryland** enacted two measures modifying its advance directive laws, while Governor Larry Hogan vetoed a third related bill as “duplicative.”
- **Nevada** enacted a measure permitting a person to designate a caregiver when admitted to a hospital or in an advance directive.
- A **New Hampshire** measure establishing a study of end-of-life decisions, including assisted suicide, was vetoed by Governor Maggie Hassan, who stated she feared that “the goals of this bill [would] take New Hampshire down a precarious path.”
- **Oklahoma** created a home care, hospice, and palliative care advisory council and also enacted hospice regulations.
- **Oregon** enacted a measure providing that declarations for mental health treatment trump other advance planning documents.
- **Texas** enacted a measure modifying requirements regarding life-sustaining care. The measure ensures that, in the event a doctor or medical institution does not view continuing treatment to be medically appropriate, a patient will continue to receive pain management and artificially administered nutrition and hydration unless that provision is not beneficial to the patient.
- **Vermont** enacted a measure repealing a “sunset” provision in its *Death with Dignity Act*.

- **Virginia** enacted a law permitting a woman to add specific instructions for life-prolonging procedures when she is pregnant and has been diagnosed with a terminal condition.
- Finally, several states established palliative care, quality of life, and/or respite care advisory committees, programs, interdisciplinary task forces, studies, or consumer and professional information and education programs: **Alabama, Colorado, Maryland, Massachusetts, Oklahoma, and Texas.**

### ***Pro-Life Measures Vetoed in 2015:***

#### *Abortion*

- **Montana** Governor Steve Bullock vetoed a measure that would have required insurance providers who offer plans in the state insurance Exchange (required under the federal healthcare law) and who offer plans that include insurance coverage for abortion to also offer plans that do not cover abortion.
- Governor Bullock also vetoed a measure that would have required a physician administering abortion-inducing drug to be physically present with the patient.
- Governor Bullock vetoed a third abortion-related measure that would have required the administration of anesthesia (during a later-term abortion) to an unborn child to provide adequate relief from physical pain and suffering.

### ***Issue-Specific Information:***

#### ***Abortion***

In 2015, **at least 48 states considered approximately 315 measures related to abortion.** This represents a 17 percent increase from 2014 activity levels, when 41 states considered approximately 270 measures. While measures considered in 2015 were overwhelmingly life-affirming, **there was a notable increase in measures seeking to undermine existing state laws and policies regulating or limiting abortion.** States are considered at least 27 measures undermining existing pro-life laws or supporting the so-called “right” to abortion.

In 2015, the most significant abortion-related measures were those that also garnered the most media attention and that also sparked legal challenges by the abortion industry: 20 week (*i.e.*, five month) abortion limitations, abortion facility regulations, admitting privileges requirements, and regulations on abortion-inducing drugs.

*Abortion Prohibition and Limitations:*

At least 24 states including Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Mississippi, Missouri, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, and West Virginia considered measures to prohibit or limit abortions.

*20 Week (Five Month) Limitations:*

At least 13 states considered measures to limit abortion at 20 weeks (*i.e.*, five months) gestation: Illinois, Iowa, Kentucky, Maryland, Massachusetts, New York, Ohio, Oregon, South Carolina, Texas, Virginia, West Virginia, and Wisconsin.

Iowa's measure included AUL's legislative findings concerning the maternal health risks of later-term abortions. Likewise, a measure in Illinois was partially drafted by AUL to address both maternal health risks and the unborn child's pain.

Maryland also considered measures based on AUL's later-term abortion ban, the *Women's Health Defense Act*. AUL attorneys prepared witnesses for the legislative hearings on these measures and provided oral and written testimony in support of them.

In West Virginia, the legislature overrode Governor Earl Ray Tomblin's veto of a prohibition on abortion at 22 weeks after a woman's last menstrual period (when the measure defines an unborn child as capable of feeling pain). The measure also included reporting requirements for such abortions.

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

At least 13 states considered measures to ban abortions based on the child's sex, race, and/or diagnosed genetic abnormality: Colorado, Indiana, Iowa, Louisiana, Massachusetts, Mississippi, Missouri, New York, Ohio, Oregon, South Dakota, Texas, and West Virginia.

Colorado and New York considered legislation, based on AUL model language, prohibiting sex-selective abortions. AUL provided written legislative testimony in support of the Colorado measure.

Indiana and Missouri considered legislation based on AUL model language and prohibiting abortions based on the child's sex, diagnosis of Down syndrome, or diagnosis of genetic abnormality. Similarly, Ohio considered legislation based on AUL model language and prohibiting an abortion performed solely because of a Down syndrome diagnosis.

*“Heartbeat” Bans:*

At least four states considered measures prohibiting an abortion when an unborn child has a heartbeat: Alabama, New York, Ohio, and South Carolina.

*Partial-Birth Abortion Bans:*

At least two states are considered measures related to partial-birth abortions: Massachusetts and South Dakota.

*Dismemberment Abortion Bans:*

At least five states considered measures prohibiting some “dismemberment abortions”: Kansas, Missouri, New Jersey, Oklahoma, and South Carolina. Kansas and Oklahoma enacted dismemberment prohibitions.

*Abortion Facility Regulation and Other Abortion Provider Requirements:*

*Abortion Facility Regulations:*

At least 18 states including Alabama, Arkansas, Colorado, Florida, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, North Carolina, Ohio, Oregon, Tennessee, and Texas considered measures regulating abortion facilities.

Florida adopted health and safety standards for facilities performing first-trimester abortions (*awaiting signature*).

Tennessee enacted a measure defining "ambulatory surgical treatment centers" to include facilities where 50 or more surgical abortions are performed in a calendar year, thus subjecting these abortion facilities to more stringent patient care standards.

Colorado considered a measure based on AUL model language and providing licensing and safety requirements for abortion facilities.

Nebraska considered a measure partially based on AUL model language and defining an “ambulatory surgical center” to include a facility where five or more first-trimester abortions are performed during any one calendar month (or where any second- or third-trimester abortion is performed). AUL provided oral testimony in support of this measure.

Conversely, Arizona considered legislation repealing its inspection and licensure requirements for abortion facilities. Similarly, Texas considered legislation removing the requirement that abortion facilities comply with ambulatory surgical center standards and replacing this requirement with less stringent health and safety standards.

*Individual Provider Requirements:*

At least 11 states including Arizona, Arkansas, Colorado, Florida, Idaho, Indiana, Iowa, Maryland, New Mexico, Oregon, and South Carolina considered measures delineating qualifications for individual abortion providers. Most prominently, these measures required that abortion providers maintain hospital admitting privileges.

Arizona enacted a measure requiring physicians who perform abortions to submit verification that they have the requisite admitting privileges.

Ohio approved a budget which includes an amendment to the state's admitting privileges mandate for abortion providers, requiring that privileges be maintained at a hospital within 30 miles of the abortion facility.

Further, Arkansas, Colorado, and Florida considered admitting privileges requirements based on AUL model language. Similarly, a measure in Idaho was partially based on AUL model language.

Conversely, Arizona also considered legislation removing a provision prohibiting the state Board of Medicine from deciding the scope of practice regarding abortion (*i.e.*, who may provide surgical or chemical abortions). Another Arizona measure would have required that a physician with admitting privileges anywhere in the state be available at an abortion facility, removing the current 30-mile limitation on such privileges.

Indiana enacted a measure amending the current definition of "abortion provider" to include a "health care provider that provides, prescribes, administers, or dispenses an abortion inducing drug to fewer than five (5) patients per year."

*Abortion Reporting:*

At least 20 states including Connecticut, Georgia, Indiana, Kentucky, Maryland, Michigan, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin considered measures related to abortion reporting.

Indiana enacted a measure amending its current abortion reporting statute to ensure the inclusion of reporting on chemical abortions/abortion-inducing drugs.

North Carolina enacted a measure requiring the reporting of certain information related to later-term abortions.

South Dakota enacted a measure clarifying by what date the department is to publish its annual abortion report.

Tennessee enacted a measure requiring that certain abortion-related records be kept for five years.

In West Virginia, the legislature overrode Governor Earl Ray Tomblin's veto of an abortion ban which included reporting requirements for later-term abortions.

*Abortion Inducing Drugs and "Webcam" Abortions:*

At least seven states including Arkansas, Idaho, Iowa, Kansas, Minnesota, Montana, and South Carolina considered measures regulating the provision of abortion-inducing drugs and/or the practice of so-called "webcam" abortions.

Arkansas enacted a measure based on AUL's *Abortion-Inducing Drugs Safety Act*, requiring a physician to examine a woman before administering abortion-inducing drugs and to abide by the FDA restrictions on the drugs. Arkansas also enacted separate measures requiring physician presence when the first drug in the regimen is taken.

Idaho enacted a measure requiring a physician to examine a woman before administering abortion-inducing drugs. AUL provided a letter in support of the requirement. Idaho also enacted a measure regulating "telehealth" that provides that no drug may be prescribed through "telehealth" services for the purpose of causing an abortion.

Kansas enacted a measure applying current requirements and restrictions to the provision of abortion-inducing drugs in hospitals.

Montana Governor Steve Bullock vetoed a measure that would have required a physician administering abortion-inducing drugs to be physically present with the patient.

South Carolina considered legislation, based on AUL model language, requiring a physician to examine a woman and administer abortion-inducing drugs only in the manner approved by the FDA.

Conversely, Arizona considered legislation repealing the state's prohibition of "webcam" abortions and removing the requirement that abortion-inducing drugs be provided according to the FDA-approved protocol.

Similarly, Texas considered legislation that would exempt abortion providers from complying with the state's regulation of abortion-inducing drugs if such compliance is contrary to the provider's individual judgment.

*Informed Consent and Informed Consent Enhancements:*

More than two decades after the U.S. Supreme Court approved informed consent laws for abortion in *Planned Parenthood v. Casey*, states continue to consider measures ensuring that women receive all relevant information about abortion, its risks, and its alternatives.

*Information About Chemical Abortion Reversal:*

Arkansas enacted a measure based on AUL's *Abortion Pill Reversal Information Act* and requiring that women be given information on the ability to reverse the effects of chemical abortions.

Similarly, Arizona enacted a measure that includes AUL model language amending the state's informed requirements to include information on the ability to reverse chemical abortions.

*General Informed Consent:*

At least 19 states including Arkansas, Colorado, Florida, Indiana, Iowa, Kentucky, Massachusetts, Mississippi, Missouri, Nebraska, New Mexico, New York, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, Utah, and Wisconsin considered general measures related to informed consent for abortion.

Arkansas enacted a measure based on AUL's *Women's Right to Know Act* and requiring that women be given information on abortion's risks and alternatives.

Florida enacted a measure requiring that informed consent information be given in person.

Iowa and New York considered measures that were partially based on AUL's *Women's Right to Know Act*.

Oklahoma enacted a measure amending its informed consent law to require that the woman be told that "[a]bortion shall terminate the life of a whole, separate, unique, living human being"

and requiring that the abortion provider include a link on its webpage to the state-prepared abortion information website.

South Dakota enacted a measure prohibiting the acceptance of payment or commitment to pay for an abortion until a consent form is signed (after full compliance with the state's existing informed consent law).

Utah enacted minor amendments to its informed consent requirements.

*Measures to Repeal or Weaken Informed Consent Requirements:*

Arizona considered legislation undermining the state's informed consent requirements by eliminating the 24-hour reflection period. Other measures would have added a rape/incest exception to Arizona's informed consent law and would have repealed the requirement for a state-prepared abortion information website.

Similarly, Texas considered legislation removing the required reflection period, deleting information on the abortion breast cancer link, requiring that information provided be supported by pro-abortion organizations, and requiring that facilities listed in the materials include sources that provide services "related to family planning." Another measure would have exempted abortion providers from complying with the informed consent provisions if such compliance is contrary to the provider's individual judgment.

*Reflection Periods:*

At least 11 states including Arkansas, Florida, Iowa, Massachusetts, Mississippi, New Mexico, New York, North Carolina, Ohio, Oklahoma, and Tennessee considered measures requiring or amending a reflection period (usually 24 hours) before a woman may undergo an abortion.

Florida enacted a measure amending the state informed consent law to include a 24-hour reflection period. Abortion providers have already launched a legal challenge against the requirement.

North Carolina enacted a measure amending its informed consent law to include a 72-hour reflection period.

Oklahoma enacted a measure amending its informed consent law to require a 72-hour reflection period following the provision of informed consent information on fetal pain, perinatal hospice, and the results of an ultrasound.

*“Heartbeat” Informed Consent:*

At least six states including Michigan, New York, Ohio, Oklahoma, South Carolina, and Tennessee considered legislation to require an abortion provider to determine if an unborn child has a heartbeat and/or requiring the woman to be informed whether her unborn child has a heartbeat.

*Anti-Coercion Measures:*

At least 11 states including Arkansas, Connecticut, Iowa, Maryland, Michigan, Missouri, Nebraska, New York, North Dakota, Texas, and Washington considered measures to curb the prevalence of coerced or forced abortions.

North Dakota enacted a measure prohibiting coerced abortions that is based on AUL’s *Coercive Abuse Against Mothers Prevention Act*. Specifically, the measure enhances the penalties for sex traffickers who coerce or force their victims to undergo abortions

Arkansas and Michigan also considered measures prohibiting coerced abortions that were based, in whole or in part, on AUL model language.

Similarly, Maine considered legislation, based on AUL’s model language, but which specifically prohibited coercion of a minor.

Conversely, Arizona considered legislation to remove its anti-coercion sign postage requirement, as well as a provision providing that a woman cannot be required to obtain an abortion as a provision in a contract or as a condition of employment.

*Informed Consent Concerning Prenatal Diagnosis:*

At least three states including Oklahoma, Texas, and Wisconsin considered legislation related to the provision of information about perinatal hospice.

Oklahoma enacted a measure amending its informed consent law to require a 72-hour reflection period following the provision of information on perinatal hospice. Conversely, Arizona considered a measure eliminating the required 24-hour reflection period after a family has received information on their unborn child’s life-limiting diagnosis.

### *Informed Consent Concerning Fetal Pain:*

At least four states including Arkansas, Iowa, Montana, and West Virginia considered informed consent provisions requiring information on the pain felt by an unborn child and/or requiring anesthesia for the unborn child during a later-term abortion.

Arkansas enacted a measure requiring that women be given information on the ability of an unborn child to feel pain at or after 20 weeks (5 months) gestation.

Oklahoma amended its informed consent law to require a 72-hour reflection period following the provision of informed consent information on fetal pain.

Montana Governor Steve Bullock vetoed a measure requiring the administration of anesthesia to an unborn child to provide adequate relief from physical pain and suffering.

### *Informed Consent on Disposal of Fetal Remains:*

Indiana considered a measure amending the state's informed consent law to include information that a woman has a right to determine how the fetal remains are disposed.

### *Ultrasound Requirements:*

At least 15 states including Colorado, Florida, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Mississippi, New Mexico, New York, Oklahoma, Rhode Island, South Carolina, Tennessee, and Wyoming considered ultrasound requirements.

Florida enacted a measure requiring an ultrasound if an abortion is performed after the first trimester.

Oklahoma amended its informed consent law to require a 72-hour reflection period following the provision of an ultrasound.

Illinois considered a measure partially based on AUL model language and requiring that a woman be offered the opportunity to receive and view an ultrasound or to receive a list of facilities that provide ultrasounds.

Wyoming considered a measure based on (older) AUL model language and requiring that a woman be given the opportunity to see the ultrasound or to hear her unborn baby's heartbeat before an abortion. AUL provided written legislative testimony in support of the measure.

### *Measures to Repeal or Weaken Ultrasound Requirements:*

Arizona considered legislation eliminating the required 24-hour reflection period between the time when an ultrasound is conducted and an abortion is subsequently performed. Additional measures would have added a rape/incest exception to the state's ultrasound law and would have required that an abortion facility have ultrasound equipment only if it provides abortions after 12-weeks gestation (as opposed to all facilities, as currently required).

Similarly, Texas considered measures removing the reflection period from the state's ultrasound requirement and exempting abortion providers entirely from compliance with the ultrasound law.

Virginia considered legislation removing the state's ultrasound requirement, portions of its informed consent requirements, and the mandated reflection period before an abortion.

### *Parental Involvement and Minors:*

At least 19 states including Arkansas, Connecticut, Florida, Indiana, Maine, Massachusetts, Maryland, Mississippi, Missouri, Nevada, New Mexico, New York, North Carolina, Oklahoma, Texas, Vermont, Washington, West Virginia, and Wyoming considered parental notification or parental consent requirements for abortion and/or sought to amend current parental involvement laws to enhance protections for minors.

Arkansas enacted a measure based on AUL model language and requiring notarized parental consent before a minor's abortion, proof of identification, and the completion of a detailed consent form.

Oklahoma enacted a measure based on AUL's *Enforcement Module* and providing a civil cause of action for a minor (or her parent/guardian) if an abortion provider fails to comply with the state's parental involvement law. The measure also makes it a felony to assist a minor in obtaining an abortion in violation of the state's parental involvement law.

Texas enacted a measure, partially based on AUL model legislation, creating a presumption that an abortion patient is a minor unless valid government identification is shown; strengthening the prescribed judicial bypass procedures by limiting the venue options for filing a bypass request; stipulating that the minor must be present in court for the required hearing (*i.e.*, no teleconferencing); requiring that the judge find by "clear and convincing evidence" that the minor should be granted a judicial bypass of the parental consent requirement; and prescribing the factors the judge will consider in making this determination. The measure also includes a provision amending the state's abortion reporting law to specify that a minor's claim that she is being physically or sexually abused constitutes reason to believe that abuse has occurred.

Indiana considered a measure based on AUL model language and requiring notarized parental consent, proof of identification, and proof of relationship of parent(s).

Maine considered legislation based on AUL model language and requiring parental consent before a minor's abortion. The measure also required proof of identification for the parent(s) and a detailed consent form, as well as prohibiting coercion of a minor.

Missouri considered legislation, based on AUL model language, enhancing its parental involvement requirements. The measure included provisions requiring notarized consent, proof of identification, a detailed consent form, the employment of a clear and convincing evidence standard in judicial bypass procedures, and notice to parent(s) if an emergency abortion was performed on the minor.

Washington considered legislation based on AUL's model language and requiring parental notice 48 hours before an abortion.

Conversely, Arizona considered legislation allowing an abortion provider to "counsel" a minor or refer her to a counselor, thus allowing counseling by a profit-driven abortion provider to substitute for parental consent. Another measure would have eliminated civil actions against abortion providers who violate Arizona's parental consent law and the requirement for a written consent form.

#### *Abortion Funding:*

At least 13 states considered measures related to federal and state funding of abortion and/or abortion providers: Alaska, Arkansas, Iowa, Michigan, Minnesota, Missouri, New Hampshire, New York, North Dakota, Pennsylvania, Texas, Virginia, and West Virginia.

Alaska enacted measures specifically providing that no appropriated funds may be expended for an abortion that is not a "mandatory service" required under Alaska law.

With the assistance of AUL, Arkansas enacted a measure prohibiting the disbursement of federal and state funds to entities performing abortions or providing abortion referrals. Under the measure, no federal or state funds may be used to pay for an abortion, except to save the mother's life.

Arkansas also adopted an appropriations measure extending the state's policy that no funds appropriated to any public school may be used for abortions or abortion referrals.

Kentucky enacted a measure prohibiting the use of appropriated funds to support abortion services or abortion education.

North Dakota enacted a measure providing that “[e]xcept as provided by federal law, funds of this state or a political subdivision of this state and federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may be used to refer for or counsel for family planning services, but may not be used to perform, refer for, or encourage abortion.”

Texas HB 1, the state’s budget, allocated \$50 million to the Texas Women’s Health Program (TWHP), the Expanded Primary Health Care Program, and the Family Planning Program. It also funded the state’s Breast and Cervical Cancer Screening (BCCS) program at \$23.7 million. Under Texas law, the state adheres to a tiering system that prioritizes funding to comprehensive healthcare providers such as community health centers. Under this system, abortion providers like Planned Parenthood are relegated to the lowest eligibility tier and are often denied funding.

Virginia enacted an appropriations measure excluding funding for the performance of or referral for abortions.

Conversely, New York enacted a measure explicitly funding Planned Parenthood affiliates.

Similarly, Arizona considered eliminating the prohibition on the use of public funds for abortion training. The measure also would have repealed a state law prohibiting tax credits for contributions to entities that provide, pay for, or provide coverage of abortions.

*Insurance Coverage of Abortion:*

At least 16 states considered measures related to insurance coverage of abortions within the state health insurance Exchanges (required under the federal healthcare law), through private insurance, and/or for government employees: Arizona, California, Florida, Illinois, Iowa, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Oregon, Rhode Island, South Carolina, Texas, and West Virginia.

With the advice of AUL, Arizona modified an existing state law prohibiting insurance plans purchased through the state health insurance Exchanges from covering abortions (also known as “opt-out” provisions).

Montana Governor Steve Bullock vetoed a measure requiring health insurance providers that offer insurance plans in the state health insurance Exchange that include insurance coverage for abortions to also offer plans that do not cover abortions.

Michigan and Virginia considered legislation repealing their opt-out provisions, while Montana considered legislation requiring abortion coverage through riders. New York and Washington considered measures requiring insurance plans that cover maternity care to also cover abortion.

*Use of State Facilities and Employees for Abortions:*

At least three states considered measures prohibiting state facilities and/or employees from performing or assisting in abortions: Missouri, Texas, and West Virginia.

*Abortion Alternatives/Pregnancy Resource Centers:*

At least four states introduced eight measures supporting alternatives to abortion and the life-affirming work of pregnancy resource centers.

The Arkansas House and Senate both adopted a resolution based on AUL's model language and recognizing the contributions of pregnancy resource centers.

The Colorado Senate adopted a similar resolution based on AUL's model language and recognizing the contributions of pregnancy resource centers.

The Michigan Senate passed a measure creating a "Choose Life Michigan" license plate. The money raised from the plates would have supported non-profit organizations promoting alternatives to abortion.

In response to increasing attacks on the life-affirming work and free-speech rights of pregnancy resource centers, Missouri introduced two measures prohibiting local governments from enacting coercive regulations against "alternatives-to-abortion agencies."

Conversely, at least six states, including Arizona, California, Connecticut, Missouri, New York, and Texas, considered nine bills aimed at undermining or stigmatizing the work of pregnancy resource centers.

Notably, the California House passed a measure that would have force pregnancy resource centers to promote abortion. The so-called *Reproductive FACT Act* mandated that pro-life pregnancy centers distribute information on publicly funded abortions. Under the measure, non-medical pregnancy centers that offer counseling and other support would be required to post stigmatizing signs in their reception areas stating that they are "not licensed." Failure to comply with the Act's forced pro-abortion message would have subjected pregnancy centers to crippling fines.

*State Constitutional Amendments:*

At least six states including Iowa, Kansas, Louisiana, Montana, South Carolina, and Texas considered abortion-related amendments to their state constitutions.

*State Freedom of Choice Acts (FOCA) and Pro-Abortion Resolutions:*

Legislators in at least five states including Arizona, Iowa, New York, Rhode Island, and Vermont considered state *Freedom of Choice Acts* (FOCA) or resolutions protecting or supporting a legal “right” to abortion.

Arizona considered a measure amending its statutory definitions to exclude chemical abortions from the definition of “abortion.”

The Rhode Island House adopted a resolution honoring Lila M. Sapinsley, a “trailblazer and champion for women’s issues and open government” who worked with Planned Parenthood.

The Vermont legislature adopted a resolution recognizing the “critical importance” of continued access to “safe and legal” abortion and the right of every woman to privacy, autonomy, and safety in making personal decisions. It also acknowledged Planned Parenthood of Northern New England’s 50 years of providing “high quality health services.”

*State FACE (Freedom of Access to Abortion Clinics):*

New Hampshire considered a measure repealing the state’s buffer (“no free speech”) zone around abortion clinics.

*“Personhood” Measures and Life-Related Resolutions:*

At least 10 states including Iowa, Massachusetts, Michigan, Mississippi, New Hampshire, Rhode Island, South Carolina, Texas, Virginia, and Washington considered measures related the “personhood” of the unborn child.

Meanwhile, at least six states considered other measures or resolutions supporting the sanctity of human life and/or protecting women from the harms of abortion: Illinois, Missouri, New Mexico, Ohio, Oklahoma, and South Dakota.

The Oklahoma House passed a resolution declaring “Rose Day” as a reminder that the fight to save the unborn will continue until all methods of the taking of innocent human life have been eliminated.

The South Dakota legislature amended an earlier resolution calling for the reversal of *Roe v. Wade* by adding supporting citations.

### ***“Emergency Contraception”***

At least 10 states including Arizona, Michigan, Missouri, Nevada, New York, North Carolina, Ohio, Oregon, Tennessee, and Virginia considered 180 measures related to so-called “emergency contraception”: drugs and devices that have known post-fertilization (*i.e.* life-ending) mechanisms of action, but are labeled as “contraception” by the Food and Drug Administration (FDA).

At least five states including Arizona, Michigan, Missouri, New York, and Ohio considered eight measures pertaining to educational efforts for “emergency contraception.”

For example, Michigan considered a measure mandating that a state-run educational program include information that “emergency contraception” can work by preventing implantation (*i.e.*, ending the life of an already developing human embryo). However, it also mandated inaccurate information, specifically that “emergency contraception” cannot affect an established pregnancy. This latter assertion contradicts evidence regarding at least one FDA-approved “emergency contraceptive,” ella.

A measure introduced in Nevada would have permitted a pharmacist to provide so-called “emergency contraception” without a prescription.

A measure in Virginia would have statutorily defined ella, which can end an established pregnancy, as “not abortion” because the FDA categorizes it as “contraception.”

A measure introduced in North Carolina would have permitted school-based health centers in Durham County to dispense “contraceptives” and did not specifically exclude “emergency contraceptives.” Conversely, a Missouri bill expressly prohibited school-based healthcare clinics from providing or referring for abortion or contraception, while a measure introduced in New York would have required parental consent for the prescription or distribution of “emergency contraception” to a minor by a public school health clinic.

## ***Legal Recognition and Protection of the Unborn and Newly Born***

### *Legal Recognition and Protection of the Unborn:*

At least 28 states considered at least 62 measures providing legal recognition and protection of unborn and newly born children in contexts other than abortion.

### *Fetal Homicide and Assault:*

Seventeen states considered measures related to fetal assault or homicide.

Thirteen states considered measures protecting unborn children from conception: Colorado, Florida, Hawaii, Illinois, Kansas, Massachusetts, Minnesota, New Jersey, New York, Oklahoma, Pennsylvania, Rhode Island, and South Dakota.

New Hampshire considered legislation to protect an unborn child from eight weeks gestation, while Washington considered competing bills: one that would have protected “quick” (approximately 8 weeks gestation) unborn children and another that would have protected unborn children after 24 weeks gestation.

### *“One-Victim” Laws:*

Michigan, Oregon, and West Virginia considered penalty enhancements for crimes against pregnant women; however, these proposed provisions did not recognize an unborn child as a separate crime victim.

### *Wrongful Death:*

Iowa considered a measure that would extend wrongful death protections to viable unborn children, while Mississippi considered a measure that would have extended wrongful death protections to all unborn children.

Ohio considered a measure permitting a wrongful death (civil) action by a mother if her unborn child was aborted in violation of any Ohio regulation or restriction on abortion.

### *Wrongful Birth and Wrongful Life Lawsuits:*

Four states considered measures to prohibit or restrict “wrongful birth” and “wrongful life” lawsuits: Mississippi, New Jersey, Texas, and Washington.

*Born-Alive Infant Protection (BAIPA):*

Six states considered measures protecting babies born alive during abortions.

Colorado and Hawaii considered measures based on AUL's *Born Alive Infant Protection Act*, while Minnesota is considered measures partially based on AUL's model language.

Massachusetts considered a measure making it a crime to conceal the death of a child where officials are unable to determine if the baby was born alive and, if born alive, whether the child was murdered.

Michigan considered a measure requiring abortions performed after 19 weeks to have an established protocol with a neonatal unit, while West Virginia considered a measure requiring the use of "all available medical means to preserve, promote and maintain the life of the fetus" born alive during an abortion.

*Fetal Death Certificates, Certificates of Stillbirth, and Disposal of Fetal Remains:*

Arkansas and Indiana enacted measures governing the disposal of fetal remains. Similarly, Florida and Oregon considered measures regulating the disposal of fetal remains.

New Jersey considered a measure requiring that the details of the death of an unborn child (aged 20 or more weeks) be entered into a state electronic birth certificate and perinatal database.

*Substance Abuse by Pregnant Women:*

Ten states considered measures permitting the prosecution of women who use narcotics or controlled substances while pregnant: Arkansas, Illinois, Indiana, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Oklahoma, and Virginia.

North Dakota enacted a measure creating a task force on substance-exposed newborns.

The measures in Arkansas and Oklahoma would have permitted mitigation if the mother receives treatment.

Kentucky enacted a measure permitting funding for substance abuse treatment for pregnant women and also considered a measure providing that a woman's parental rights may not be terminated solely because of her use of controlled substances during pregnancy.

West Virginia considered a measure expanding perinatal drug abuse prevention and treatment.

## ***Biotechnologies***

At least 26 states considered approximately 70 measures related to biotechnologies. This represents a continued decrease in such measures at the state level.

### *Human Cloning:*

Only Georgia and New York considered legislation prohibiting human cloning for all purposes.

Michigan considered a measure defining a “fetus” as “a fertilized embryo that is no longer in *utero*,” therefore, the measure could have had implications for human cloning.

### *Destructive Embryo Research:*

Massachusetts, Missouri, and Oklahoma considered legislation prohibiting or limiting destructive embryo research.

California enacted a technical amendment to its *Stem Cell Research and Cures Act*, clarifying how legislation concerning the Act may be enacted.

Connecticut enacted a measure weakening already lax “regulations” promoting embryonic stem cell research in the state (*awaiting signature*).

Michigan considered a measure defining a “fetus” as “a fertilized embryo that is no longer in *utero*,” therefore, the measure may have had implications for destructive embryo research.

### *Fetal Experimentation:*

Florida and Mississippi considered measures regulating fetal experimentation.

### *Human-Animal Hybrids:*

Georgia considered a measure prohibiting the creation of human-animal hybrids (chimeras).

### *Ethical Forms of Research:*

Only New York, Tennessee, and Texas considered measures promoting ethical forms of research. This represents a disappointing decrease from 2014, when seven states considered (and four enacted) measures promoting ethical alternatives to destructive embryo research.

Texas enacted a measure specifically allowing the use of adult stem cells in hospitals under certain circumstances.

*State Funding of Biotechnologies:*

A small number of states appropriated funding for ethical forms of research, while a similar number of states continued their practices of allocating taxpayer dollars to fund and promote destructive embryo research.

*Funding of Ethical Forms of Research:*

Connecticut appropriated \$10 million to the Regenerative Medicine Research Fund which funds both adult stem cell research and embryonic stem cell research (*awaiting signature*).

Nebraska funded ethical forms of research.

Texas appropriated \$2.5 million per year in funding for adult stem cell research at the University of Texas Heart Institute. The Texas measure also appropriated \$1 million per year for banking adult stem cells obtained from umbilical blood. Texas enacted a second measure creating a funding mechanism for adult stem cell research projects.

Kansas appropriated funding to the Midwest Institute for Comparative Stem Cell Research/Midwest Stem Cell Therapy Center for adult stem cell research.

*Limitations on Funding of Unethical Forms of Research:*

Missouri, New Hampshire, and New York considered measures restricting the use of state funds for unethical forms of research.

*Funding of Unethical Forms of Research:*

Connecticut appropriated \$10 million to the Regenerative Medicine Research Fund for embryonic stem cell research (*awaiting signature*).

New York enacted measures appropriating funds to the Empire State stem cell trust fund account which funds unethical forms of research.

Michigan considered legislation requiring reporting on its funding of destructive embryo research.

### *Assisted Reproductive Technologies:*

At least 12 states including Arkansas, California, Connecticut, Hawaii, Illinois, Maine, Maryland, Minnesota, New York, Pennsylvania, Utah, and Virginia considered measures related to assisted reproductive technologies (ART). Most of these measures involved insurance coverage for *in vitro* fertilization and/or other forms of ART.

New York was the only state to consider a measure imposing some requirements for informed consent before a person undergoes an ART procedure.

Arkansas enacted a measure governing parentage and inheritance rights when a child is conceived after the death of a parent and using assisted reproductive technologies. Oregon enacted a similar measure.

Illinois (*awaiting signature*) and Maryland enacted measures concerning insurance coverage for assisted reproductive technologies.

Maine enacted a measure regulating parentage for *in vitro* fertilization and surrogacy.

Utah enacted a measure providing children conceived and later born using the donated human eggs and sperm with access to certain donor information.

Virginia repealed a law related to the testing of human gametes.

### *Surrogacy:*

At least six states including California, Maine, Maryland, Minnesota, New Jersey, and New York considered measures allowing or regulating (*i.e.*, implicitly sanctioning) gestational surrogacy.

### *Embryo Adoption:*

Two states considered measures establishing or regulating embryo adoption: Massachusetts and Texas.

### *Human Egg Harvesting:*

Massachusetts considered legislation limiting the donation of gametes (human eggs).

Indiana considered legislation specifying when third parties can be paid for egg retrieval, cryopreservation, transportation, or other aspects of human egg harvesting.

Tennessee considered legislation providing comprehensive reporting requirements for the donation of human gametes.

### ***Healthcare Freedom of Conscience***

Sixteen states considered at least 37 measures impacting the freedom of conscience of healthcare providers, institutions, and/or payers: Alabama, Arizona, Illinois, Iowa, Massachusetts, Michigan, Missouri, Montana, Ohio, New Hampshire, New Mexico, New York, Pennsylvania, Texas, Virginia, and Washington.

#### *Protective Measures:*

At least eight states including Alabama, Iowa, Michigan, Missouri, New Hampshire, New Mexico, Pennsylvania, and Virginia introduced at least nine measures protecting and/or strengthening the conscience rights of healthcare providers, institutions, and/or payers.

Pennsylvania considered a measure that was partially based on AUL model language and protected the conscience rights of healthcare providers and institutions. In New Hampshire, one of only three states without statutory protection for conscience rights, a measure, based on AUL model language, was considered by the House of Representatives.

#### *Coercive Measures:*

At least nine states considered 26 measures threatening the conscience rights of healthcare professionals, healthcare institutions, and/or healthcare payers.

In Illinois, AUL and AUL Action are working to defeat a proposed amendment to the state's *Health Care Right of Conscience Act* that would require pro-life healthcare providers, including pregnancy resource centers, to discuss and provide information about the so-called "benefits" of abortion as a "treatment option" for all pregnant women. The measure would also require healthcare providers to facilitate access to other medical procedures and services that violate their consciences.

At least four states including Arizona, Missouri, New York, and Ohio considered nine measures that would coerce individual conscience.

At least 12 measures were introduced in seven states including Arizona, Massachusetts, Missouri, Michigan, Ohio, Pennsylvania, and Texas requiring healthcare professionals and

institutions providing care to victims of sexual assault to offer and to dispense so-called “emergency contraception,” which includes drugs and devices with known post-fertilization (*i.e.*, life-ending) mechanisms of action.

At least six measures were introduced in Ohio, New York, Texas, and Washington that would have required health insurance plans to include coverage for so-called “emergency contraceptives.”

In an obvious attempt to stigmatize employers like Hobby Lobby that object to paying for life-ending drugs and devices that are misleadingly labeled as “contraception,” a measure was introduced in New Hampshire that would have required an employer to prominently tell job applicants if its insurance plan covers some, but not all, FDA-labeled “contraceptives.”

New York and Virginia introduced measures purportedly preventing discrimination based on an employee’s “reproductive decision making,” but which were, in reality, thinly-veiled attacks on the conscience rights of religious employers.

#### *Conscience Rights and Assisted Suicide:*

The push to legalize and/or expand assisted suicide raises serious concerns for physicians and pharmacists with religious or moral objections to participating in a patient’s death. At least two states – Montana and Washington – considered measures imposing certain legal obligations on a physician when a patient requests assisted suicide or “aid in dying.” The measures contained no recognition of a physician’s conscience or religious objections.

In California, legislation legalizing assisted suicide initially required that a pharmacist “shall” dispense life-ending drugs. (The measure was later amended to provide that a pharmacist “may” dispense life-ending drugs.)

In New York, one measure legalizing assisted suicide provided limited protection for physicians not to participate, while another measure would have prohibited pharmacists from refusing to dispense a lethal drug solely for philosophical, moral, or religious reasons.

### ***End of Life***

In 2015, states considered at least 370 bills concerning the end of life. This represents a nearly two-fold increase from 2014 activity levels.

### *Assisted Suicide and Euthanasia:*

At least 29 states and the District of Columbia considered measures related to assisted suicide: Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming. This represents more than a two-fold increase from 2014, when 11 states considered such measures.

Measures in the District of Columbia and 25 of these states sought to explicitly legalize assisted suicide: Arkansas, California (passed first committee), Colorado (failed), Connecticut (failed), Delaware, District of Columbia, Hawaii (failed), Iowa, Kansas, Maine (passed first committee), Massachusetts, Maryland (hearings held), Minnesota, Missouri, Montana (failed), Nevada, New Hampshire (failed), New Jersey (passed first chamber and second committee), New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island (failed), Utah (failed), Wisconsin, and Wyoming (failed). This represents a more than three-fold increase from 2014 activity levels when only 7 states considered measures legalizing assisted suicide.

A New Hampshire measure to establish a study of end-of-life decisions, including assisted suicide, was vetoed by Governor Maggie Hassan, who stated she fears that “the goals of this bill [would] take New Hampshire down a precarious path.”

Alabama (based on AUL model language), North Carolina, and Virginia considered measures criminalizing assisted suicide, while Montana considered a measure providing that consent is not a defense to prosecution for physician-assisted suicide.

Oregon and Washington considered modifications to existing laws legalizing assisted suicide. Specifically, Oregon considered a measure expanding what is considered a “terminal disease” to include a disease that will likely cause death within one year (as opposed to the current requirement of 6 months), while Washington considered a measure expanding the number of options that must be discussed with a patient considering assisted suicide.

Vermont repealed a sunset provision in its *Death with Dignity Act*.

Arkansas, Georgia, and Utah enacted measures preventing the denial of insurance coverage for prescribed (non-lethal) treatment when a person has a terminal illness. Oregon also considered measures prohibiting healthcare providers and health insurers from denying prescribed health care or reimbursement for the costs of the health care necessary to prevent death based on advanced age.

### *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 five states.

Texas enacted a measure modifying requirements for life-sustaining care. The measure ensures that, in the event a doctor or medical institution does not view continuing treatment to be medically appropriate, a patient continues to receive pain management and artificially administered nutrition and hydration unless that provision is not beneficial to the patient.

Virginia enacted a measure permitting a woman to add specific instructions for life-prolonging procedures when she is pregnant and has been diagnosed with a terminal condition.

*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)):*

Again this year, 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.

At least 29 states and the District of Columbia considered measures related to advance planning documents, with some states considering more than one related measure.

Delaware, Georgia, Kentucky, and Wyoming created a POLST program, while Arkansas, the District of Columbia, Florida, Nebraska, and Ohio considered bills to establish POLST programs.

Arizona enacted a measure providing that a patient's agent, surrogate, or an advance directive trumps a POLST form. California, Hawaii, and Vermont also considered measures to make modifications to their POLST programs.

Maryland enacted two measures modifying its advance directive laws, while Governor Larry Hogan vetoed a third related bill as "duplicative."

Nevada enacted a measure permitting a person to designate a caregiver when admitted to a hospital or in an advance directive, while Oregon enacted a measure providing that declarations for mental health treatment trump other advance planning documents.

### *Pain Management and Palliative Care:*

At least 40 states and the District of Columbia considered measures relating to pain management and palliative care, with some states considering more than one related measure: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

The majority of these provisions addressed palliative care and pain management, with other measures addressing the legalization of medical marijuana, tighter regulation of opiates, nursing home/long-term care facility regulations, insurance coverage for the care of the terminally ill, and insurance coverage for hospice care.

A popular bill this year sought to increase the availability of investigative drugs (*i.e.*, not FDA-approved) for persons with terminal illnesses. These “right to try” measures, which provide patients with expanded opportunities to try investigational medications that have not yet received FDA approval, were introduced in at least 27 states and have been enacted in Illinois (*awaiting signature*), Minnesota, Mississippi, Montana, North Dakota, South Dakota, Tennessee, and Utah.

Oklahoma created a home care, hospice, and palliative care advisory council and enacted hospice regulations.

Several states also established palliative care, quality of life, and/or respite care advisory committees, programs, interdisciplinary task forces, studies, or consumer and professional information and education programs: Alabama, Colorado, Maryland, Massachusetts, Oklahoma, and Texas.