

Overview: *Defending Life 2017*

What's New in the 12th Edition of the Pro-Life Playbook

- Defending Life 2017, along with AUL's 2017 Life List and Life List All-Stars. **reflect the continuing success of our insightful and highly effective Mother-Child strategy** which
 - Is encapsulated in AUL's *Women's Protection Project* and *Infants' Protection Project* and their component legislation
 - Recognizes that abortion harms both mother and child.
 - Exposes the lie propagated by the abortion industry that a woman's interests are often at odds with those of her unborn child.
 - Is the best legislative strategy following the Supreme Court's June 2016 decision in *Whole Woman's Health v. Hellerstedt* (striking down Texas' health and safety standards for abortion facilities)
- The *Women's Protection Project* and *Infants' Protection Project* are compilations of expertly crafted AUL model **legislation that protect women and their unborn children to the greatest extent permitted by the U.S. Constitution and the U.S. Supreme Court's abortion jurisprudence (including *Hellerstedt*)**, providing both immediate legal protection while also laying the groundwork for the day when women reject the fraudulent promises of the abortion industry and see abortion – not as a false panacea – but as a real threat to both their welfare and to their unborn children,
- **The states remain a key battleground in the defense of life.** State legislatures across the country continue to break new ground protecting women and their children from the negative consequences of abortion and ensuring that the abortion industry is subject to medically appropriate regulation and oversight.
- **State legislators continue to rely heavily on AUL experts and AUL model language for assistance in crafting and enacting life-affirming laws.** Since 2011, at least 93 new life-affirming state laws were based, in whole or in part, on AUL model legislation or had other direct AUL involvement in their enactment.
- **Looking forward to 2017, AUL anticipates**
 - That with even more pro-life governors and legislators in office, **states will continue the life-affirming trends of the last six years (2011-2016) and act to protect women and their unborn children from the harms inherent in abortion and from growing abortion industry abuses (as documented in *Unsafe*).**
 - Thus far, in 2017, this has translated to particular interest in requirements that women be informed that chemical abortions can be reversed, limits on discriminatory sex-selection abortions and dangerous late-term abortions, and

requirements that abortion providers comply with medically sound standards for patient care.

- **Growing legislative interest in its innovative *Unborn Infants' Dignity Act* which ensures that all deceased infants receive respectful treatment;** that families are informed of their options for burials for their infants and of the availability of fetal death certificates; and that the bodies of aborted infants are not exploited for scientific or pecuniary gain.

AUL's Women's Protection Project (as revised following the Hellerstedt decision):

The Supreme Court's June 2016 decision in *Whole Woman's Health v. Hellerstedt* invalidated a Texas law mandating that abortion clinics meet the same patient care standards as other facilities performing invasive, outpatient surgeries and requiring that individual abortion providers maintain admitting privileges at local hospitals to facilitate emergency care and the treatment of post-abortive complications. In striking down the law, the five-justice majority placed a clear priority on "mere access" to abortion facilities, accepting at face value the self-serving claims of abortion advocates that enforcement of the Texas requirements would force abortion facilities to close.

The *Hellerstedt* decision and its application by federal and state courts may make it more difficult to enact laws addressing the epidemic of substandard abortion care in America. However, it also provides implicit guidance for pro-life efforts to protect women and their unborn children from the scourge of abortion.

The *Hellerstedt* majority suggests that states may still regulate abortion facilities to ensure some degree of patient safety and to address problems with substandard abortion providers. Importantly, the Court acknowledged that the "Kermit Gosnell scandal," where a Philadelphia abortionist operated a dangerous and unsanitary clinic for years before being investigated and prosecuted for homicide and more than 200 violations of state abortion laws, was "terribly wrong" and involved "deplorable crimes." The Court also specifically acknowledged the importance of abortion facilities being "inspected at least annually" and the inclusion of appropriate enforcement mechanisms, such as civil and criminal penalties, in state abortion regulations.

Importantly, AUL's "mother-child" strategy, which seeks to legally protect and advance the interests of both a mother and her unborn child, is perfectly positioned to advance pro-life objectives in a post-*Hellerstedt* world. The "mother-child" strategy is encapsulated in the *Women's Protection Project*, launched in December 2013, and the *Infants' Protection Project*, introduced in December 2015.

In the wake of *Hellerstedt* and as we enter the 2017 legislative season, AUL has re-envisioned the *Women's Protection Project* to showcase our groundbreaking *Enforcement Module* which promotes comprehensive inspections for abortion facilities and includes the strongest enforcement options for pro-life laws. The new *Women's Protection Project* also promotes abortion regulations and restrictions that will survive judicial review under *Hellerstedt*, specifically:

- *Enforcement Module* provides options for the criminal, civil, and administrative enforcement of all abortion-related statutes and details enhanced inspection requirements for abortion facilities.
- *Women's Right to Know Act* provides a woman, at least twenty-four (24) hours before an abortion, with detailed information regarding her medical and psychological risks; her child's gestational age, development, and pain capability; and the abortion procedure itself.
- *Coercive Abuse Against Mothers Prevention Act* prohibits coercing a woman to undergo an abortion, as well as requires abortion facilities to post signs concerning coercion and to report suspected cases of coercive abuse.
- *Women's Health Protection Act* requires abortion facilities to meet medically appropriate health and safety standards designed specifically for such facilities and based on the abortion industry's own treatment protocols. State laws based on and similar to the *Women's Health Protection Act* have been upheld by federal courts.
- *Abortion Reporting Act* requires abortion providers to report demographic information about women undergoing abortions and mandates that any medical provider treating abortion-related complications report information about those complications to state officials.
- *(NEW) Abortion-Inducing Drugs Information and Reporting Act* requires abortion providers to inform women about the efficacy and dangers of abortion-inducing drugs and mandates that women be told that drug-induced abortions can be reversed. The Act also requires the reporting of complications related to drug-induced abortions.
- *Parental Involvement Enhancement Act* strengthens state parental involvement laws with, among other elements, requirements for notarized consent forms and for

identification and proof of relationship for a parent or guardian providing the requisite consent, as well as more stringent standards for judicial bypass proceedings.

- ***Child Protection Act*** strengthens requirements that abortion facilities report all cases of suspected statutory rape and sexual abuse, mandates the collection of forensic evidence for certain abortions performed on minors, and prohibits a third-party from aiding or abetting a minor in circumventing her state's parental involvement law.
- ***(NEW) Joint Resolution on the Epidemic of Substandard Abortion Practices and Abortion Industry Efforts to Mainstream Dangerous Abortion Facilities*** provides statistics on and state-specific evidence of dangerous abortion care and medically substandard abortion facilities; criticizes the Supreme Court's decision to ignore such evidence in *Hellerstedt*; and calls on Congress to reject any federal legislation that prioritizes "mere access" to abortion over women's health and safety.

AUL's Infants' Protection Project:

Abortion is a story that is often told without discussing who is involved. Pro-abortion feminists talk about "empowerment" or "choice." Abortion industry lobbyists seek to compel taxpayer funding for a Supreme Court-conferred "right." The increasingly unpopular healthcare law euphemistically refers to "women's healthcare services." Carefully crafted language is routinely used to obscure the reality that a human life hangs in the balance.

Acknowledging the humanity and promise of every child including those yet unborn, Americans United for Life launched the *Infants' Protection Project* in December 2015.

A complement to AUL's hugely successful *Women's Protection Project*, the *Infants' Protection Project* showcases AUL's uniquely effective "mother-child strategy" and exposes the lie propagated by the abortion industry that a woman's interests are often at odds with those of her unborn child.

It is also a natural extension of AUL's decades-long leadership in advocating for the legal protection of unborn children both within and outside the context of abortion. Such protection is possible, even in the face of the Supreme Court's evolving abortion jurisprudence. **For example, writing on the constitutionality of laws limiting abortion, Supreme Court Justice Anthony Kennedy has acknowledged "that medical procedures must be governed by moral principles having their foundation in the intrinsic value of human life, including life of the unborn."**

Model legislation featured in the *Infants' Protection Project* provides legal recognition and

protection to unborn children and affirms their humanity:

- ***Unborn Infants Dignity Act*** ensures that every mother of a deceased unborn infant is given the opportunity to ensure that her child is treated with dignity and respect and that the bodies of aborted infants are not exploited for scientific or pecuniary gain.

Deceased unborn infants deserve the same respect as other human beings. Tragically, many states do not ensure that miscarried, stillborn, or aborted infants are treated with dignity such as receiving proper burials. Many states also fail to require fetal death reporting and the issuance of fetal death certificates for unborn infants lost early in pregnancy, and do not offer grieving parents “Certificates of Birth Resulting in Stillbirth” or similar legal documents. The *Unborn Infants Dignity Act* remedies these deficiencies.

- **“*Missouri Preamble*”** provides that each life begins at conception; that unborn children have protectable interests in life, health, and well-being; and that parents have protectable interests in the life, health, and well-being of their unborn children. Further, the Act provides that all state laws shall be interpreted to extend every protection to unborn children not prohibited by the U.S. Constitution and Supreme Court jurisprudence. It is based on a 1986 Missouri law.
- ***Partial-Birth Abortion Ban Act*** bans the unnecessary and barbaric partial-birth abortion procedure and is modeled after the federal *Partial-Birth Abortion Ban Act*, which was upheld by the Supreme Court in *Gonzales v. Carhart*.
- ***Prenatal Nondiscrimination Act*** bans abortions performed solely for reasons of sex-selection or genetic abnormalities such as Down Syndrome.
- ***Perinatal Hospice Information Act*** ensures that every woman considering an abortion after receiving a life-limiting fetal diagnosis is aware of the availability of perinatal hospice.
- ***Born-Alive Infant Protection Act*** protects all infants born alive during abortions or attempted abortions and includes appropriate enforcement mechanisms and penalties.
- ***Unborn Wrongful Death Act*** permits a wrongful death claim in the death of an unborn child, at any stage of development or gestation, remedying both the lack of wrongful death laws in some states and the lack of comprehensive protection provided by most existing state laws.

AUL's Prolific Legislative "Footprint"

- Americans United for Life and AUL Action continue to spearhead state legislative efforts to enact life-affirming laws that build on significant gains over the last several years and that lay the groundwork for future victories in 2017 and beyond.
- AUL remains the leading advocate for laws (1) protecting women and girls from the physical and psychological harms of abortion and from the dangerous and substandard facilities and practices that are all too common in America's abortion industry (the ***Women's Protection Project***); and those (2) providing legal recognition and protection for unborn infants (the ***Infants' Protection Project***).
- ***AUL Victories and Influence: Since 2011, at least 93 new life-affirming state laws were based, in whole or in part, on AUL model legislation or had other direct AUL involvement in their enactment.***
- In 2016, three measures based on AUL model legislation were enacted and one AUL model was adopted.

Enacted Measures:

- **Alabama** enacted H 45 the *Unborn Infants Dignity Act* which includes AUL model language.
- **Idaho** enacted S 1404 the *Unborn Infants Dignity Act* which includes AUL model language.
- **Indiana** enacted H 1337 to prohibit prenatal discrimination regarding race, sex or diagnosis of disability and to require perinatal hospice information. The bill includes AUL model language and AUL provided a letter of support during the legislative process.

Resolutions Adopted:

- The **Georgia** House adopted a resolution based on AUL model language to recognize the contributions of pregnancy resource centers.
- ***Overall Pro-Life Progress – Notable Trends in 2016:***
 - **43 states considered more than 360 abortion-related measures in 2016. Notably, a majority of states considered measures related to federal and**

state funding of abortion and abortion providers. Efforts to ensure that tax dollars do not pay for abortion and are not allocated to abortion providers increased after yet another scandal was uncovered at Planned Parenthood, the nation's largest abortion chain, which receives over \$500 million in taxpayer funding each year.

- Other significant abortion-related measures in 2016 included late-term abortion limitations, prohibitions on abortions based on sex, race or genetic abnormality, ultrasound requirements, and support for abortion alternatives.
- Undoubtedly sparked by the attention drawn last summer to the abortion industry's harvesting of the body parts of aborted children, **states also considered measures providing for the dignified treatment of the bodies of deceased infants; prohibiting the sale, transfer, use, or donation of bodily remains of aborted unborn children; and regulating experimentation on deceased unborn infants.** Alabama and Idaho each enacted an *Unborn Infants Dignity Act* based on AUL's model legislation.
- While 2016 abortion-related measures were overwhelmingly life-affirming, there was a noticeable increase in measures seeking to undermine existing state law and policies regulating or limiting abortion. **States considered at least 40 measures undermining life-affirming laws or supporting the so-called "right" to abortion.**

2017 AUL All-Stars

Four states earn top marks (being in the Top 10) in the overall ranking, in ranking their implementation of the Women’s Protection Project, and in evaluating their implementation of the Infants’ Protection Project.

These four states are the 2017 AUL All-Stars:

Arizona: Over the last several years, Arizona has garnered national attention for its efforts to protect women from the well-documented harms inherent in abortion and from the substandard care given at some abortion clinics. **Importantly, it has improved its enforcement of existing abortion laws and ensured that abortion facilities are regularly and rigorously inspected.** In 2016, Arizona enacted measures to ensure the integrity of taxpayer dollars and to prohibit the use of the broken bodies of aborted babies for experimentation or research.

Arkansas: Arkansas has been a leader in implementing the Mother-Child strategy, enacting laws that protect both mother and child from the harms inherent in abortion. It maintains strong informed consent and parental involvement requirements, comprehensive health and safety requirements for abortion facilities, and effective limits on state taxpayer funding for abortion and abortion providers.

Mississippi: Over the last several years, AUL has worked with Mississippi to enact numerous life-affirming laws including its ban on abortions at or after 20 weeks (based on maternal health concerns and fetal pain), its informed consent law, and comprehensive protection for healthcare freedom of conscience.

Oklahoma (#1 overall): Protecting women and their unborn children remains a primary focus of Oklahoma legislators. Even in the face of threatened litigation by abortion advocates, Oklahoma continues to enact comprehensive and protective laws and regulations, counting it more important to protect women from a predatory abortion industry which values profits over women’s lives and health.

Overall Life List (2017 Defending Life Ranking)

Most Protective States

1. **Oklahoma (best; second year in a row; 2017 All-Star)**
2. **Kansas (same as last year)**
3. **Louisiana (same as last year; previous top state (6 years))**
4. **Arkansas (same as last year; 2017 All-Star)**
5. **Arizona (2017 All-Star)**
6. **South Dakota**
7. **Mississippi (2017 All-Star)**
8. **Georgia**
9. **Michigan**
10. **Pennsylvania**

Least Protective States

1. **Washington (worst state for 8th year in a row)**
2. **California (fell two spots; #4 last year)**
3. **Vermont**
4. **New Jersey**
5. **Oregon**
6. **Nevada**
7. **New York:**
8. **Connecticut**
9. **Massachusetts**
10. **Hawaii**

NOTE: Changes in the ranking criteria (to reflect the full IPP, to emphasize the updated WPP, to reflect laws enjoined or struck down in litigation, etc.) resulted in some movement among states (e.g., some former top 10 states dropping out).

***2017 Life List, Women’s Protection Project,
and Infants’ Protection Project Rankings***

2017 Life List	2017 WPP Rankings	2017 IPP Rankings
1. Oklahoma	1. Arizona	1. Oklahoma
2. Kansas	2. Arkansas	2. Arizona
3. Louisiana	3. Mississippi	3. South Dakota
4. Arkansas	4. Missouri	4. Kansas
5. Arizona	5. Oklahoma	5. Louisiana
6. South Dakota	6. Texas	6. North Dakota
7. Mississippi	7. Ohio	7. Mississippi
8. Georgia	8. Tennessee	8. Missouri
9. Michigan	9. Alabama	9. Arkansas
10. Pennsylvania	10. Indiana	10. Indiana

- All three lists are similar, affirming the astute and effective nature of AUL’s unique Mother-Child strategy and innovative *Women’s Protection Project* and *Infants’ Protection Project*.
 - 4 states (AZ, AR, MS, and OK) are on all three lists.

AUL's 2017 State Rankings

1.	Oklahoma	26.	Florida
2.	Kansas	27.	Rhode Island
3.	Louisiana	28.	Minnesota
4.	Arkansas	29.	Colorado
5.	Arizona	30.	Illinois
6.	South Dakota	31.	Delaware
7.	Mississippi	32.	West Virginia
8.	Georgia	33.	New Hampshire
9.	Michigan	34.	Alaska
10.	Pennsylvania	35.	Iowa
11.	Missouri	36.	Maine
12.	Indiana	37.	Wyoming
13.	North Dakota	38.	Maryland
14.	Ohio	39.	New Mexico
15.	Tennessee	40.	Montana
16.	Nebraska	41.	Hawaii
17.	Texas	42.	Massachusetts
18.	Virginia	43.	Connecticut
19.	Kentucky	44.	New York
20.	South Carolina	45.	Nevada
21.	Idaho	46.	Oregon
22.	North Carolina	47.	New Jersey
23.	Alabama	48.	Vermont
24.	Wisconsin	49.	California
25.	Utah	50.	Washington