



Total Abortion Bans

by Nicolas Reynolds and Alexander Ioannidis

Since 1973, pro-life Americans have prioritized overturning *Roe v. Wade* and its companion *Doe v. Bolton*, two U.S. Supreme Court decisions that made abortion on-demand legal in all 50 states. The ruling in *Roe*, which in the words of late Justice Ruth Bader Ginsburg, “entirely removed the ball from the legislator’s court,” prevented countless pieces of state-level pro-life legislation from coming into effect.¹ But that has not stopped pro-life state legislators from passing pro-life legislation.

In 1992, an effort from the Pennsylvania State Legislature to challenge the *Roe* decision led to *Planned Parenthood v. Casey*. Sadly, the Court once again usurped the power of state legislatures to regulate abortion, but pro-life state legislators have remained motivated to change this.

Since 2018, 19 states around the country have seized the opportunity to introduce legislation that bans nearly all abortions and directly challenges *Roe* and *Casey*.

In 2019 and 2021, Alabama and Arkansas successfully passed legislation banning almost all abortions (Alabama H.B. 314, 2019; Arkansas S.B. 6, 2021). These pro-life bills recognize that all persons—not just persons outside the womb—have the right to life. They define life as beginning at the moment of conception and call upon the Supreme Court to overturn *Roe v. Wade*.

Although both of these bills have been blocked in lower courts and are pending litigation, their passage signaled to the Supreme Court that states are demanding the power to make their own laws regarding abortion.

In addition to Alabama and Arkansas, **three** other states—Colorado, Iowa, and Mississippi—have introduced similar abortion bans. Colorado’s ban, HB21-1017 (2021), is nearly identical to those of Alabama and Arkansas, but instead of asking the Supreme Court to overturn *Roe*, it asserts the 10th Amendment to nullify any federal laws that would keep Colorado from protecting preborn children within the state. Also introduced this year, Iowa H.F. 267 (2021) seeks to establish that life begins at conception. Similarly, in Mississippi, H.B. 338 (2021) looks to ban abortion at all stages.

Oklahoma enacted H.B. 1102, a bill making it unprofessional conduct to carry out an abortion. This bill will cause physicians who carry out or induce abortions to lose their medical licenses for at least one year. Although not as strong as Arkansas and Alabama’s bans, this bill is notable because it is the only total abortion ban that has passed outside of Alabama and Arkansas.

Five other states—Kansas, Missouri, North Carolina, West Virginia, and Wisconsin—have taken another approach. They have attempted to amend their state constitutions. These amendments would guarantee equal rights to preborn humans. In North Carolina, the Republican-controlled state legislature introduced H.B. 158 (2021), a constitutional amendment that seeks to outlaw abortion within the state. In Kansas, after the state supreme court wrongly interpreted their constitution to grant a right to abortion, lawmakers introduced S.C.R. 1604 (2019), which similarly granted preborn citizens of Kansas the same rights as those outside the womb.² In 2020, West Virginia introduced H.J.R. 4, which sought to define the word “person” in the state constitution to include anyone from the point of fertilization or in cases of cloning. That same year, Missouri introduced H.J.R. 28, which sought to change the definition of “person” in the Missouri Constitution to include preborn humans. Wisconsin introduced S.J.R. 86 (2020) and A.J.R. 130 (2020), which sought to remove the word “born” from the state constitution to signify when human rights begin.

Furthermore, **10** states—Alaska (H.B. 206, 2021), Arizona (H.B. 2650, 2021), Idaho (H. 56, 2021), Indiana (H.B. 1539, 2021), Maryland (H.B. 0997, 2021), Missouri (H.B. 2285, 2020), Oklahoma (S.B. 495, 2021), South Carolina (H.B. 4046, 2021), Texas (H.B. 3326, 2021), and Washington (H.B. 2154, 2019)—have introduced bills totally abolishing abortion. These bills assert state sovereignty to abolish and criminalize abortion within the state. They ban abortion from the moment of conception without exception and classify abortion as homicide in the state criminal code, thus treating preborn

children the same as born children. These bills also order the state executive branch to nullify any federal mandate or court opinion that orders the state to allow abortion. However, it should be noted that these bills do *not* accomplish the goal of challenging *Roe* in the courts.

Pro-life activists should be encouraged that, since 2018, nearly 20 states have taken action to attempt to ban most or substantially all elective abortions. Arkansas and Alabama, in particular, are examples for the rest of the country. State efforts to ban abortion must continue. The Supreme Court's decision to review *Dobbs v. Jackson Women's Health* is proof that state legislators' efforts have not gone unnoticed.³ Let us pray for a day when state legislators' efforts are rewarded and the laws of all 50 states protect and defend the right to life of the unborn child in the womb.

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¹ <https://www.washingtonexaminer.com/opinion/op-eds/even-ruth-bader-ginsburg-thought-state-legislators-should-craft-abortion-laws>

² <https://law.justia.com/cases/kansas/supreme-court/2019/114153.html>

³ <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-1392.html>

