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PRO-LIFE
AMERICA

TO: Pro-Life Members of Congress
FR: Marjorie Dannenfelser & Hon. Marilyn Musgrave
RE: *Dobbs* case update
DATE: July 11, 2022

Introduction + Thank You

Welcome back from the 4th of July recess!

For pro-life Americans across the country, this year's Independence Day was especially momentous following the June 24th *Dobbs* decision in which the Supreme Court restored constitutional principles – returning the issue of abortion back to the people to decide through their elected representatives instead of being decided by unelected judges.

On behalf of the millions of pro-life Americans across the country, we thank you for bringing our movement and America herself to this new era, free from a great weight that has been undermining the best impulses of our country for almost 50 years.

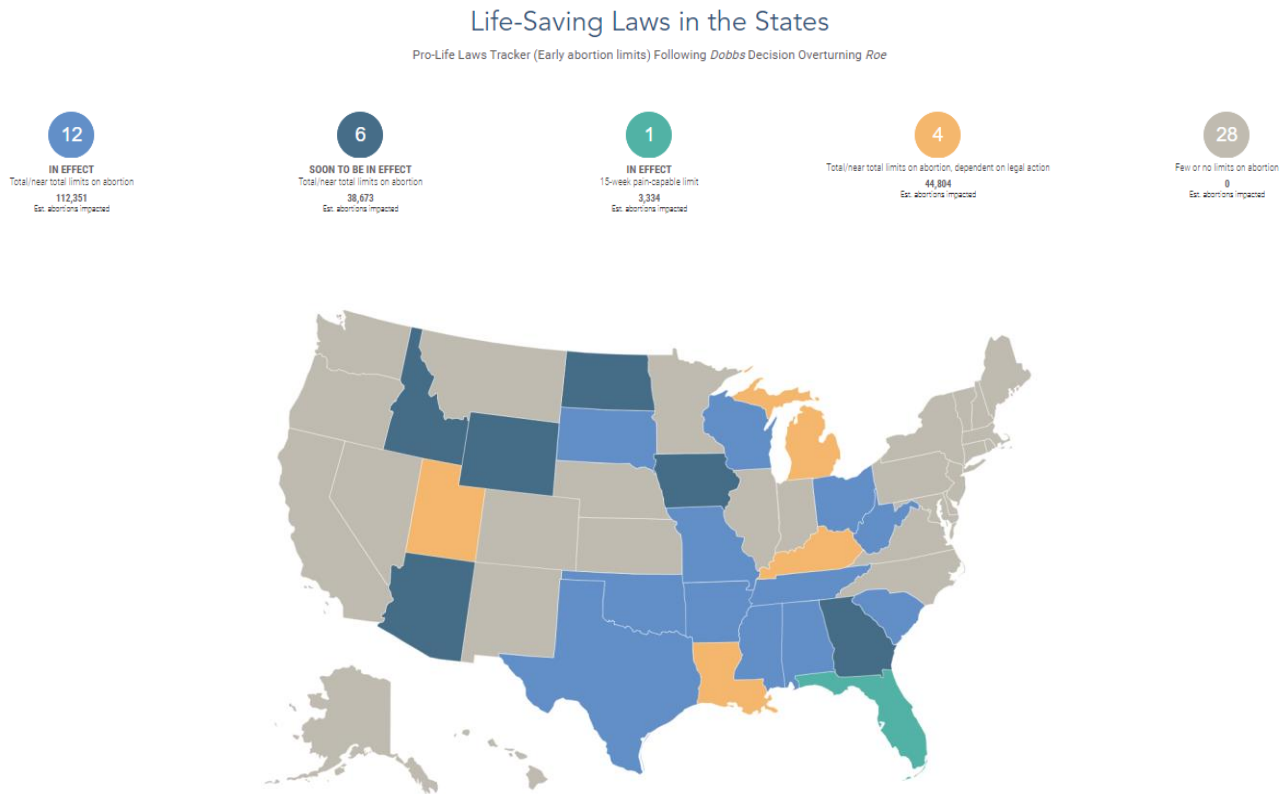
We hope you find this memo helpful in unpacking what's taken place since the *Dobbs* decision and what's to come in the weeks and months ahead.

State of the States

Since the June 24th *Dobbs* decision, pro-life states have sprung into action, restoring protective pro-life laws that were unenforceable or blocked under the *Roe* regime. Here's a [breakdown](#) of the “state of the states” as of today:

- **13 states** have very protective pro-life limits in effect as of today. These laws protect unborn children in their earliest stages, such as from conception or when the child's heartbeat can be detected.
- **6 states** have very protective pro-life limits that are soon to go into effect – such as states with trigger laws that take effect 30 days after *Roe*'s reversal, or states that are having previous injunctions lifted in court.
- **3 states** have very protective pro-life laws that are currently being litigated at the state level. Hopefully these laws will soon go into effect, barring any activist state courts that “find” a right to abortion in their state constitution.
- **1 state** has a 15-week limit in effect, which is when science tells us the unborn child can feel excruciating pain. 15-week limits were unconstitutional prior to the *Dobbs* ruling.
- **27 states plus the District of Columbia** continue to have few or no limits on abortion and have largely been unaffected by the *Dobbs* ruling in terms of any gestational limits.

In the 13 states with very protective limits in place, we estimate that approximately 112,351 abortions will be prevented in those states annually, resulting in a tremendous number of lives saved. Of course, this does not take into account those who travel to another state or take dangerous chemical abortion drugs being pushed by the abortion lobby and their allies in the media. But without a doubt, many unborn children and mothers will be saved by these life-affirming laws, only made possible by the *Dobbs* decision.



➤ **Key resource:** See SBA’s [interactive map](#) tracking state-by-state action on a daily basis

Response from Congressional Democrats: Trying to Pass the “Abortion On-Demand Until Birth Act”

As expected, pro-abortion Democrats are apoplectic about the *Dobbs* decision. Congressional Democrats have already scheduled five hearings on the topic, and after many public complaints from pro-abortion activists and fellow Democrats that he wasn’t doing enough, President Biden issued executive action on Friday that seeks to put the weight of the federal government behind abortion.

While Democrats seek to set traps through hearings and floor votes to try to get pro-life Members of Congress to say damaging things, pro-life Members of Congress should stay focused on exposing the Democrats’ ultimate goal: Passing the Abortion On Demand Until Birth Act.

Democrats are so determined to enact this extreme legislation (which they deceptively call the Women's Health Protection Act) that after the *Dobbs* decision President Biden called on the Senate to create a special carve out of the filibuster to get it sent to his desk.

The House has already voted on the Abortion On Demand Until Birth Act once back in September 2021, while the Senate has voted on it twice – once in February 2022 and again after the leaked *Dobbs* draft in May 2022. The House is scheduled to take up the bill once more this week, and more floor votes are expected between now and the election.

While Democrats try to portray this legislation as a codification of *Roe*, in reality it goes far beyond *Roe* – imposing abortion on demand until birth on all 50 states and eliminating nearly all pro-life laws, including those that were allowed under the restrictive *Roe* regime such as parental involvement laws, and even limits on late-term abortion. That's why in the Senate even some pro-*Roe* Senators voted against it – because they knew it went way beyond *Roe*.

The Abortion On Demand Until Birth Act has very little public support, as demonstrated by the polling reviewed below. Pro-Life Members of Congress should focus their messaging on this Democratic extremism and avoid traps laid by the other side and their allies in the media.

➤ **Key Resource:** [SBA memo](#) detailing the Abortion On Demand Until Birth Act

Response from Congressional Republicans – Federal Role, Gestational Limits

As detailed above, it is vitally important that pro-life Members of Congress highlight the abortion extremism of Democrats, who support abortion on demand, up until the moment of birth, paid for the taxpayer.

However, pro-life constituents also want to know what gestational limits a GOP-controlled Congress would pursue in wake of the *Dobbs* decision.

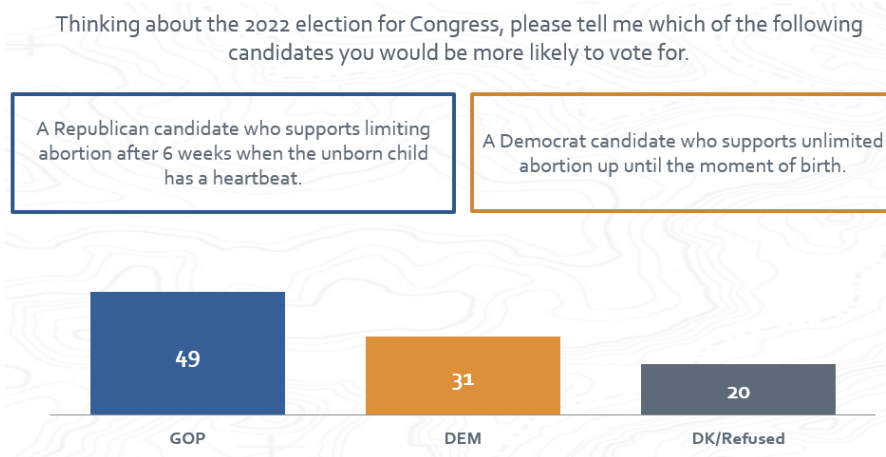
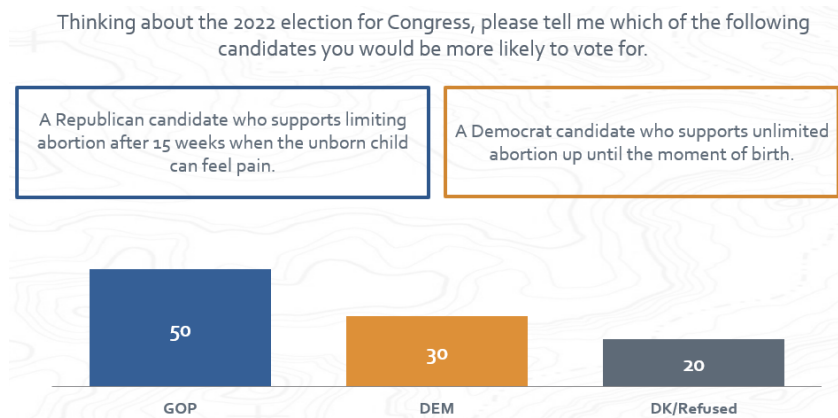
First and foremost, it's important to note that federal pro-life lawmakers must not abdicate their role in defending life following *Dobbs*. The rights of fragile unborn children cannot simply be “left to the states,” especially considering that at least 20 states or more are expected to continue to have policies of abortion on demand. According to our estimates, these states account for approximately 55% of abortions that take place nationwide. That's why pro-life Members of Congress have a duty to advocate for legislation recognizing the rights of unborn children, saving as many lives as possible, and building consensus to save more. Doing so will also draw a necessary and sharp contrast with the extreme Schumer-Pelosi agenda of abortion on demand until birth.

The precedence for federal gestational limits has already been firmly established. Both chambers of Congress (while under GOP control) have voted repeatedly and enthusiastically in favor of the Pain-Capable Unborn Child Protection Act. Further, Congress has previously enacted the federal ban on partial-birth abortions which was signed into law and upheld by the Supreme Court.

In the new *Dobbs* era, pro-life Members of Congress in each chamber will need to build consensus for what gestational limits to advance to the floor for a vote. SBA Pro-Life America supports the most

ambitious legislation that can achieve consensus, whether it may be a heartbeat limit, a pain-capable limit, or a similarly protective gestational limit.

Not only are these limits good policy, but they are also good politics. According to [publicly released](#) polling commissioned by SBA and conducted by OnMessage in May of 2022, voters in battleground states prefer candidates – by double-digit margins –who support these limits over Democrats who hold the position of abortion on demand until birth:



This battleground polling – conducted after the leak of the *Dobbs* draft decision – is further affirmed by the post-*Dobbs* ruling polling detailed below.

Overall, we look forward to working with our pro-life Congressional allies in advancing federal protections for unborn children in this exciting new era.

Post-*Dobbs* Polling

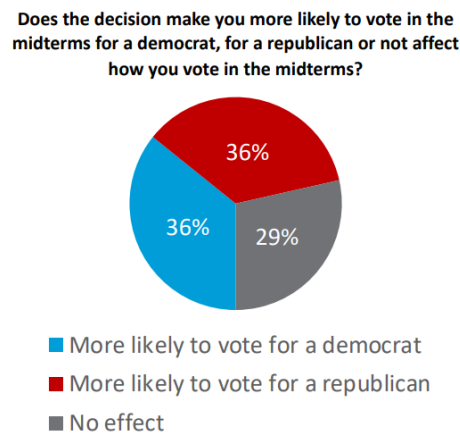
Public opinion polls released by the media following the *Dobbs* ruling show majority opposition to the ruling. However, this is unsurprising given that for decades Americans have not understood the *Roe* decision and its impacts. The results are more encouraging when you dig a bit deeper, as they clearly demonstrate that the majority of Americans support limits that were not allowed under *Roe*.

The Harvard/Harris national poll of registered voters is a good example of this dynamic. The [poll](#), which was conducted June 28-29 just days after the *Dobbs* ruling, found the following:



As the polling demonstrates, opposition to reversing *Roe* comes in at 55% to 45%, but when asked about specifics, a combined 49% of Americans believe that abortion should be limited, at most, to up to six weeks. **When you add Americans who support a 15-week limit, support for limits that were not allowed under *Roe* grows to a commanding 72% -- while only 10% of Americans support the Democratic position of abortion until the moment of birth.**

Further, the same poll shows a complete wash in terms of how the ruling impacts party preference for the election:



- **Key Resource:** WSJ [editorial](#), “Will Abortion Save the Democrats? A new poll says 75% of women favor abortion policies that *Roe v. Wade* deemed illegal.”

Post-Dobbs Messaging Resources

SBA Pro-Life America has conducted extensive polling, message testing, and focus groups. We have several *Dobbs* messages resources available for you.

First and foremost, we have our top four messages to keep pro-lifers on offense. Below are the top four messaging points, and we have talking points available here for each top message. Please see our full messaging document [here](#).

- 1) The *Dobbs* decision means that the American people are able to decide the issue of abortion through their elected officials in the states and in Congress. It does NOT mean a nationwide ban on abortion.
- 2) Hammer Democrats for their extremist position in favor of abortion on demand, even painful late-term abortions when the child can feel excruciating pain.
- 3) Focus on the humanity of the unborn child as revealed by milestones in his or her development – all rooted in modern medicine and science.
- 4) Demonstrate that the pro-life movement cares not only about the unborn child, but about the mother as well and providing the resources necessary for her to choose life.

Second, we have resources available to help answer tough/hostile questions from the media and abortion advocates. Below are some hostile questions and quick responses. For our more detailed Q&A document, please contact [Jamie Dangers](#).

Hostile Question	Short Response
Doesn't the <i>Dobbs</i> decision threaten dozens of other precedents founded on a privacy right, such as gay marriage or contraception?	No. Justice Alito explicitly addresses this claim in the majority opinion, making clear that the opinion ONLY impacts abortion, and argues that abortion is “fundamentally different” from other privacy issues such as contraception and marriage because it destroys the life of a distinct human being.
The <i>Dobbs</i> decision means abortion can be criminalized – won't you criminalize women who seek them?	No. The pro-life movement has always held that there are at least two people harmed in every abortion, the unborn child and the mother. We oppose prosecuting women who have undergone an abortion. It is abortionists and chemical abortion suppliers who should be held accountable.
Doesn't the pro-life movement oppose contraception, and won't it work to make contraception illegal in wake of <i>Dobbs</i> ?	No. This is scaremongering; not a single state legislature or Congress is debating making contraception illegal. The pro-life movement is opposed to abortion, and contraception by definition is not abortion – it is prevention of conception.
By making abortion illegal, won't you also criminalize IVF and fertility treatments?	No. This is scaremongering. Not a single state legislature or Congress is debating making fertility treatments or IVF illegal. The pro-life movement is about stopping the intentional destruction of unborn human life.

Won't the <i>Dobbs</i> decision and subsequent abortions bans mean women won't be able to get treatment for ectopic pregnancies or miscarriages?	No. Miscarriages are not abortion. And treatments for ectopic pregnancy are not the same procedures used by induced abortions, which even Planned Parenthood admits.
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Finally, SBA Pro-Life America has a professionally produced messaging training video available to allies. Please contact [Jamie Dangers](#) for access to the training video.

- **Key Resource:** [Facts not Fear](#): A website responding to individual lies from abortion advocates with the facts from CLI medical experts
- **Key Resource:** [CLI Fact Check](#): *Dobbs* Will Not Impact Life-Saving Medical Care for High Risk or Ectopic Pregnancies

Conclusion

Thank you again for being a courageous defender of the most innocent in our society. We celebrate the *Dobbs* decision with you and most importantly, we celebrate the lives that will be saved under the law because of it. There is much work to do, but the work can finally now be done because of the *Dobbs* decision. Please do not hesitate to contact us with any questions or any resources you need as we continue this battle together.