



T E X A S
Alliance for Life

Changing Hearts, Saving Lives Since 1988

Senate Committee on State Affairs

Testimony of Joe Pojman, Ph.D., Executive Director
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My name is Dr. Joe Pojman. I am the founder and executive director of the Texas Alliance for Life, a non-partisan, non-sectarian, pro-life organization committed to protecting the fundamental right to life of all innocent human beings from conception until natural death.

I have lobbied for pro-life issues in the state Capitol for more than 33 years, and under my and the our board's direction, Texas Alliance for Life has helped bring into law many major pro-life bills, including the parental notice and consent laws, the Prenatal Protection (personhood) Act, the Women's Right to Know bill, the Sonogram law, the Choose Life license plate bill, defunding Planned Parenthood, the 20-week ban and safety regulations in House Bill 2, protecting women from sex trafficking at abortion facilities, the Alternative to Abortion program, and many others.

I have attached a list of pro-life bills passed by this Legislature and signed into law by Governors Perry and Abbott. The impressive list, called "Texas Abortion-Related Laws," is 10 pages long. The results have been dramatic. Just since 2010, abortions in Texas have plummeted from 77,000 per year to 52,000 per year, a 25,000 drop in yearly abortions.

Each of these legislative accomplishments moved the ball forward in protecting lives to the extent allowed under the current Supreme Court precedent.

Viability of the Unborn Child

Since the 1973 *Roe v. Wade* and 1992 *Planned Parenthood v. Casey* Supreme Court decisions, the reality is that a state's ability to ban or even to regulate abortion is extremely limited. Your hands are severely tied. That is the terrible and tragic reality.

Under current Supreme Court precedent, your ability hinges on the "viability" of the unborn child, his or her ability to live outside the womb if born alive.

In *Casey*, the Court declared:

Before viability, the State's interests are not strong enough to support a prohibition of abortion or the imposition of a substantial obstacle to the woman's effective right to elect the procedure. Second is a confirmation of the State's power to restrict abortions after fetal viability, if the law contains exceptions for pregnancies which endanger the woman's life or health.

Viability is not a fixed date for all pregnancies. It varies for each child and for the medical institution where the birth may occur. We are hearing of viability at 23 weeks (measured from the first day of the last menstrual period or LMP) for a healthy baby born at an excellent hospital and sometimes even at 22 weeks.

For some unborn babies with severe fetal anomalies, viability never occurs because the terminal illness is too great for the baby to survive to birth, during birth, or afterward.

Bans, Regulations, and an Undue Burden

Hence, Texas may not ban the abortion of a non-viable child. Further, Texas may regulate abortion before viability only to advance the health of the mother and to protect the life of the child, but not such that there is a

substantial obstacle to abortion, also called an “undue burden.” The Court wrote that a regulation poses an “undue burden” when:

[the] regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.

In *Casey* the Supreme Court referred to this as the “critical fact.” After viability, a state may regulate and even ban abortion. Before viability, a state has a legitimate interest in protecting the health of the woman and the child's life as long as a regulation is not an undue burden or a substantial obstacle in the path of a woman from seeking an abortion.

We are hopeful, but not certain, that the Supreme Court may be willing to take a fresh look at *Roe* and *Casey* -- unencumbered by precedent -- and give you legislators more latitude to protect unborn children before viability.

We have been told that there are as many as 60 cases related to the constitutionality of state abortion bans and regulations that are in the pipeline. The court could take up any of these as a vehicle to revisit *Roe* and *Casey*.

The Human Life Protection Act

Our top priority this session is the Human Life Protection Act. The Human Life Protection Act is a complete ban on abortion, beginning at fertilization, that will go into effect when and to the extent the Supreme Court reverses or modifies *Roe* and *Casey*.

If the Supreme Court changes its precedent and allows states to protect non-viable unborn children, Texas needs a new law to ban abortion to the extent allowable under the new precedent. Unfortunately, the State cannot rely on the pre-*Roe* statutes; a state court might find that those laws have indeed been repealed by implication.

Under the Human Life Protection Act legislation, any person who performs an abortion (except to save the mother's life) commits a first-degree felony. A woman on whom an abortion is performed or attempted may not be prosecuted.

The law would go into effect 30 days after the Supreme Court issues a judgment overruling, wholly or partly, *Roe v. Wade* or *Planned Parenthood v. Casey*, thereby allowing states to prohibit abortion.

Similar bills were introduced in the 86th Session by Senator Paxton (SB 2160) and Representative Caprigione (HB 1685, HB 2350).

Ten states have passed essentially the same laws: Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, South Dakota, Tennessee, and Utah.

Texas' Pre-Roe Laws

With the 1973 *Roe* ruling, the Supreme Court blocked Texas' prohibition on abortion first passed in 1854. That statute (as somewhat modified through the years) had been used to prosecute illegal abortion providers numerous times. The most recent conviction was upheld by the Court of Criminal Appeals in *Thompson v. State*, 493 S.W.2d 913 (1971). Women on whom abortions were performed were never prosecuted.

The legislature has never explicitly repealed the pre-*Roe* statutes. While not printed, they still exist in Vernon's Civil Statutes (Chap. 6-1/2, Art. 4512.1-4, 6.) However, a 5th Circuit Court of Appeals opinion found the Legislature has subsequently repealed the pre-*Roe* statutes by implication by passing laws that govern abortions on minors, regulate abortion facilities, and ban state funding for abortions in Medicaid. See *McCorvey v. Hill* (2004).

We would also like to see other bills related to abortion:

- Improved conscience protection for medical workers.
- A fix to last session's SB 22 to fully implement the intent of the Legislature.

- Assure that abortion-inducing drugs are not used in an unsafe manner.

Pre-Viability Abortion Bans

We put together a helpful summary of state laws that ban pre-viability abortions and their outcomes in state and federal courts. Please see the 10-page chart at the end called "Status of States' Pre-Viability Abortion Bans."

Generally, of the numerous state pre-viability bans, virtually none that have been challenged in federal or state courts has survived that challenge. They are unfortunately saving no lives. Those include:

- Heartbeat bans,
- Bans on abortion at a specific number of weeks (before viability),
- Laws banning abortions because of the sex, race, or disability of the unborn child,
- Laws banning dismemberment abortions on live, unborn children.

Courts have ordered some states to pay the plaintiffs' attorneys' fees, which can be substantial amounts, thus funding the abortion industry.

Some laws have not been challenged. Many of the states' 20-week post-fertilization bans have not been challenged, mostly in states where there is no abortion provider doing abortions so late. Texas' law, fortunately, has not been challenged and is saving lives.

None of the six states laws banning only sex-selection abortions has been challenged, but it is not clear that these laws are having any deterrent effect on abortions for practical reasons -- nothing requires the women to state her reason for the abortion.

Potentially, many of these state laws statutes already passed could be the vehicle the court uses to revisit *Roe* and *Casey*. One wonders if we need another.

Texas Abortion-Related Laws

Below is a brief summary of pro-life laws passed in Texas from 1854 to present day. The laws are listed by the year they were passed, and the corresponding House/Senate bill number is listed after each law with the legislative session in which the law was passed.

1854: Banned abortions unless the life of the mother was threatened. Vernon's Civil Statutes, Articles 4512.1-4512.6.

- Supreme Court ruled in *Roe v. Wade* (1973) that Arts. 4512.1-4512.4, 4512.6 may not be enforced.

1977: Medical personnel given right to object to performance of abortion (SB 416, 65(R)). Chap. 103, Occupations Code.

1979: Established a living human child born alive after an abortion or premature birth is entitled to the same rights, powers, and privileges as any other child born alive after the normal gestation period. Established a petition for custody of a child born after an abortion may be granted with respect to one parent against another. Further, an authorized representative of Texas Department of Family and Protective Services may assume the care, control, and custody of the child (SB 117, 66(R)). § 151.002, § 161.006, and § 262.006, Family Code.

1985: Prohibited selling human organs and tissue, including fetal tissue, “for valuable consideration,” making it a third-degree felony offense (SB 33, 69(R)). § 48.03, Penal Code.

1985: Texas Abortion Facility Licensing Act — Established licensing and regulations for abortion facilities. Required licensing for facilities used primarily for the purpose of performing abortions. Required reporting of all abortions regardless of whether the facility is licensed. Mandated that only physicians may perform abortions (HB 2091, 69(R)). Chap. 245, Health and Safety Code, and 25 TAC 139.

1987: Banned abortions in the third trimester for viable unborn babies. Included exceptions for risk of serious impairment to the physical or mental health of the woman and for a fetus with a severe and irreversible abnormality (HB 410, 70(R)). § 170.002, Health and Safety Code.

1997: Improved abortion facility regulations by including requirements for quality assurance and annual inspections; required abortion facilities to provide a unique identifying number in abortion advertisements and to post public information regarding violations and a toll-free number; and created administrative penalties (HB 2856, 75(R)). § 245.023, Health and Safety Code.

1999: Lowered the threshold for requiring abortion facilities to be licensed to facilities that perform 300 abortions per year (from “primarily for the purpose of performing abortions”). (HB 2085, 76(R)). Replaced by Chap. 171, Health and Safety Code.

1999: Required parental notification before an abortion can be performed on minor girls with a judicial bypass exception when parental notification is not in the child's best interest (SB 30, 76(R)). Chap. 33, Family Code.

1999: Included an exception for withholding or removing life-sustaining treatment from pregnant women in the Advance Directive Act (SB 1260, 76(R)). Chap. 166, Health and Safety Code.

1999: Baby Moses Law / Safe Haven Law — Allowed infants to be legally abandoned at an EMS center (HB 3423, 76(R)). § 262.301, Family Code.

2001: Prohibited funds from the Rural (health) Foundation from being used to provide an abortion or a referral for an abortion, unless there is a medically necessary reason to provide the referral (SB 115, 77(R)). § 487.713, Government Code.

2003: General Appropriations Act (HB 1, 78(R)):

- Prohibited state funds from Titles V, X, XX family planning grants from being used to pay the direct or indirect costs of abortion procedures provided by contractors of the department. (Department of Health Rider 8).
 - Rider 8 was challenged in federal court by Planned Parenthood. The state and Planned Parenthood reached a settlement and dismissal agreement, negotiating a separation agreement in order to remain eligible for funding while separating the abortion business from the family planning affiliates. The parties agreed that “legal” affiliate status could be achieved by separate accounting, separate timekeeping, separate signage, and separate boards of directors so as to remain eligible for state funds. *Planned Parenthood v. Sanchez* (5th Circuit, 2005).
- Prohibited dispensing prescription drugs to minors without parental consent (DH Rider 9).
- Required contractors to report suspected child abuse, including statutory rape (DH Rider 11 and HHSC Rider 25).

2003: Woman’s Right to Know Act — Required that:

- Informed consent information and resource directory be provided to women 24 hours before an abortion, and
- Abortions after 16 weeks post fertilization (18 weeks LMP) may be performed only in an ambulatory surgery center (ASC) or hospital (HB 15, 78(R)). Chap. 171, Health and Safety Code.

2003: Prenatal Protection Act — Recognized the personhood of unborn children, beginning at fertilization (SB 319, 78(R)).

- The act allowed the prosecution of a person who harms or kills an unborn child unless the death was a legal abortion or was the result of an action taken by the mother. § 1.07(a)(26), § 19.06, § 22.12, § 49.12, Penal Code. Upheld by the Court of Criminal Appeals at least four times.

- Amended the Civil Practice and Remedies Code to allow for wrongful death lawsuits involving unborn children, except for legal abortion and medical procedures. § 71.001, Civil Practice and Remedies Code

2003: Lowered the threshold for requiring abortion facilities to be licensed to facilities that perform 50 abortions per year (from 300 per year) (House floor amendment to HB 2292, 78(R)). § 245.004, Health and Safety Code.

2005: General Appropriations Act (SB 1, 79(R)):

- Allocated \$5 million for the biennium for the Alternatives to Abortion program. The Alternatives to Abortions program promotes childbirth and provides support services to pregnant women and adoptive parents (HHSC Sec. 50, Special Provisions Relating to All Health and Human Services Agencies).
- No funds from Family Planning and Medicaid Family Planning may be distributed to individuals or entities that perform elective abortions or contract with individuals or entities that perform elective abortions (DSHS Rider 30 and HHSC Rider 48).
- Limited sexuality education spending only to programs that comply with a specific definition of abstinence and required an annual report to be submitted to the Legislature on contractor compliance (DSHS Rider 29).
- Prohibited dispensing prescription drugs to minors without parental consent (DSHS Rider 31 and HHSC Rider 49).
- Required contractors to report suspected child abuse, including statutory rape (DSHS Rider 33 and HHSC Rider 13).

2005: Banned abortions in the third trimester of pregnancy with exception for severe cases (SB 419, 79(R)). § 164.052(a)(18) Occupations Code.

2005: Required written parental consent for abortions on minor girls with a judicial bypass exception the same as for parental notice (SB 419, 79(R)). § 164.052 Occupations Code.

2005: Created a “certificate of birth resulting in stillbirth” (SB 271, 79(R)). § 192.022, Health and Safety Code.

2006: Texas Medical Board adopted a rule requiring parental consent via a signed, notarized six-page form before a physician can perform an abortion on a minor girl. 22 TAC § 165.5.

2007: General Appropriations Act (HB 1, 80(R)):

- Allocated \$5 million for the Alternatives to Abortion program for the biennium (HHSC D.2.2. Strategy)
- \$1 million for the umbilical cord stem cell banks for the biennium (HHSC Rider 56).
- Prohibited dispensing prescription drugs to minors without parental consent (DSHS Rider 25 and HHSC Rider 34).
- Required contractors to report suspected child abuse, including statutory rape (DSHS Rider 27 and HHSC Rider 9).

- Limited sexuality education spending only to programs that comply with a specific definition of abstinence and required an annual report to be submitted to the Legislature on contractor compliance (DSHS Rider 23).
- No funds from Family Planning and Medicaid Family Planning may be distributed to individuals or entities that perform elective abortions or contract with individuals or entities that perform elective abortions (DSHS Rider 24 and HHSC Rider 33).

2007: Brochure on umbilical cord blood options (HB 709, 80(R)). § 162.018 Health and Safety Code.

2009: General Appropriations Act (SB 1, 81(R)):

- Allocated \$8 million for funding for the Alternatives to Abortion program for the biennium (HHSC D.2.2. Strategy).
- \$894,133 for the Texas Heart Institute Adult Stem Cell Program for gene therapy research for the biennium (The University of Texas Health and Science Center at Houston Rider 3).
- \$1 million for the umbilical cord stem cell banks for the biennium (HHSC Rider 58).
- No funds from Family Planning and Medicaid Family Planning may be used directly or indirectly for abortion or distributed to individuals or entities that perform elective abortions or contract with individuals or entities that perform elective abortions (DSHS Rider 21 and HHSC Rider 31).
- Limited sexuality education spending only to programs that comply with a specific definition of abstinence and required an annual report to be submitted to the Legislature on contractor compliance (DSHS Rider 20).
- No funds from Family Planning and Medicaid Family Planning may be used directly or indirectly for abortion or distributed to individuals or entities that perform elective abortions or contract with individuals or entities that perform elective abortions (DSHS Rider 21 and HHSC Rider 31).
- Prohibited dispensing prescription drugs to minors without parental consent (DSHS Rider 22 and HHSC Rider 32).
- Required contractors to report suspected child abuse, including statutory rape (DSHS Rider 23 and HHSC Rider 8).
- Continued exclusions from funding for abortion providers for women's health care programs by Department of State Health Services (DSHS Rider 69).

2009: Prohibited grants for school-based health clinics from being granted to licensed abortion facilities or their affiliates (HB 281, 81(R)). § 38.063(e-1), Education Code.

2011: General Appropriations Act (HB 1, 82(R)):

- Allocated \$8.3 million for the biennium for the Alternatives to Abortion program (HHSC D.2.2. Strategy).
- \$5 million for the Texas Heart Institute Adult Stem Cell Program for the biennium (Article III, The University of Texas Health and Science Center, Strategy E.3.4-E5.1).

- \$2 million for the umbilical cord stem cell banks for the biennium (University of Texas Health and Science Center at San Antonio, III-167 Footnote 1).
- No funds from Family Planning and Medicaid Family Planning may be used directly or indirectly for abortion or distributed to individuals or entities that perform elective abortions or contract with individuals or entities that perform elective abortions (DSHS Rider 17, 52, and HHSC Rider 30).
- Family Planning Program (Title V, X, and XX) funds are prioritized to entities that provide “comprehensive primary and preventative care”. (DSHS Rider 77).
- Prohibited dispensing prescription drugs to minors without parental consent (DSHS Rider 18 and HHSC Rider 31).
- Required contractors to report suspected child abuse, including statutory rape (DSHS Rider 19 and HHSC Rider 8).
- No funds from Medicaid Family Planning may be used to dispense prescription drugs to minors without parental consent, with limited exceptions (HHSC Rider 31).
- Limited sexuality education spending only to programs that comply with a specific definition of abstinence and required an annual report to be submitted to the Legislature on contractor compliance (DSHS Rider 79).

2011: Sonogram Law — Required that women have an opportunity to see the ultrasound image of their unborn child and hear the child’s heartbeat before they consent to abortion and that doctors must privately consult with patients 24 hours before the abortion (HB 15, 82(R)). § 171.012, Health and Safety Code.

2011: Defunded Planned Parenthood \$29 of \$31 million per year (SB 7, 82(1)):

- Prioritized of the Department of State Health Services Title V, X, and XX family planning grants to (1) public entities and federally qualified health centers, (2) non-public entities that provide comprehensive primary and preventative care in addition to family planning services, and (3) nonpublic entities that do not provide comprehensive primary and preventative care. § 531.0025, Government Code.
- Denied Medicaid Women’s Health Program (WHP) funding for entities that perform or promote elective abortions or are affiliates of entities that perform or promote elective abortions. § 32.024(c-1), Human Resources Code. Texas HHSC promulgated regulations interpreting the WHP’s restriction on abortion-related restrictions. Upheld by 5th Circuit in *Planned Parenthood v. Suehs* (2012).

2011: Banned state funding for county hospital districts that fund elective abortions (SB 7, 82(1)). § 285.202, Health and Safety Code.

2011: Authorized the creation of the “Choose Life” specialty license plate to promote infant adoption as an alternative to abortion (SB 257, 82(R)). Chap. 504.662, Transportation Code.

2011: Authorized the creation of an autologous (adult) stem cell bank (SB 7, 82(1)). Chap. 1003, Health and Safety Code.

2013: General Appropriations Act (SB 1, 83(R)):

- Allocated \$10.3 million to the Alternatives to Abortion program for the biennium (HHSC D.2.2. Strategy).
- \$5 million for the Texas Heart Institute Adult Stem Cell Program for the biennium (The University of Texas Health Science Center at Houston, Strategy E.3.4).
- \$2 million for the umbilical cord stem cell banks for the biennium (HHSC Rider 77).
- No funds from Family Planning and Medicaid Family Planning may be used directly or indirectly for abortion or distributed to individuals or entities that perform elective abortions or contract with individuals or entities that perform elective abortions (DSHS Riders 17, 50, and HHSC Rider 29).
- Required contractors to report suspected child abuse, including statutory rape (DSHS Rider 19 and HHSC Rider 8).
- Prohibited dispensing prescription drugs to minors without parental consent (DSHS Rider 18 and HHSC Rider 30).
- Limited sexuality education spending only to programs that comply with a specific definition of abstinence and required an annual report to be submitted to the Legislature on contractor compliance (DSHS Rider 67).
- Family Planning Program (Title V, X, and XX) funds are prioritized to entities that provide “comprehensive primary and preventative care” (DSHS Rider 65)
- Planned Parenthood and abortion providers excluded from the Department of State Health Services Primary Care Services, Family planning, and Women's Health Program (DSHS Rider 82)

2013: Required institutes of higher education to report human stem cell research (SB 67, 83(R)). § 61.051, Education Code.

2013: Banned abortions after five months gestation (20 weeks post fertilization) and substantially increased abortion facility safety regulations (HB 2, 83(2)).

- Two portions of this law remain in effect:
 - 20 Week Ban — Ban on abortions post 20 weeks fertilization. Subchap. C, Chap. 171, Health and Safety Code.
 - FDA Regulations on Abortion-Inducing Drugs — Requires that abortion-inducing drugs may only be administered by a physician according to FDA regulations the physician must examine the woman 14 days after the procedure. Challenged in *Planned Parenthood v. Abbott* and upheld by the 5th Circuit (2014). Subchap. D, Chap. 171, Health and Safety Code.
- Two portions of this law were ruled unconstitutional and are not enforced:
 - Admitting Privileges Rule — Required abortionists to obtain admitting privileges at a hospital within 30 miles of their abortion facilities. Was challenged in *Planned Parenthood v. Abbott* and upheld by the 5th Circuit (2014). However, it was then challenged again in the United States Supreme Court in *Whole Woman's Health v. Hellerstedt* (2016), and permanently enjoined. § 171.0031, Health and Safety Code.

- Ambulatory Surgical Center (ASC) Standards — Required abortion facilities to adhere to the building and safety standards already in law for ambulatory surgical centers. Permanently enjoined by the U.S. Supreme Court in *Whole Woman's Health v. Hellerstedt* (2016).

2015: General Appropriations Act (HB 1, 84(R):

- Increased funding for the Alternatives to Abortion program to \$18.3 million for the biennium (HHSC D.2.2. Strategy).
- \$5 million for the Texas Heart Institute Adult Stem Cell Program for the biennium (The University of Texas System Administration, Strategy C.1.1).
- Continued exclusions from funding for women's health care programs by Department of State Health Services (DSHS Rider 63 and HHSC Riders 29, 74, 85, 87, and 88).
- \$2 million for the umbilical cord stem cell banks for the biennium (HHSC Rider 59).
- Required contractors to report suspected child abuse, including statutory rape (DSHS Rider 14 and HHSC Rider 8).
- Prohibited dispensing prescription drugs to minors without parental consent (HHSC Rider 31 and 86).
- Limited Title V sexuality education spending only programs that comply with each of the federal A-H components of abstinence education and required an annual report to be submitted to the Legislature on contractor compliance (DSHS Rider 53).
- Excluded Planned Parenthood (abortion providers and their affiliates) from the Breast and Cervical Cancer Services Program (DSHS Rider 72).
- Ban on Medicaid funding for sexuality education to abortion providers or their affiliates (HHSC Rider 31).
- Family Planning Program (Title V, X, and XX) funds are prioritized to entities that provide "comprehensive primary and preventative care" (HHSC Rider 88).

2015: Reformed the judicial bypass process, the process in which an order from a judge could allow minors to get abortions without the notification and consent of their parents (HB 3994, 84(R)). Chap. 33, Family Code:

- Stopped the practice of venue shopping for favorable courts,
- Increased the standard of evidence necessary to grant a minor an abortion,
- Lengthened the timeline by which the trial court and court of appeals are required to decide on a judicial bypass application,
- Banned teleconference and videoconferencing into the courtroom,
- Required proof of age and identity for a non-minor,
- Required the court to appoint a separate guardian-ad-litem and attorney-ad-litem for the minor, and
- Requires annual reports by the Office of Court Administration.

2015: Protected victims of sex trafficking at abortion facilities by requiring abortion facility workers and volunteers to undergo training to recognize and assist victims of human sex trafficking (HB 416, 84(R)). Subchap. E, Chap. 171, Health and Safety Code.

2015: Protected unborn babies with disabilities by providing state-created educational materials to parents of unborn babies diagnosed with Down syndrome without referrals for abortion (HB 3374, 84(R)). Chap. 161, Health and Safety Code.

2015: Promoted adult, not embryonic, stem cell research and treatments by creating the Texas Adult Stem Cell Research Coordinating Board (HB 177, 84(R)). Chap. 156, Education Code.

2015: Required disclosure of sponsors of research projects at public universities like the Texas Policy Evaluations Project at The University of Texas at Austin, which opposes pro-life laws passed by the Legislature; required reporting of sponsors of research in public communications; and required universities to respond to public information requests for the sponsor information. (HB 1295 and SB 20, 84(R)). § 51.954, Education Code and § 321.013, Government Code.

2015: Required counties to report on procedures related to pregnant women in county jails (HB 1140, 84(R)). Chap. 511, Government Code.

2017: General Appropriations Act (SB 1, 85(R)):

- Doubled funding to as much as \$38.3 million for the Alternatives to Abortion Program for the biennium (HHSC Strategy D.1.2., HHSC Rider 222).
- \$3.2 million for the biennium for Texas Heart Institute Adult Stem Cell Program (Article III, The University of Texas System Administration, Strategy C.1.1).
- \$2 million for umbilical cord stem cell banks for the biennium (HHSC Rider 81).
- State money may not be distributed to abortion providers or their affiliates (Article IX, Sec. 6.25).
- Contractors must report suspected child abuse, including statutory rape (DSHS Rider 24, HHSC Rider 150).
- Limited sexuality education spending to programs that components comply with each of the A-H components of abstinence education of abstinence education (HHSC Rider 49).
- Abortion providers and affiliates may not be contractors in the Breast and Cervical Cancer Services Program and the Healthy Texas Women Program and Family Planning Program (HHSC Rider 51, HHSC Rider 56).
- No direct or indirect funding of abortion (HHSC Rider 52).
- No funds for Medicaid Family Planning or Instruction may go for abortion providers or materials prepared by abortion providers and affiliates (HHSC Rider 53).
- No funds for prescription drugs to minors without parental consent (HHSC Rider 57).
- Family Planning Program funds are prioritized to entities that provide "comprehensive primary and preventative care" (HHSC Rider 58).
- State funded long acting contraceptives may not include abortifacients (HHSC Rider 59).

2017: Stopped Planned Parenthood's trafficking of baby body parts (SB 8, 85(R)):

- Banned partial-birth abortions. Subchapter F, Health and Safety Code.
- Criminalized all sale, purchase, and donation of organs and tissues after elective abortion and banned research on tissues and organs of victims of elective abortions. Chapter 173, Health and Safety Code and § 48.03, Penal Code.

- Banned dismemberment abortions. Subchapter G, Health and Safety Code.
 - Ban on dismemberment abortions struck down in federal district court; appeal is pending in the 5th Circuit (*Whole Woman's Health v. Paxton*).
- Humane Disposition.
 - Required humane disposition of the bodies of babies who die from abortion and miscarriage. Chap. 697, Health and Safety Code. Humane disposition rule struck down in federal district court; pending in the 5th Circuit (*Whole Woman's Health v. Smith*).

2017: Protected Women from forced abortion, especially victims of sex trafficking (HB 2552, 85(R)). Chap. 241 and 245, Health and Safety Code:

- Required human trafficking hotline signs at abortion facilities and hospitals. § 245.025, Health and Safety Code.
- Created a first-degree felony offense for killing the unborn child of a minor girl who is a victim of sex trafficking. § 20A.02(b), Penal Code.
- Enhanced penalties for assaulting woman to force her to have an abortion. § 22.01(b) and (c), Penal Code.

2017: Created conscience protection for foster care providers by protecting their rights to follow their sincerely held religious beliefs to not provide or refer for abortion (HB 3859, 85(R)). § 45.004(3), Human Resources Code.

2017: Protected victims of rape by making it easier to terminate the paternity rights of rapists (SB 77, 85(R)). § 154.001, Family Code.

2017: Required physicians involved in *in vitro* fertilization (IVF) to provide information to patients regarding the option of donation of unused human embryos in order to promote donation, not destruction, of human embryos (HB 785, 85(R)). Chap. 159, Occupations Code.

2017: Banned telemedicine abortions (SB 1107, 85(R)). § 111.005(c), Occupations Code.

2017: Required abortion complications that occur or are treated at abortion facilities to be reported within three business days, required abortion complications treated at hospitals to be reported within 30 days, and required the Health and Human Services Commission to publish an annual report. Creates civil penalties for non-compliance (HB 13, 85(1)). § 171.006, Health and Safety Code.

2017: Eliminated mandatory coverage for elective abortions in health insurance plans in the federal Affordable Care Act exchange, government plans, and private plans; and allowed optional abortion coverage through the purchase of a separate plan (HB 214, 85(1)). Chap. 1695, Insurance Code.

2017: Increased reporting of abortions on minor girls by requiring a physician performing an abortion on a minor girl to report how consent for the abortion was obtained: whether by parental consent or by a court order through the judicial bypass process (HB 215, 85(1)). § 171.006, Health and Safety Code.

2019: General Appropriations Act (HB 1, 86(R)):

- Doubled funding for the Alternatives to Abortion program to as much as \$80 million per biennium (HHSC Strategy D.1.2., HHSC Rider 80).
- \$3.2 million for the biennium for Texas Heart Institute Adult Stem Cell Program (The University of Texas System Administration, Strategy C.1.1).
- \$2 million for the biennium for umbilical cord blood banks for the biennium (HHSC Rider 93).
- State money may not be distributed to abortion providers and affiliates (Article IX, Sec. 6.25).
- Health and Human Services agencies must make a good-faith effort to comply with all child abuse reporting guidelines (HHSC Section 31).
- Limited sexuality education spending to programs that components comply with each of the components of abstinence education of abstinence education (HHSC Rider 71).
- No funding of abortion or entities that provide abortions through funds appropriated to Medicaid Family Planning, the Healthy Texas Women Program, and the Family Planning Program (HHSC Rider 72).
- Funding for family planning instruction may not be used for materials from an entity that performs elective abortions and their affiliates (HHSC Rider 73).
- Family Planning Funds are prioritized to entities that provide “comprehensive primary and preventative care” (HHSC Rider 79).
- No funds for prescription drugs to minors without parental consent (HHSC Rider 79).

2019: Defunded Planned Parenthood and other abortion providers at the local level by banning contract between cities, counties, hospital districts, and school districts and an abortion provider and an affiliate of an abortion provider (SB 22, 86(R)). Chap. 2272, Government Code.

2019: Texas Alternatives to Abortion Information Act — Required doctors or designee to hand the state’s “A Woman's Right to Know” informational brochure and directory to women before consenting to abortion. The brochure is informational resource material, the directory lists women’s health clinics in Texas that do not provide abortions or give abortion referrals. Further, required a private consultation with a physician at least 24 hours before the abortion (SB 24, 86(R)). § 171.012(b)(2) and § 171.012(f), Health and Safety Code.

2019: Texas Born-Alive Infant Protection Act — Protected babies who are born alive after an abortion by creating a civil cause of action and a specific criminal offense to hold physicians accountable by establishing a physician-patient relationship between the infant and the abortion doctor. The Act created a civil penalty and authorized the Attorney General of Texas to impose a \$100,000 fine on a physician who fails to provide appropriate medical treatment to a child born alive after an abortion. Additionally, it made the criminal offense a third-degree felony (HB 16, 86(R)). § 151.002, Family Code.

2019: Increased penalties for assaulting a pregnant woman (HB 902, 86(R)). § 22.01(b)(7), Penal Code.

Status of States' Pre-Viability Abortion Bans

Laws Prohibiting Abortion After Unborn Child Has a Detectable Heartbeat				
Arkansas	A.C.A. §§ 20-16-1301 to 20-16-1307	<i>Edwards v. Beck</i> , 786 F.3d 1113 (8th Cir. 2015). [Federal Court]	Permanently Enjoined, Certiorari Denied	\$26K
North Dakota	N.D. Cent. Code, § 14-02.1-05.2	<i>MKB Mgmt. Corp. v. Stenehjelm</i> , 795 F.3d 768 (8th Cir. 2015). [Federal Court]	Permanently Enjoined, Certiorari Denied	\$245K
Iowa	Iowa Code § 146A.1	<i>Planned Parenthood of the Heartland v. Reynolds ex re. State</i> , 915 N.W.2d 206 (Iowa 2018). [State Court]	Permanently Enjoined, Not Appealed	TBD
Kentucky	Ky. Rev. Stat. §§ 311.710 to 311.830	<i>EMW Women's Surgical Ctr. v. Beshear</i> , 2019 U.S. Dist. LEXIS 45251 (W. D. Ken. 2019). [Federal Court]	Temporary Restraining Order Extended	
Mississippi	Miss. Code Ann. § 41-41-34.1	<i>Jackson Women's Health Org. v. Dobbs</i> , 379 F. Supp. 3d 549 (S. D. Miss. 2019). [Federal Court]	Preliminary Injunction Entered	
Ohio	ORC Ann. § 2919.195	<i>Preterm-Cleveland et al v. Yost et al</i> , No. 1:18-cv-00109 (S. D. Ohio 2019). [Federal Court]	Preliminary Injunction Entered	
Georgia	O.C.G.A. § 31-9B-2	<i>Sistersong Women of Color Reproductive Justice Collective v. Kemp</i> , No. 1:19-cv-02973 (N. D. Ga. 2019). [Federal Court]	Permanently Enjoined	
Missouri	§ 188.056 R.S.Mo.	<i>Planned Parenthood v. Parson</i> , No. 2:19-cv-4155 (W. D. Mo. 2019). [Federal Court]	Preliminary Injunction Entered	
Louisiana	La. R.S. § 40:1061.1.3	None	Triggered by the by the reversal of <i>Roe v. Wade</i>	
Tennessee	Tenn. Code Ann. § 39-15-215	<i>Memphis Center for Reproductive Health v. Slattery, et al.</i> , No. 3:20-cv-00501 (M. D. Tenn. 2020) [Federal Court]	Temporary Restraining Order Entered	

Laws Banning Abortion Triggered By A Reversal of <i>Roe</i> or <i>Casey</i>				
Arkansas	A.C.A. §§ 5-61-302		None	
Idaho	Idaho Code Ann. § 18-622		None	
Kentucky	KRS § 311.772		None	
Louisiana	La. Rev. State. Ann. § 40:1061		None	
Mississippi	Miss. Code § 41-41-45		None	
Missouri	Mo. Rev. Stat. § 188.017		None	
North Dakota	N.D. Cent. Code § 12.1-31.12		None	
South Dakota	S.D. Codified Laws § 22-17-5.1		None	
Tennessee	Tenn. Code Ann. § 39-15-211		None	
Utah	Utah Code Ann. §§ 76-7a-101, 76-7a-201, 76-7a-301		None	

Laws Banning Abortion at Specific Stage of Pregnancy (other than twenty-week bans)			
Mississippi	Miss. Code Ann. § 41-41-191 15 Weeks	<i>Jackson Women's Health v. Currier</i> , 349 F. Supp. 3d 536 (S. D. Miss. 2018). [Federal Court]	Declared Unconstitutional and Permanently Enjoined, awaiting appeal
Utah	Utah Code Ann. § 76-7-302.5 18 Weeks	<i>Planned Parenthood v. Miner</i> , No. 2:19-cv-00238 (D. Utah 2019). [Federal Court]	Preliminarily Enjoined on Consent Facing Litigation
Arkansas	A.C.A. § 20-16-2004 18 Weeks	<i>Little Rock Family Planning Services v. Rutledge</i> , No. 4:19-cv-00449 (E. D. Ark. 2019). [Federal Court]	Preliminary Injunction Entered
Missouri	§ 188.038 R.S.Mo. Multiple at 8, 14, 18, and 20 weeks depending on court rulings	<i>Planned Parenthood v. Parson</i> , No. 2:19-cv-4155 (W. D. Mo. 2019). [Federal Court]	Preliminary Injunction Entered
Law Banning Abortion Throughout Pregnancy (suicidal ideation exception)			
Alabama	Code of Ala. §§ 26-23H-1 to 26- 23H-8	<i>Robinson et al v. Marshall</i> , No. 2:19-cv-00365 (M. D. Ala. 2019). [Federal Court]	Preliminary Injunction Entered

Laws Banning Abortion at Twenty-Weeks Post-Fertilization				
Laws Based on NRLC "Pain-Capable Unborn Child Protection Act"				
Alabama	Code of Ala. §§ 26-23B-1 to 26-23B-9	None	Not Challenged	
Arkansas	A.C.A. §§ 20-16-1301 to 20-16-1307	None	Not Challenged	
Georgia	O.C.G.A. §§ 16-12-140, 16-12-141, 31-9B-1 to 31-9B-3, 31-9A-6.1, 31-9A-2	<i>Lathrop v. Deal</i> , Civil Action File No. 2012 CV 224423 (Superior Court, Fulton County, Georgia). [State Court]	State Constitution Challenge dismissed on procedural grounds	
Idaho	Idaho Code §§ 18-501 to 18-510	<i>McCormack v. Hiedeman</i> , Case No. 4:11-cv-00433 (D. Idaho 2012). [Federal Court]	Struck down by Ninth Circuit	
Indiana	Burns Ind. Code Ann. § 16-34-2-1		Not Challenged	
Kansas	K.S.A. § 65-6724		Not Challenged	
Kentucky	KRS § 311.782		Not Challenged	
Louisiana	La. R.S. § 40:1061.17		Not Challenged	
Nebraska	R.R.S. Neb. § 28-3,106		Not Challenged	
North Dakota	N.D. Cent. Code, § 14-02.1-05.3		Not Challenged	
Ohio	ORC Ann. § 2919.201		Not Challenged	
Oklahoma	63 Okl. St. §§ 1-738.6 to 1-740.	<i>S. Wind Women's Ctr. LLC v. Stitt</i> , 2020 U.S. Dist. LEXIS 60020 (W. D. Okla. 2020). [Federal Court]	Preliminary Injunction Entered	
South Carolina	S.C. Code Ann. § 44-41-20		Not Challenged	
South Dakota	S.D. Codified Laws § 34-23A-4		Not Challenged	
Texas	Tex. Health & Safety Code § 171.044		Not Challenged	
West Virginia	W. Va. Code § 16-2M-4		Not Challenged	
Wisconsin	Wis. Stat. § 253.107		Not Challenged	

Laws on AUL's "Women's Health Defense Act"				
Arizona	A.R.S. § 36-2159	<i>Isaacson v. Horne</i> , 716 F.3d 1213 (9 th Cir. 2013). [Federal Court]	Struck down by Ninth Circuit, Certiorari Denied	
Mississippi	Miss. Code Ann. § 41-41-139		Not Challenged	
Other Laws				
Missouri	§ 188.056 R.S.Mo.	<i>Reprod. Health Servs. of Planned Parenthood of the St. Louis Region, Inc. v. Parson</i> , 389 F. Supp. 3d 631 (W. D. Mo. 2019) [Federal Court]	Struck down by District Court, Appeal Pending	
North Carolina	N.C. Gen. Stat. § 14-45.1	<i>Bryant v. Woodall</i> , 363 F. Supp. 3d 611 (M. D. N.C. 2019). [Federal Court]	Struck down by District Court, Appeal Pending	
Utah	Utah Code Ann. § 76-7-302.5	<i>Planned Parenthood of Utah v. Miner</i> , Case No. 2:19-cv-00238 (D. Utah 2019). [Federal Court]	Struck down by Tenth Circuit, Certiorari Denied	
Laws Banning Abortion Because of the Sex, Race or Disability of the Unborn Child				
Laws Banning Only Sex-Selective Abortions				
Arkansas	A.C.A. § 20-16-1904		Not Challenged	
Kansas	K.S.A. § 65-6726		Not Challenged	
North Carolina	N.C. Gen. Stat. § 90-21.121		Not Challenged	
Oklahoma	63 Okl. St. § 1-731.2		Not Challenged	
Pennsylvania	18 Pa.C.S. § 3204		Not Challenged	
South Dakota	S.D. Codified Laws § 34-23A-63		Not Challenged	

Laws Banning Abortions Because of the Disability of the Unborn Child			
Arkansas	A.C.A. §§ 20-16-2001 to 20-16-2007	<i>Little Rock Family Planning Services v. Rutledge</i> , Case No. 4:19-cv-00449 (E. D. Ark. 2019). [Federal Court]	Temporary Restraining Order Entered
Indiana	Burns Ind. Code Ann. §§ 16-34-4-6, 16-34-4-7	<i>Planned Parenthood of Ind. & Ky., Inc. v. Comm'r</i> , Ind. State Dep't of Health, 265 F. Supp. 3d 859 (S. D. Ind. 2017). [Federal Court]	Struck Down by the Seventh Circuit, Supreme Court Denied Review
Kentucky	KRS § 311.731	<i>EMW Women's Surgical Ctr. v. Beshear</i> , 2019 U.S. Dist. LEXIS 45251 (W. D. Ken. 2019). [Federal Court]	Temporary Restraining Order Entered
Louisiana	La. R.S. § 40:1061.1.2	<i>June Medical Services v. Gee</i> , No. 16-CV-444 (M. D. Louis. 2016).	Challenge Dismissed on Standing Grounds
Missouri	§ 188.038	<i>Planned Parenthood v. Parson</i> , No. 2:19-cv-4155 (W. D. Mo. 2019). [Federal Court]	Preliminary Injunction Entered
North Dakota	N.D. Cent. Code, § 14-02.1-04.1		Plaintiff Withdrew Challenge
Ohio	ORC Ann. § 3701.79	<i>Preterm-Cleveland v. Himes</i> , 2019 U.S. App. LEXIS 30486 (6 th Cir. 2019). [Federal Court]	Preliminary Injunction Entered
Law Banning Abortion Because of the Race or Sex of the Unborn Child			
Arizona	Ariz. Rev. Stat. Ann. § 13-3603.02 and § 36-2157	<i>NAACP et al. v. Horne et al.</i> , No. 13-17247 (9 th Cir. 2015). [Federal Court]	Challenged Dismissed on Standing Grounds

Laws Banning Performance of Dismemberment Abortions on Live, Unborn Children			
Alabama	Code of Ala. § 26-23G-3	<i>W. Ala. Women's Ctr. v. Williamson</i> , 900 F.3d 1310 (11 th Cir. 2018). [Federal Court]	Struck Down by Eleventh Circuit, Certiorari Denied
Arkansas	A.C.A. § 20-16-1803	<i>Hopkins v. Jegley</i> , 267 F. Supp. 3d 1024 (E. D. Ark. 2017). [Federal Court]	Preliminarily Enjoined by District Court, Remanded by Court of Appeals after <i>June</i>
Indiana	Burns Ind. Code Ann. § 16-34-2-1	<i>Bernard v. Individual Members of the Ind. Med. Licensing Bd.</i> , No. 19-cv-1660 (S.D. Ind. 2019). [Federal Court]	Preliminarily Enjoined by District Court
Kansas	K.S.A. § 65-6743	<i>Hodes & Nauser, MDS, P.A. v. Schmidt</i> , 440 P.3d 461 (Kan. 2019). [State Court]	Struck Down on State Constitutional Grounds by State Supreme Court
Kentucky	KRS § 311.787	<i>EMW Women's Surgical Ctr., P.S.C. v. Meier</i> , 373 F. Supp. 3d 807 (W.D. Ky. 2019). [Federal Court]	Permanently Enjoined
Louisiana	La. R.S. § 40:1061.1.1	<i>June Med. Servs. LLC v. Gee</i> , No. 16-cv-444 (M.D. La. 2017). [Federal Court]	State Agreed Not to Enforce During Pendency of Litigation
Mississippi	Miss. Code Ann. § 41-41-155		Not Challenged, Law is Unenforceable as a Practical Matter
North Dakota	N.D. Cent. Code § 14-02.1-04.2		Not Challenged, "Trigger" Law
Ohio	ORC Ann. § 2919.15	<i>Planned Parenthood Sw. Ohio Region v. Yost</i> , No. 19-cv-118 (S.D. Ohio 2019). [Federal Court]	Preliminarily Enjoined in Part
Oklahoma	63 Okl. St. § 1-737.9	<i>Tulsa Women's Reproductive Clinic v. Hunter</i> , Case No. CV-2015-1838, (Okla. Cty. Dist. Ct. Sep. 19, 2019). [State Court]	Temporary Injunction Granted
Texas	Tex. Health & Safety Code § 171.152	<i>Whole Woman's Health v. Paxton</i> , 280 F. Supp. 3d 938 (W. D. Texas 2017). [Federal Court]	Appeals Court Opined That the Law is Unconstitutional
West Virginia	W. Va. Code § 16-20-1		Not Challenged, Law Authorizes Only Professional Discipline

State Supreme Courts Recognizing (or Clearly Implying) That Their State Constitution Protects a Right to Abortion that Is Separate From, and Independent of, the Federal Constitutional Right to Abortion			
Alaska	<i>Valley Hosp. Ass'n v. Mat-Su Coalition for Choice</i> , 948 P.2d 963 (Alaska 1997).	Express Right of Privacy	
California	<i>Am. Acad. of Pediatrics v. Lungren</i> , 16 Cal. 4th 307 (Cal. 1997).	Express Right of Privacy	
Florida	<i>N. Fla. Women's Health & Counseling Servs. v. State</i> , 866 So. 2d 612 (Fla. 2003).	Express Right of Privacy	
Iowa	<i>Planned Parenthood of the Heartland v. Reynolds ex re. State</i> , 915 N.W.2d 206 (Iowa 2018).	Due Process and Equal Protection	
Kansas	<i>Hodes & Nauser, MDS, P.A. v. Schmidt</i> , 309 Kan. 610 (Kan. 2019).	Natural Rights	
Massachusetts	<i>Moe v. Secretary of Admin. & Finance</i> , 382 Mass. 629 (Mass. 1981).	Implied Right of Privacy	
Minnesota	<i>Women of the State v. Gomez</i> , 542 N.W.2d 17 (Minn. 1995).	Implied Right of Privacy	
Mississippi	<i>In re Brown</i> , 478 So. 2d 1033 (Miss. 1985).	Implied Right of Privacy	
Montana	<i>Armstrong v. State</i> , 1999 MT 261 (Mont. 1999).	Express Right of Privacy	
New Jersey	<i>Right to Choose v. Byrne</i> , 91 N.J. 287 (NJ 1982).	Implied Right of Privacy	
New York	<i>Schulman v. New York City Health & Hospitals Corp.</i> , 44 A.D.2d 482 (N.Y. 1974).	Probably Implied Right of Privacy	
Tennessee	<i>Planned Parenthood of Middle Tenn. v. Sundquist</i> , 38 S.W.3d 1 (Tenn. 2000).	Implied Right of Privacy, Overturned by State Constitutional Amendment	