



Laws Protecting Unborn Children:

# Pain-Capable Unborn Child Protection Act and Gestational Age Protections

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Prior to the June 2022 U.S. Supreme Court decision in *Dobbs v. Jackson*, some state legislatures enacted laws to protect the unborn child at various stages of gestational development.

The “Pain-Capable Unborn Child Protection Act” (PCUCPA) is an example of such a law. Drafted by National Right to Life’s Department of State Legislation, and first enacted by the state of Nebraska in 2010, the “Pain-Capable Unborn Child Protection Act” protects unborn children who are capable of feeling pain from abortion.

In 2010, substantial medical evidence demonstrated that unborn children are capable of experiencing pain by 22 weeks gestation. Since then, the advancement of science has favored unborn children by demonstrating that they can feel pain by 15 weeks gestation.

Because of these advancements in our understanding of the pain capability of the unborn child, 18 states protect the unborn child at 22 weeks gestation; 6 states protect the unborn child at 20 weeks gestation; 9 states protect the unborn child at 18 weeks or earlier; 2 have “cascading” protection laws.





**LAWS BY STATE**

<b>STATE</b>	<b>YEAR PASSED</b>	<b>GESTATIONAL AGE</b>	<b>ADDITIONAL INFO.</b>	<b>STATUS &amp; COURT ACTION</b>
<b>Alabama</b> Code of Ala. §§ 26-23B-1 to 26-23B-9. See also reporting: Code of Ala. § 22-9A-13.	2011	22 weeks	Also contains unborn pain findings, objective medical emergency, determination of age, protection clause, criminal and civil penalties, and statistical reporting requirements.	In effect.
<b>Arizona</b> A.R.S. § 36-2159.	2012	20 weeks	Also contains limited unborn pain findings, subjective medical emergency standard, administrative, criminal, and civil penalties.	This law was previously enjoined. See: <i>Isaacson v. Horne</i> , 716 F.3d 1213 (9th Cir. 2013); denied cert in <i>Horne v. Isaacson</i> , 571 U.S. 1127, 134 S. Ct. 905 (2014).
<b>Arizona</b> Ariz. Rev. Stat. §§ 36-2321 to 36-2326	2022	15 weeks	Also contains subjective medical emergency standard, & statistical reporting requirements.	In effect.

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<b>Arkansas</b> A.C.A. § 20-16-1401 to 20-16-1410.	2013	22 weeks	Also contains unborn pain findings, objective medical emergency with exceptions for rape and incest, determination of age, protection clause, criminal and civil penalties, and statistical reporting requirements.	In effect.
<b>Arkansas</b> Ark. Code Ann. § 20-16-2001 to 20-16-2008.	2019	18 weeks	Also contains subjective medical emergency standard with exceptions for rape and incest reported to law enforcement, statistical reporting requirements, and administrative, criminal, and civil penalties.	This law was previously enjoined. See: <i>Little Rock Family Planning Servs. v. Rutledge</i> , No. 19-2690, 2021 U.S. App. LEXIS 84 (8th Cir. Jan. 5, 2021).
<b>Florida</b> Fla. Stat. Ann. § 390.0111	2022	15 weeks	Also contains undefined objective medical standard which must be confirmed by two physicians, with exceptions for a baby who has not attained viability that has a fatal fetal condition, and administrative penalties.	In effect. This law is currently in litigation. See: <i>State v. Planned Parenthood of Sw. &amp; Cent. Fla.</i> , 342 So. 3d 863 (Fla. Dist. Ct. App. 2022).

STATE	YEAR PASSED	GESTATIONAL AGE	ADDITIONAL INFO.	STATUS & COURT ACTION
<p><b>Georgia</b> O.C.G.A. §§ 16-12-140 to 16-12-141 and O.C.G.A. TITLE 31 Chapter 9B; 31-9B-1 to 31-9B-3.</p>	2012	20 weeks	<p>Also contains unborn pain findings, objective medical emergency with expanded exception to include pregnancies that are “medically futile,” determination of age, protection clause, civil &amp; professional penalties, statistical reporting requirements.</p>	<p>In effect. Previously this law was partially in effect, as it applied only to viable unborn children. Preliminary injunction issued <i>Lathrop, et al. v. Deal, et al.</i> No. CV224423, (Sup. Ct. of Fulton Cnty., Ga., Dec. 21, 2012). This case was dismissed on grounds of sovereign immunity. Plaintiff appealed this decision. Appeal pending.</p>
<p><b>Idaho</b> Idaho Code Ann. §§18-501 to 18-510.</p>	2011	22 weeks	<p>Also contains unborn pain findings, objective medical emergency, determination of age, protection clause, criminal &amp; civil penalties, statistical reporting requirements, litigation defense fund.</p>	<p>This law was previously declared unconstitutional and enjoined. See: <i>McCormack v. Herzog</i>, 2015 U.S. App. LEXIS 8936 (9th Cir. Idaho May 29, 2015).</p>
<p><b>Indiana</b> Ind. Code Ann. § 16-34-2-1.</p>	2011	22 weeks	<p>Also contains unborn pain findings, subjective medical emergency, and determination of age, protection clause, and statistical reporting requirements.</p>	<p>In effect.</p>

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<b>Iowa</b> Iowa Code §§ 146B.1 to 146B.3.	2017	22 weeks	Also contains objective medical emergency, determination of age, protection clause, statistical reporting requirements, administrative and civil penalties.	In effect.
<b>Kansas</b> K.S.A. §§ 65-6722 to 65-6725 (2012). Reporting: K.S.A. § 65-445.	2011	22 weeks	Also contains unborn pain findings, objective medical emergency, determination of age, protection clause, criminal & civil penalties, statistical reporting requirements.	In effect.
<b>Kentucky</b> KRS § 311.782.	2017	22 weeks	<i>Also contains unborn pain findings, subjective medical emergency, determination of age, protection clause, criminal &amp; civil penalties, statistical reporting requirements, litigation defense fund.</i>	<i>This law was amended to protect unborn children at 15 weeks, please see law below.</i>



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<b>Kentucky</b> KRS § 311.782.	2022	15 weeks	Also contains definition of a pain-capable unborn child at 15 weeks gestation, subjective medical emergency standard, determination of age, protection clause, administrative and civil penalties.	In effect. A federal district court has lifted the injunction. See: <i>Planned Parenthood Great Nw., Haw., Alaska, Ind., &amp; Ky., Inc. v. Cameron</i> , Civil Action No. 3:22-cv-198-RGJ, 2022 U.S. Dist. LEXIS 75608 (W.D. Ky. Apr. 26, 2022).
<b>Louisiana</b> La. R.S. 40:1299.30.1.	2012	22 weeks	Also contains unborn pain findings, objective medical emergency with exception for pregnancies that are diagnosed as “medically futile,” determination of age, protection clause, criminal & civil penalties.	In effect.
<b>Louisiana</b> La. Rev. Stat. Ann. § 14:87.1 (definitions) La. Rev. Stat. Ann. § 14:87.8 (operative language)		15 weeks	Also contains objective medical emergency standard.	In effect.

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<b>Mississippi</b> Miss. Code Ann. §§ 41-41-131 to 41-41-149.	2014	20 weeks	Also contains findings on health risk of abortions late in pregnancy and NRLC pain findings, objective medical emergency expanded to include “severe fetal” condition, determination of age, protection clause, administrative penalties.	In effect.
<b>Mississippi</b> Miss. Code Ann. § 41-41-191	2018	15 weeks	Also contains findings on the developing unborn baby, subjective medical emergency expanded to include “severe fetal” condition, statistical reporting requirements, with administrative and civil penalties.	In effect. This law was upheld as constitutional. See: <i>Dobbs v. Jackson Women's Health Org.</i> , 142 S. Ct. 2228 (2022).
<b>Missouri</b> §§ 188.026; 188.056; 188.057; 188.058; R.S.Mo.	2019	Cascading bans. Law protects the unborn from abortion at different gestational stages starting at 8, 14, 18, and 20 weeks.	Also contains findings on the developing unborn child including unborn pain, objective medical emergency standard, administrative, civil, and criminal penalties.	This law was previously enjoined. See: <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).

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<b>Montana</b> Mont. Code Ann. §§ 50-20-601 – 50-20-606.	2021	20 weeks	Also contains inaccurate pain findings, objective medical emergency, determination of age, protection clause, criminal & civil penalties, statistical reporting requirements.	Not in effect. A preliminary injunction was issued in <i>Planned Parenthood of Montana v. State</i> , No. DV-21-00999, (13th Jud. Dist., Yellowstone Cty., Mont. Oct. 7, 2021).
<b>Nebraska</b> R.R.S. Neb. §§ 28-3,102 to 28-3,111.	2010	22 weeks	Also contains unborn pain findings, objective medical emergency, determination of age, protection clause, criminal & civil penalties, statistical reporting requirements.	In effect.
<b>North Carolina</b> N.C. Gen. Stat. § 14-45.1. This law was repealed during the 2023 Legislative session's passage of the Care for Women, Children, and Families Act, which protects the unborn child at 12 weeks gestation.	2015	20 weeks	Also contains an objective medical emergency standard and statistical reporting requirements.	In effect. After the <i>Dobbs</i> ruling, the U.S. District vacated its own injunction of May 24, 2019. <i>Amy Bryant, et al. v. Jim Woodall, M.D., et al.</i> No. 1:16CV1368 (August 17, 2022).

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<b>North Dakota</b> N.D. Cent. Code, §§ 14-02.1-02, 14-02.1-05.3, 14-02.1-07 (2013).  Penalties: N.D. Cent. Code, § 14-02.1-11.	2013	22 weeks	Also contains objective medical emergency standard, determination of age, protection clause, criminal penalties, statistical reporting requirements.	Not in effect. This law was repealed in 2023 with the passage of SB 2150.
<b>Ohio</b> ORC Ann. 2307.54; 2919.20 to 2919.20; 2919.201 to 2919.205.	2016	22 weeks	Also contains subjective medical emergency, determination of age, protection clause, criminal penalties, statistical reporting requirements.	In effect.
<b>Oklahoma</b> 63 Okl. St. § 1-745.1 to 1-745.11.	2011	22 weeks	Also contains unborn pain findings, objective medical emergency, determination of age, protection clause, criminal & civil penalties, statistical reporting requirements.	In effect.
<b>South Carolina</b> S.C. Code Ann. §§ 44-41-410 to 44-41-480.	2016	22 weeks	Also contains unborn pain findings, objective medical emergency expanded to include unborn children with "fetal anomalies," determination of age, protection clause, statistical reporting requirements, criminal penalties.	In effect.

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<b>South Dakota</b> S.D. Codified Law 34-23A-34; 34-23A-67 to 34-23A-73.	2016	22 weeks	Also contains unborn pain findings, subjective medical emergency, determination of age, protection clause, statistical reporting requirements, criminal penalties.	In effect.
<b>Tennessee</b> Tenn. Code Ann. § 39-15-216.	2020	Cascading bans. These protect the unborn from abortion at different gestational stages starting at 6, 8, 10, 12, 15, 18, 20 through 24 weeks.	Also contains findings on the developing unborn child including unborn pain, subjective medical emergency standard, civil, and criminal penalties.	This law was previously enjoined. See: <i>Memphis Ctr. for Reprod. Health v. Slatery</i> , No. 20-5969, 2020 U.S. App. LEXIS 36780 (6th Cir. Nov. 20, 2020).
<b>Texas</b> Tex. Health & Safety Code §§ 171.041 to 171.048.	2013	22 weeks	Also contains unborn pain findings, objective medical emergency expanded to include unborn children with "severe fetal abnormality," determination of age, protection clause, limited reporting, administrative penalty.	In effect.

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<b>Utah</b> Utah Code Ann. § 76-7-302.5	2019	18 weeks	Also contains subjective medical emergency standard with exceptions for rape and incest reported to law enforcement, fatal fetal conditions, statistical reporting requirements, administrative and criminal penalties.	In effect. The injunction previously placed on this law has been lifted. See: <i>Planned Parenthood Ass'n of Utah v. Checketts</i> , No. 2:19-cv-00238 (C.D. Utah, Jun. 26, 2022).
<b>West Virginia</b> W. Va. Code §§ 16-2M-1 to 16-2M-7.	2015	22 weeks	Also contains unborn pain findings, subjective medical emergency expanded to include unborn children with fatal fetal conditions, determination of age, protection clause, and statistical reporting requirements, administrative and civil penalties.	Not in effect. This law was rendered ineffective by the W.V. Legislature with the passage of the <i>Unborn Child Protection Act</i> , W. Va. Code § 16-2R-1 et seq.
<b>Wisconsin</b> Wis. Stat. §§ 253.10 (3) (c) 1. b., (3) (d) 1.; (2) (dr); (3) (c) 2. em. and 253.107. Reporting: 69.186 (1) (hf), (1) (k) and (L).	2016	22 weeks	Also contains unborn pain findings, objective medical emergency (this definition was previously upheld in <i>Karlin v. Foust</i> , 188 F.3d 446 [7th Cir. 1999]), determination of age, protection clause, and statistical reporting requirements, civil and criminal penalties.	In effect.