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**Pro-Life Laws Protect Mom and Baby:  
Pregnant Women's Lives are Protected in All States**

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In the 24 states with one or more strong laws to protect life that were unenforceable before the decision in *Dobbs v. Jackson Women’s Health Organization*,<sup>i</sup> state officials are now either enforcing those laws or are working towards beginning enforcement. Each of these states permits abortion in those rare and heartbreaking circumstances when it is necessary to save the life of a pregnant woman. Physicians can make this determination based on their “reasonable medical judgment,” a standard very common in the medical profession and used for any case involving medical malpractice litigation. Physicians are trained to use their best judgment to care for patients; however, it would be prudent for state medical boards, state medical societies, state boards of pharmacy, hospital quality committees, and hospital attorneys to provide more detailed guidance to doctors on how to reach a determination that abortion is necessary. Tragically, this type of guidance appears slow in coming. Meanwhile, abortion advocates are spreading the dangerous lie that life-saving care is not or may not be permitted in these states, leading to provider confusion and poor outcomes for women.

To assist healthcare providers and dispel the myths being spread by those more concerned with promoting abortion than women’s health, this document discusses miscarriage management, treatment for ectopic pregnancy, and medical conditions that could qualify as life-threatening, permitting abortion under pro-life laws. Specifically, we cite guidance from the American College of Obstetricians and Gynecologists (ACOG), a prominent professional organization that has provided comprehensive guidance for management of obstetric and gynecologic conditions. Further, the exact text of the laws, definitions, and exceptions are included below to further demonstrate that the laws in question do not inhibit appropriate and standard medical care.

While some laws contain definitions and exceptions that more explicitly speak to certain situations, each law reviewed does not prevent mothers from receiving the medical care necessary. A plain reading of any of these statutes easily refutes the false and dangerous misinformation being spread by pro-abortion activists. Further, none of the laws reviewed prohibit a medical professional from acting as necessary when facing a life-threatening medical emergency; therefore, under these laws medical professionals can exercise reasonable medical judgement and as outlined by the ACOG guidance, are not required to delay necessary care and treatment to a mother.

Because the terminology can be confusing, it is important to be aware that a “spontaneous abortion” describes a “miscarriage,” a pregnancy where the fetus dies naturally. An “induced abortion” is sometimes shortened to the layman’s term “abortion,”

indicating that the pregnancy was intentionally ended in order to cause the death of the fetus. Additionally, “termination of pregnancy” and “medically indicated separation” indicate that the mother will be separated from her fetus but does not indicate the method used. This can be done by labor induction or c-section, potentially resulting in a live baby if he has reached an appropriate gestational age. “Induced abortion” indicates that a dead baby will be the outcome of the intervention (such as after a dilation and evacuation “dismemberment” abortion). While the law allows induced abortion if needed in order to protect the mother’s life, compassionate care and respect for fetal life would dictate that the fetus should be delivered intact and alive if possible.

### **Miscarriage Management, Ectopic Pregnancy, and Specific Medical Conditions that Potentially Qualify as “Life-threatening” Under Pro-life Laws**

#### **Miscarriage Management:**

A straightforward reading of laws restricting abortion of a living fetus provide clear evidence that treatment of miscarriage is not prohibited by law (as the intent is to remove a *deceased* fetus); nonetheless, widespread confusion and anecdotes of denied care necessitate discussion of miscarriage treatment, which can be similar to interventions used to provide elective abortion.

ACOG Practice Bulletin 200: Early Pregnancy Loss. *Obstet Gynecol.* 2018;132(5):197-207:

“Accepted treatment options for early pregnancy loss include **expectant management, medical treatment, or surgical evacuation**” (p. 198). “Patients should be counseled about the risks and benefits of each option...Because of a lack of safety studies of expectant management in the second trimester and concerns about hemorrhage, **expectant management generally should be limited to gestations within the first trimester**” (p. 199). “Women who present **with hemorrhage, hemodynamic instability, or signs of infection should be treated urgently with surgical uterine evacuation**” (p. 201). “In patients for whom medical management of early pregnancy loss is indicated, initial treatment using **800 micrograms of vaginal misoprostol** is recommended, with a repeat dose as needed. The addition of a dose of **mifepristone (200 mg orally)** 24 hours before misoprostol administration may significantly improve treatment efficacy and should be considered when mifepristone is available” (p. 203). (Note: an FDA Risk Evaluation and Mitigation Strategy requires a provider to be registered to prescribe mifepristone, so it is not widely available, because few ob/gyns perform elective abortions.)

### **Ectopic Pregnancy:**

While not all state laws explicitly exclude the treatment of ectopic pregnancy from the definition of abortion, its treatment is otherwise covered in any “life of the mother” exception. A failure to treat an ectopic pregnancy will inevitably lead to the death of the baby and possibly the death of the mother and has therefore never been considered abortion.

ACOG Practice Bulletin 193: Tubal Ectopic Pregnancy. *Obstet Gynecol.* 2018;131(3):91-103:

“Ruptured ectopic pregnancy continues to be a significant cause of pregnancy-related mortality and morbidity” (p. 91). “In clinically stable women in whom a nonruptured ectopic pregnancy has been diagnosed, **laparoscopic surgery or intramuscular methotrexate administration** are safe and effective treatments. The decision for surgical or medical management of ectopic pregnancy should be guided by the initial clinical, laboratory and radiologic data as well as patient-informed choice based on a discussion of the benefits and risks of each approach. Surgical management of ectopic pregnancy is required when a patient is exhibiting any of the following: hemodynamic instability, symptoms of an ongoing ruptured ectopic mass (such as pelvic pain) or signs of intraperitoneal bleeding” (p. 99).

### **Emergency Evaluation and Treatment:**

ACOG Committee Opinion 667: Hospital-Based Triage of Obstetric Patients. *Obstet Gynecol.* 2016;128:16-19:

“The federal **Emergency Medical Treatment and Labor Act (EMTALA)** requires an **initial medical screening examination to determine if a true medical emergency exists; in the case of a pregnant woman, this includes evaluation of the woman and the fetus**” (p. 17). As noted by President Biden’s executive order and HHS directives, EMTALA requires evaluation and stabilization of a pregnant woman presenting with a suspected emergency. None of the state laws prohibit this evaluation or provision of life-saving care. Note that EMTALA considers both the woman and the fetus to be included as patients in need of care in this directive.

## **Potentially Life-Threatening Complications that May Require Separation of Mother and Child:**

### Life-Threatening Hypertensive Emergency:

ACOG Practice Bulletin 222: Gestational Hypertension and Preeclampsia. *Obstet Gynecol* 2020;135(6):237-260; ACOG Practice Bulletin 203: Chronic Hypertension in Pregnancy. *Obstet Gynecol* 2019;133(1):26-50:

“Delivery is recommended when gestational hypertension or preeclampsia with severe features is diagnosed at or beyond 34 0/7 weeks of gestation, after maternal stabilization or with labor or prelabor rupture of membranes...The expectant management of preeclampsia with severe features before 34 0/7 weeks of gestation is based on strict selection criteria of those appropriate candidates and is best accomplished in a setting with resources appropriate for maternal and neonatal care. Because expectant management is intended to provide neonatal benefit at the expense of maternal risk, **expectant management is not advised when neonatal survival is not anticipated**” (p. 252).

### Periviable<sup>1</sup> Prelabor Rupture of Membranes:

ACOG Practice Bulletin 217: Prelabor Rupture of Membranes. *Obstet Gynecol* 2020;135(3):80-97:

“Women presenting with PROM before neonatal viability should be counseled regarding the risks and benefits of expectant management versus immediate delivery. Counseling should include a realistic appraisal of neonatal outcomes. **Immediate delivery (termination of pregnancy by induction of labor or dilation and evacuation) and expectant management should be offered.** Physicians should provide patients with the most current and accurate information possible” (p. 88).

### Periviable Preterm<sup>2</sup> Labor without Rupture of Membranes:

ACOG Practice Bulletin 171: Management of Preterm Labor. *Obstet Gynecol* 2016;128:155-164:

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<sup>1</sup> Periviable refers to before or around the time of viability (before a baby can survive outside of the uterus).

<sup>2</sup> Periviable refers to before or around the time of viability (before a baby can survive outside of the uterus). Preterm refers to the occurrence prior to 37 weeks gestation (term pregnancy).

“In general, **tocolytics are not indicated for use before neonatal viability**. Regardless of interventions, perinatal morbidity and mortality at that time are too high to justify the maternal risks associated with tocolytic therapy” (p.156).

Life-threatening Maternal Heart Disease:

ACOG Practice Bulletin 212: Pregnancy and Heart Disease. *Obstet Gynecol* 2019;133(5):320-356:

“Patients should be counseled to avoid pregnancy or **consider induced abortion if they have severe heart disease, including an ejection fraction below 30% or class III/IV heart failure, severe valvular stenosis, Marfan Syndrome with aortic diameter more than 45 mm, bicuspid aortic valve with aortic diameter more than 50 mm, or pulmonary arterial hypertension**...Patients with moderate and high risk cardiovascular disease should be managed during the pregnancy, delivery and the postpartum period in medical centers with a multidisciplinary Pregnancy Heart Team that includes obstetric providers, maternal fetal medicine subspecialists, cardiologists, and an anesthesiologist at a minimum...A personalized approach estimating the maternal and fetal hazards related to the patient’s specific cardiac disorder and the patient’s pregnancy plans can provide anticipatory guidance to help support her decision making” (p. 346).

Placenta Accreta Spectrum:

ACOG Obstetric Care Consensus 7. Placenta Accreta Spectrum. *Obstet Gynecol* 2018;132:259-275:

“When the diagnosis of placenta accreta spectrum is made in the previsible period, it is important to include **counseling about the possibility of pregnancy termination for maternal indications given the significant risk of maternal morbidity and mortality**. However, there are currently no data to support the magnitude of risk reduction, if any. Further, pregnancy termination in the setting of placenta accreta spectrum also carries risk, and the complexities of counseling should be undertaken by health care providers who are experienced in these procedures” (p. 263-264).

Critically Ill Patient in an Intensive Care Unit (ICU):

ACOG Practice Bulletin 211. Critical Care in Pregnancy. *Obstet Gynecol* 2019;133:303-319:

“Because the risk benefit considerations for continued pregnancy versus delivery are likely to change as the pregnancy and critical illness progress, the care plan must be reevaluated regularly. In situations when there is an **acute deterioration in the patient’s clinical condition, immediate reassessment of continuing the pregnancy versus delivery should be undertaken**” (p 308). “When obstetric patients are transferred to the ICU, patient care decisions including mode, location and timing of delivery ideally should be made collaboratively between the intensivist, obstetrician-gynecologist, and neonatologist, and should involve the patient and her family when possible” (p. 314).

#### Cancer Treatment in Pregnancy:

Treatment considerations and concerns for maternal and fetal health can vary depending on the type of cancer, the degree of spread, the likelihood of recurrence, the proximity of the cancer to the uterus, the possibility of cancer promotion due to pregnancy hormones, and the toxicity of treatment options for the unborn child (which may include surgery, radiation and chemotherapy), so there is not a standard recommendation on how cancer treatment should be addressed in pregnancy. However, if a **multidisciplinary team concludes that ending the pregnancy would benefit a woman undergoing cancer treatment**, this management would also fall under exemptions for the “life of the mother.”

The above discussion is not all-inclusive, and it is recognized that there are likely other situations that can threaten a woman’s life in pregnancy. Complying with state legislation differs little from conventional obstetric practice, as either may result in litigation, but is unlikely to do so when quality care is rendered. Obstetrician/gynecologists must continue to adhere to the standard of care, and recommendations from the American College of Obstetricians and Gynecologists as well as other obstetric medical organizations provide support for medically indicated interventions. Additional information may be found in (but is not limited to) the following documents:

ACOG Practice Bulletin 201: Pregestational diabetes mellitus. *Obstet Gynecol* 2018;132(6):228-248.

ACOG Practice Bulletin 183: Postpartum hemorrhage. *Obstet Gynecol* 2017;130(4):168-186.

ACOG Practice Bulletin 142: Cerclage for the management of cervical insufficiency. *Obstet Gynecol*. 2014;123:372-379.



## **States with Strong Laws to Protect Life**

### **Alabama<sup>ii</sup>**

Summary: Alabama prohibits abortion unless “reasonable medical judgment” demonstrates that an abortion is necessary to protect the mother’s life or prevent major impairment. Abortion does not include acts done to save the life or protect the health of her baby, to remove a dead baby, to deliver the baby prematurely to avoid serious risks to the mother’s or baby’s health, or procedures to treat ectopic pregnancy. Women upon whom abortions are performed may not be prosecuted, and physicians are not culpable who act in accordance with the law.

### The Law and the exceptions

"It shall be unlawful for any person to intentionally perform or attempt to perform an abortion except as provided for by subsection (b)."

Abortion is permitted if “an attending physician licensed in Alabama determines that an abortion is necessary in order to prevent a serious health risk to the unborn child's mother.”

A “serious health risk to the unborn child’s mother” is defined as “in reasonable medical judgment, the child's mother has a condition that so complicates her medical condition that it necessitates the termination of her pregnancy to avert her death or to avert serious risk of substantial physical impairment of a major bodily function. This term does not include a condition based on a claim that the woman is suffering from an emotional condition or a mental illness which will cause her to engage in conduct that intends to result in her death or the death of her unborn child. However, the condition may exist if a second physician who is licensed in Alabama as a psychiatrist, with a minimum of three years of clinical experience, examines the woman and documents that the woman has a diagnosed serious mental illness and because of it, there is reasonable medical judgment that she will engage in conduct that could result in her death or the death of her unborn child....”

### Definition of abortion and clarifications about what is not an abortion

An abortion is “[t]he use or prescription of any instrument, medicine, drug, or any other substance or device with the intent to terminate the pregnancy of a woman known to be pregnant with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. The term does not include these activities if

done with the intent to save the life or preserve the health of an unborn child, remove a dead unborn child, to deliver the unborn child prematurely to avoid a serious health risk to the unborn child's mother, or to preserve the health of her unborn child. The term does not include a procedure or act to treat an ectopic pregnancy, nor does it include the procedure or act to terminate the pregnancy of a woman when the unborn child has a lethal anomaly.”

### **Arizona<sup>iii</sup>**

Summary: Arizona’s pre-*Roe* law prohibits abortion unless it is necessary to save a mother’s life. The state’s definition of abortion explicitly excludes contraception, actions to save the life or protect the health of the unborn baby or a baby after live birth, the treatment of ectopic pregnancy, or the removal of a dead baby.

#### The Law and the Exceptions

“A person who provides, supplies or administers to a pregnant woman, or procures such woman to take any medicine, drugs or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless it is necessary to save her life, shall be punished by imprisonment in the state prison for not less than two years nor more than five years.”

#### Definition of abortion commonly used in Arizona law and clarifications about what is not an abortion

An abortion “means the use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Abortion does not include birth control devices, oral contraceptives used to inhibit or prevent ovulation, conception or the implantation of a fertilized ovum in the uterus or the use of any means to save the life or preserve the health of the unborn child, to preserve the life or health of the child after a live birth, to treat an ectopic pregnancy or to remove a dead fetus.”

### **Arkansas<sup>iv</sup>**

Summary: Arkansas prohibits abortion unless it is necessary to save a mother’s life. It does not prohibit contraception. The law excludes from the definition of abortion acts to preserve the life or health of the unborn baby, to remove an unborn baby who was miscarried, or to treat an ectopic pregnancy. Women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

"A person shall not purposely perform or attempt to perform an abortion except to save the life of a pregnant woman in a medical emergency."

"'Medical emergency' means a condition in which an abortion is necessary to preserve the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself."

The law "does not ... [p]rohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical if the contraceptive measure, drug, or chemical is administered before the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure, drug, or chemical is sold, used, prescribed, or administered in accordance with manufacturer instructions."

### Definition of abortion and clarifications about what is not an abortion

Abortion "means the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the unborn child. (B) An act under subdivision (1)(A) of this section is not an abortion if the act is performed with the purpose to: (i) Save the life or preserve the health of the unborn child; (ii) Remove a dead unborn child caused by spontaneous abortion; or (iii) Remove an ectopic pregnancy...."

### **Florida<sup>v</sup>**

Summary: Florida prohibits abortion after 15 weeks unless it is necessary to save the life of the mother or protect her from substantial impairment, or the unborn baby is not viable and has a "fatal fetal abnormality." The definition of abortion excludes actions taken to produce a live birth or remove a dead unborn baby.

### The Law and the Exceptions

"A physician may not perform a termination of pregnancy if the physician determines the gestational age of the fetus is more than 15 weeks unless one of the following conditions is met:

(a) Two physicians certify in writing that, in reasonable medical judgment, the termination of the pregnancy is necessary to save the pregnant woman's life or avert a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition.

(b) The physician certifies in writing that, in reasonable medical judgment, there is a medical necessity for legitimate emergency medical procedures for termination of the pregnancy to save the pregnant woman's life or avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the pregnant woman other than a psychological condition, and another physician is not available for consultation.

(c) The fetus has not achieved viability ... and two physicians certify in writing that, in reasonable medical judgement, the fetus has a fatal fetal abnormality."

"'Fatal fetal abnormality' means a terminal condition that, in reasonable medical judgment, regardless of the provision of life-saving medical treatment, is incompatible with life outside the womb and will result in death upon birth or imminently thereafter."

#### Definition of abortion and clarifications about what is not an abortion

"'Abortion' means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus."

#### **Georgia<sup>vi</sup>**

Summary: Georgia prohibits abortion after an unborn baby has a heartbeat except to save the mother's life or to prevent substantial impairment. Abortion is also permitted up to 20 weeks if the pregnancy resulted from rape or incest, or if the baby is unlikely to survive long after birth because of a "profound" anomaly. Abortion does not include removing a dead unborn baby after miscarriage or treating ectopic pregnancy. Women upon whom illegal abortions are performed can recover civil damages.

#### The Law and the Exceptions

Georgia prohibits abortion "if an unborn child has been determined ... to have a detectable human heartbeat except when: (1) A physician determines, in reasonable medical judgment, that a medical emergency exists; (2) The probable gestational age of the unborn child is 20 weeks or less and the pregnancy is the result of rape or incest in which an official police report has been filed alleging the offense of rape or incest...; or (3) A

physician determines, in reasonable medical judgment, that the pregnancy is medically futile.”

“‘Medical emergency’ means a condition in which an abortion is necessary in order to prevent the death of the pregnant woman or the substantial and irreversible physical impairment of a major bodily function of the pregnant woman. No such greater risk shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.”

“‘Medically futile’ means that, in reasonable medical judgment, an unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.”

#### Definition of abortion and clarifications about what is not an abortion

Abortion “means the act of using, prescribing, or administering any instrument, substance, device, or other means with the purpose to terminate a pregnancy with knowledge that termination will, with reasonable likelihood, cause the death of an unborn child; provided, however, that any such act shall not be considered an abortion if the act is performed with the purpose of: (A) Removing a dead unborn child caused by spontaneous abortion; or (B) Removing an ectopic pregnancy.”

#### **Idaho<sup>vii</sup>**

Summary: Idaho’s abortion law permits a physician who performs an abortion to raise the affirmative defense that the abortion was necessary to save the mother’s life or that the pregnancy resulted from rape or incest that was reported. In both cases, the physician must choose a procedure that is most likely to save the life of the baby and protect the mother. The law explicitly excludes contraception from the definition of abortion, and women upon whom abortions are performed may not be prosecuted.

#### The Law and the Exceptions

Idaho’s abortion law provides that “[e]very person who performs or attempts to perform an abortion as defined in this chapter commits the crime of criminal abortion.”

The law provides an affirmative defense if “[t]he abortion was performed or attempted by a physician ...; The physician determined, in his good faith medical judgment and based on the facts known to the physician at the time, that the abortion was necessary to prevent the death of the pregnant woman. No abortion shall be deemed necessary to prevent the death of the pregnant woman because the physician believes that the woman may or will take action to harm herself; and [t]he physician performed or attempted to perform the abortion in the manner that, in his good faith medical judgment and based on the facts known to the physician at the time, provided the best opportunity for the unborn child to survive, unless, in his good faith medical judgment, termination of the pregnancy in that manner would have posed a greater risk of the death of the pregnant woman...; or

[t]he abortion was performed or attempted by a physician ...; If the woman is not a minor or subject to a guardianship, then, prior to the performance of the abortion, the woman has reported the act of rape or incest to a law enforcement agency and provided a copy of such report to the physician who is to perform the abortion; If the woman is a minor or subject to a guardianship, then, prior to the performance of the abortion, the woman or her parent or guardian has reported the act of rape or incest to a law enforcement agency or child protective services and a copy of such report has been provided to the physician who is to perform the abortion; and [t]he physician who performed the abortion complied with the requirements ... regarding the method of abortion.”

#### Definition of abortion and clarifications about what is not an abortion

“‘Abortion’ means the use of any means to intentionally terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child except that, for the purposes of this chapter, abortion shall not mean the use of an intrauterine device or birth control pill to inhibit or prevent ovulations, fertilization or the implantation of a fertilized ovum within the uterus.”

#### **Indiana**<sup>viii</sup>

Summary: In 2022, Indiana fully amended its abortion laws, including informed and parental consent provisions, to ensure consistency with the state’s new abortion restrictions. Under the new law, unborn lives are protected in nearly all circumstances with certain exceptions for rape and incest, medical risk to the mother, or “lethal fetal anomalies.” Abortion is permitted before the earlier of viability or 20 weeks if it is necessary to prevent a serious health risk to a pregnant woman or to save her life, or the fetus is diagnosed with a lethal fetal anomaly. In the first ten weeks, abortion is also

permitted if the pregnancy results from rape or incest. After 20 weeks or viability, abortion is only permitted to prevent serious health risks to the mother or her death. Partial birth abortion is only permitted to save the mother's life and if there is no other means to save her life. Dismemberment abortion is only permitted to prevent serious health risks to the mother or her death. No abortion is permitted if it is intended to end a pregnancy because of the unborn baby's race, sex, or Down syndrome or disability diagnosis. The definition of abortion excludes actions taken to produce a live birth or remove a dead unborn baby.

### The Law and the Exceptions

Indiana's abortion law provides that "[a]bortion shall in all instances be a criminal act, except when performed under the following circumstances:

... before the earlier of viability of the fetus or twenty (20) weeks of postfertilization age of the fetus, if: for reasons based upon the professional, medical judgment of the pregnant woman's physician, if either: (i) the abortion is necessary when reasonable medical judgment dictates that performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life; or (ii) the fetus is diagnosed with a lethal fetal anomaly; [and] the abortion is performed by the physician in a hospital licensed under IC 16-21 or an ambulatory outpatient surgical center...;

... during the first ten (10) weeks of postfertilization age of the fetus, if the pregnancy is a result of rape or incest; ... [and] the abortion is performed in a hospital licensed under IC 16-21 or ambulatory outpatient surgical center...;

...at the earlier of viability of the fetus or twenty (20) weeks of postfertilization age and any time after, for reasons based upon the professional, medical judgment of the pregnant woman's physician if: based on reasonable medical judgment, performing the abortion is necessary to prevent any serious health risk to the pregnant woman or to save the pregnant woman's life; ... [and] the abortion is performed in a hospital licensed under IC 16-21...

A person may not knowingly or intentionally perform a partial birth abortion unless a physician reasonably believes that: performing the partial birth abortion is necessary to save the mother's life; and no other medical procedure is sufficient to save the mother's life.

A person may not knowingly or intentionally perform a dismemberment abortion unless reasonable medical judgment dictates that performing the dismemberment abortion is necessary: to prevent any serious health risk to the mother; or to save the mother's life."

Abortion is also prohibited when it is sought for discriminatory purposes (*i.e.*, based on the unborn child's race, sex, diagnosis or probable diagnosis of Down syndrome, or diagnosis or probable diagnosis of disability).

"Serious health risk" means "that in reasonable medical judgment, a condition exists that has complicated the mother's medical condition and necessitates an abortion to prevent death or a serious risk of substantial and irreversible physical impairment of a major bodily function. The term does not include psychological or emotional conditions. A medical condition may not be determined to exist based on a claim or diagnosis that the woman will engage in conduct that she intends to result in her death or in physical harm."

#### Definition of abortion and clarifications about what is not an abortion

"'Abortion' means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus. The term includes abortions by surgical procedures and by abortion inducing drugs."<sup>ix</sup>

#### **Iowa<sup>x</sup>**

Summary: Iowa's abortion law prohibits abortion after a heartbeat has been detected unless it is necessary to save the mother's life or protect her from substantial impairment. Further, before 20 weeks, abortion is permitted if pregnancy results from reported rape or incest, or the unborn baby has a condition deemed "incompatible with life." Women upon whom abortions are performed may not be prosecuted.

#### The Law and the Exceptions

Iowa's abortion law provides that "[e]xcept in the case of a medical emergency or when the abortion is medically necessary, a physician shall not perform an abortion unless the physician ... has tested the pregnant woman as specified in this subsection, to determine if a fetal heartbeat is detectable. ...if a fetal heartbeat was detected, an abortion is prohibited."

"A physician shall not perform an abortion upon a pregnant woman when it has been determined that the unborn child has a detectable fetal heartbeat, unless, in the physician's



reasonable medical judgment, a medical emergency exists, or when the abortion is medically necessary.”

The term "medical emergency" means “a situation in which an abortion is performed to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, but not including psychological conditions, emotional conditions, familial conditions, or the woman's age; or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.”

The term “medically necessary” means “any of the following:

- a. The pregnancy is the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician.
- b. The pregnancy is the result of incest which is reported within one hundred forty days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician.
- c. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.
- d. The attending physician certifies that the fetus has a fetal abnormality that in the physician's reasonable medical judgment is incompatible with life.”

After 20 weeks, abortion is only permitted in a medical emergency.

#### Definition of abortion and clarifications about what is not an abortion

Abortion “means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus.”

#### **Kentucky<sup>xi</sup>**

Summary: Kentucky prohibits abortion except when the procedure is necessary to save the life of the mother or to prevent substantial impairment; however, the physician should attempt to save the mother and the unborn baby. Further, physicians are not held responsible for the unintentional injury to, or death of an unborn baby caused by treatment of the mother. The law explicitly excludes contraception from the prohibition, and women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

Kentucky law provides that “No person may knowingly: 1. Administer to, prescribe for, procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being; or 2. Use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.”

Further, “[t]he following shall not be a violation ...: (a) For a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of the unborn human being in a manner consistent with reasonable medical practice; or

(b) Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn human being.”

### Definition of abortion and clarifications about what is not an abortion

The definition of abortion is encompassed in the language of the law noted above. The statute also clarifies that “[n]othing in this section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.”

## **Louisiana<sup>xii</sup>**

**Summary:** Louisiana prohibits abortion except when the procedure is necessary to save the life of the mother or to prevent substantial impairment; however, the physician should attempt to save the mother and the unborn baby. Further, physicians are not held responsible for the unintentional injury to or death of an unborn baby caused by treatment of the mother. The law explicitly excludes contraception from the prohibition, and women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

Louisiana's abortion law provides that “[n]o person may knowingly administer to, prescribe for, or procure for, or sell to any pregnant woman any medicine, drug, or other substance with the specific intent of causing or abetting the termination of the life of an unborn human being. No person may knowingly use or employ any instrument or procedure upon a pregnant woman with the specific intent of causing or abetting the termination of the life of an unborn human being.”

Further, “[i]t shall not be a violation ... for a licensed physician to perform a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.”

“Medical treatment provided to the mother by a licensed physician which results in the accidental or unintentional injury or death to the unborn child is not a violation of Subsection C of this Section.”

### Definition of abortion and clarifications about what is not an abortion.

The definition of abortion is encompassed in the language of the law noted above. The statute also clarifies that “[n]othing in this Section may be construed to prohibit the sale, use, prescription, or administration of a contraceptive measure, drug or chemical, if it is administered prior to the time when a pregnancy could be determined through conventional medical testing and if the contraceptive measure is sold, used, prescribed, or administered in accordance with manufacturer instructions.”

## **Michigan<sup>xiii</sup>**

Summary: Michigan’s pre-*Roe* law prohibits abortion unless it is necessary to save the mother’s life.

### The Law and the Exceptions

Michigan’s pre-*Roe* statute provides that “[a]ny person who shall willfully administer to any pregnant woman any medicine, drug, substance or thing whatever, or shall employ any

instrument or other means whatever, with intent thereby to procure the miscarriage<sup>3</sup> of any such woman, unless the same shall have been necessary to preserve the life of such woman, shall be guilty of a felony, and in case the death of such pregnant woman be thereby produced, the offense shall be deemed manslaughter.”

#### Definition of abortion and clarifications about what is not an abortion

The definition of abortion is encompassed in the language of the law noted above.

#### **Mississippi<sup>xiv</sup>**

Summary: Mississippi prohibits abortion except for when the mother’s life is in danger or when her pregnancy was caused by rape. The definition of abortion excludes actions to protect the life or health of the unborn child or to deliver a dead unborn child. Women upon whom abortions are performed may not be prosecuted.

#### The Law and the Exceptions

Mississippi’s law provides that “[n]o abortion shall be performed or induced in the State of Mississippi, except in the case where necessary for the preservation of the mother’s life or where the pregnancy was caused by rape. For the purposes of this section, rape shall be an exception to the prohibition for an abortion only if a formal charge of rape has been filed with an appropriate law enforcement official.”

#### Definition of abortion and clarifications about what is not an abortion

Abortion “means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus.”

#### **Missouri<sup>xv</sup>**

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<sup>3</sup> Note: Miscarriage as used here is a historical term, but current medical terminology would imply "induced abortion." Miscarriage is also known as "spontaneous abortion." In medical terminology, abortion implies loss, and the adjective preceding it notates whether the loss is intentional or natural.

Summary: Missouri prohibits abortion unless it is necessary to save the mother's life or prevent substantial impairment. Abortion is defined as destroying an embryo or fetus in a mother's womb, which means that the definition excludes the termination of ectopic pregnancy. The definition also excludes actions intended to increase the likelihood of live birth or to remove a dead unborn child. The woman upon whom the abortion is performed may not be prosecuted.

### The Law and the Exceptions

Missouri's law provides that "...no abortion shall be performed or induced upon a woman, except in cases of medical emergency."

A "medical emergency" is "a condition which, based on reasonable medical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman."

### Definition of abortion and clarifications about what is not an abortion

Abortion means "(a) The act of using or prescribing any instrument, device, medicine, drug, or any other means or substance with the intent to destroy the life of an embryo or fetus in his or her mother's womb; or (b) The intentional termination of the pregnancy of a mother by using or prescribing any instrument, device, medicine, drug, or other means or substance with an intention other than to increase the probability of a live birth or to remove a dead unborn child."

## **North Dakota<sup>xvi</sup>**

Summary: North Dakota prohibits abortion unless it is necessary to protect the life of the mother or the pregnancy resulted from rape or incest. The definition of abortion excludes acts done to protect the life or health of the unborn child or to remove a dead unborn child. Women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

North Dakota's law provides that "[i]t is a class C felony for a person, other than the pregnant female upon whom the abortion was performed, to perform an abortion."

"The following are affirmative defenses under this section: a. That the abortion was necessary in professional judgment and was intended to prevent the death of the pregnant female. b. That the abortion was to terminate a pregnancy that resulted from gross sexual imposition, sexual imposition, sexual abuse of a ward, or incest, ... c. That the individual was acting within the scope of that individual's regulated profession and under the direction of or at the direction of a physician."

#### Definition of abortion and clarifications about what is not an abortion

Abortion "means the use or prescription of any substance, device, instrument, medicine, or drug to intentionally terminate the pregnancy of an individual known to be pregnant. The term does not include an act made with the intent to increase the probability of a live birth; preserve the life or health of a child after live birth; or remove a dead, unborn child who died as a result of a spontaneous miscarriage, an accidental trauma, or a criminal assault upon the pregnant female or her unborn child."

#### **Ohio<sup>xvii</sup>**

Summary: Ohio prohibits abortion after an unborn baby's heartbeat has been detected unless a physician determines it is necessary to save the mother's life or protect her from substantial impairment. The definition of abortion excludes actions to produce a live birth or to remove a dead unborn baby. Further, the prohibition explicitly excludes contraceptives. Women upon whom abortions are performed may not be prosecuted.

#### The Law and the Exceptions

Under Ohio law, "no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman before determining ... whether the unborn human individual the pregnant woman is carrying has a detectable heartbeat."

Further, "no person shall knowingly and purposefully perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of

the unborn human individual the pregnant woman is carrying and whose fetal heartbeat has been detected...."

The law "does not apply to a physician who performs a medical procedure that, in the physician's reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman."

#### Definition of abortion and clarifications about what is not an abortion

"As used in the Revised Code, 'abortion' means the purposeful termination of a human pregnancy by any person, including the pregnant woman herself, with an intention other than to produce a live birth or to remove a dead fetus or embryo...."

"Nothing in sections 2919.19 to 2919.196 of the Revised Code prohibits the sale, use, prescription, or administration of a drug, device, or chemical for contraceptive purposes."

#### **Oklahoma<sup>xviii</sup>**

Summary: Oklahoma's trigger law did not create a new prohibition; rather, it repeals most of the state's abortion-related laws, leaving the state's pre-*Roe* law in effect. Abortion is prohibited unless it is necessary to save the mother's life, and the 2021 law repealed an unenforced law that permitted prosecution of women.

#### The Law and the Exceptions

Oklahoma law provides that "[e]very person who administers to any woman, or who prescribes for any woman, or advises or procures any woman to take any medicine, drug or substance, or uses or employs any instrument, or other means whatever, with intent thereby to procure the miscarriage<sup>4</sup> of such woman, unless the same is necessary to preserve her life shall be guilty of a felony punishable by imprisonment in the State Penitentiary for not less than two (2) years nor more than five (5) years."

#### Definition of abortion and clarifications about what is not an abortion

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<sup>4</sup> Note: Miscarriage as used here is a historical term, but current medical terminology would imply "induced abortion." Miscarriage is also known as "spontaneous abortion." In medical terminology, abortion implies loss, and the adjective preceding it notates whether the loss is intentional or natural.

The definition of abortion is encompassed in the language of the law noted above.

### **South Carolina<sup>xix</sup>**

Summary: South Carolina prohibits abortion after a heartbeat has been detected unless the abortion is necessary to save the life of the mother or protect her from substantial impairment, the unborn baby has a profound “fetal anomaly,” or if the unborn baby was conceived through rape or incest and the unborn baby is younger than 20 weeks. The definition of abortion excludes actions to protect the life or health of the unborn baby or to deliver a dead unborn child. Further, women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

South Carolina’s law provides that “no person shall perform, induce, or attempt to perform or induce an abortion on a pregnant woman before a physician determines in accordance with Section 44-41-630 whether the human fetus the pregnant woman is carrying has a detectable fetal heartbeat.”

Further, “no person shall perform, induce, or attempt to perform or induce an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the human fetus the pregnant woman is carrying and whose fetal heartbeat has been detected...”

The law states that “[a] physician may perform, induce, or attempt to perform or induce an abortion on a pregnant woman after a fetal heartbeat has been detected ... only if: (1) the pregnancy is the result of rape, and the probable post-fertilization age of the fetus is fewer than twenty weeks; (2) the pregnancy is the result of incest, and the probable post-fertilization age of the fetus is fewer than twenty weeks; (3) the physician is acting in accordance with Section 44-41-690 [medical emergency]; or (4) there exists a fetal anomaly, as defined in Section 44-41-430.”

Section 44-41-690, pertaining to medical emergencies, provides: “Section 44-41-680 does not apply to a physician who performs a medical procedure that, by any reasonable medical judgment, is designed or intended to prevent the death of the pregnant woman or to prevent the serious risk of a substantial and irreversible impairment of a major bodily function of the pregnant woman.”



A “[f]etal anomaly’ means that, in reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life-preserving treatment, would be incompatible with sustaining life after birth.”

#### Definition of abortion and clarifications about what is not an abortion

Abortion “means the use of an instrument, medicine, drug, or other substance or device with intent to terminate the pregnancy of a woman known to be pregnant for reasons other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.”

#### **South Dakota<sup>xx</sup>**

Summary: South Dakota prohibits abortion unless it is necessary to save the life of the mother.

#### The Law and the Exceptions

“Any person who administers to any pregnant female or who prescribes or procures for any pregnant female any medicine, drug, or substance or uses or employs any instrument or other means with intent thereby to procure an abortion, unless there is appropriate and reasonable medical judgment that performance of an abortion is necessary to preserve the life of the pregnant female, is guilty of a Class 6 felony.”

#### Definition of abortion and clarifications about what is not an abortion

The definition of abortion is encompassed in the language of the law noted above.

#### **Tennessee<sup>xxi</sup>**

Summary: Tennessee prohibits abortion after an unborn child’s heartbeat has been detected unless the abortion is necessary to save the life of the mother or protect her from substantial impairment. In that case, the abortion provider must perform the procedure most likely to protect the life and health of the unborn child unless it poses a greater risk of death or substantial impairment to the mother. The definition of abortion excludes actions to protect the life or health of the unborn child or to remove a dead unborn child. The law

also shields healthcare providers who inadvertently cause harm to an unborn child while treating his or her mother, and women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

Tennessee law provides that "[b]efore performing or inducing, or attempting to perform or induce, an abortion, the physician shall determine the gestational age of the unborn child..."

"A person shall not perform or induce, or attempt to perform or induce, an abortion upon a pregnant woman whose unborn child has a fetal heartbeat."

"It is an affirmative defense to prosecution ... that: (1) The abortion was performed or attempted by a licensed physician; (2) The physician determined, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, that the abortion was necessary to prevent the death of the pregnant woman or to prevent serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman. No abortion shall be deemed authorized under this subdivision (c)(2) if performed on the basis of a claim or a diagnosis that the woman will engage in conduct that would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health; and (3) The physician performs or attempts to perform the abortion in the manner which, in the physician's good faith medical judgment, based upon the facts known to the physician at the time, provides the best opportunity for the unborn child to survive, unless in the physician's good faith medical judgment, termination of the pregnancy in that manner would pose a greater risk of the death of the pregnant woman or substantial and irreversible impairment of a major bodily function. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health."

"Medical treatment provided to the pregnant woman by a licensed physician which results in the accidental death of or unintentional injury to or death of the unborn child shall not be a violation of this section."

### Definition of abortion and clarifications about what is not an abortion

Abortion "means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with

intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.”

### **Texas<sup>xxii</sup>**

Summary: Texas prohibits abortion unless the abortion is necessary to save the life of the mother or protect her from substantial impairment. In that case, the abortion provider must perform the procedure most likely to protect the life and health of the unborn child unless it poses a greater risk of death or substantial impairment to the mother. The definition of abortion excludes actions to protect the life or health of the unborn child, to remove a dead unborn child, or to treat an ectopic pregnancy. The law also shields healthcare providers who inadvertently cause harm to an unborn child while treating his or her mother, and women upon whom abortions are performed may not be prosecuted.

### The Law and the Exceptions

Texas law provides that “[a] person may not knowingly perform, induce, or attempt an abortion.”

Texas’s law excludes abortions where “(1) the person performing, inducing, or attempting the abortion is a licensed physician; (2) in the exercise of reasonable medical judgment, the pregnant female on whom the abortion is performed, induced, or attempted has a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the female at risk of death or poses a serious risk of substantial impairment of a major bodily function unless the abortion is performed or induced; and (3) the person performs, induces, or attempts the abortion in a manner that, in the exercise of reasonable medical judgment, provides the best opportunity for the unborn child to survive unless, in the reasonable medical judgment, that manner would create: (A) a greater risk of the pregnant female's death; or (B) a serious risk of substantial impairment of a major bodily function of the pregnant female.”

“A physician may not take an action authorized under Subsection (b) if, at the time the abortion was performed, induced, or attempted, the person knew the risk of death or a substantial impairment of a major bodily function described by Subsection (b)(2) arose from a claim or diagnosis that the female would engage in conduct that might result in the female's death or in substantial impairment of a major bodily function.”

“Medical treatment provided to the pregnant female by a licensed physician that results in the accidental or unintentional injury or death of the unborn child does not constitute a violation of this section.”

#### Definition of abortion and clarifications about what is not an abortion

Abortion “means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth control devices or oral contraceptives. An act is not an abortion if the act is done with the intent to: (A) save the life or preserve the health of an unborn child; (B) remove a dead, unborn child whose death was caused by spontaneous abortion; or (C) remove an ectopic pregnancy.”

#### **Utah<sup>xxiii</sup>**

Summary: Utah prohibits abortion unless the abortion is necessary to save the life of the mother or protect her from substantial impairment; the unborn baby has a lethal “defect,” or the pregnancy resulted from rape or incest that was reported. The definition of abortion excludes the removal of a dead unborn child or the termination of an ectopic pregnancy.

#### The Law and the Exceptions

Utah’s abortion law provides:

“An abortion may be performed in this state only under the following circumstances: (a) the abortion is necessary to avert: (i) the death of the woman on whom the abortion is performed; or (ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; (b) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus: (i) has a defect that is uniformly diagnosable and uniformly lethal; or (ii) has a severe brain abnormality that is uniformly diagnosable; or (c)(i) the woman is pregnant as a result of: (A) rape; (B) rape of a child; or (C) incest; and (ii) before the abortion is performed, the physician who performs the abortion: (A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law enforcement; and (B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.”

“(a) ‘Severe brain abnormality’ means a malformation or defect that causes an individual to live in a mentally vegetative state. (b) ‘Severe brain abnormality’ does not include: (i) Down syndrome; (ii) spina bifida; (iii) cerebral palsy; or (iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.”

### Definition of abortion and clarifications about what is not an abortion

“‘Abortion’ means:

- (i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;
- (ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or
- (iii) the intentional causing or attempted causing of a miscarriage<sup>5</sup> through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) ‘Abortion’ does not include:

- (i) removal of a dead unborn child;
- (ii) removal of an ectopic pregnancy; or
- (iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:
  - (A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and
  - (B) the physician is unable to obtain the consent due to a medical emergency.”

### **West Virginia<sup>xxiv</sup>**

Summary: West Virginia prohibits abortion unless the abortion is necessary to save the life of the mother.

### The Law and the Exceptions

“Any person who shall administer to, or cause to be taken by, a woman, any drug or other thing, or use any means, with intent to destroy her unborn child, or to produce abortion or miscarriage, and shall thereby destroy such child, or produce such abortion or miscarriage, shall be guilty of a felony...”

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<sup>5</sup> Note: Miscarriage as used here is a historical term, but current medical terminology would imply "induced abortion." Miscarriage is also known as "spontaneous abortion." In medical terminology, abortion implies loss, and the adjective preceding it denotes whether the loss is intentional or natural.

“No person, by reason of any act mentioned in this section, shall be punishable where such act is done in good faith, with the intention of saving the life of such woman or child.”

Definition of abortion and clarifications about what is not an abortion

The definition of abortion is encompassed in the language of the law noted above.

**Wisconsin<sup>xxv</sup>**

Summary: Wisconsin prohibits abortion unless it is necessary to save the life of the mother. Women upon whom abortions are performed may not be prosecuted.

The Law and the Exceptions

“Any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a Class H felony.”

“This section does not apply to a therapeutic abortion which: (a) Is performed by a physician; and (b) Is necessary, or is advised by 2 other physicians as necessary, to save the life of the mother; and (c) Unless an emergency prevents, is performed in a licensed maternity hospital.

Definition of abortion and clarifications about what is not an abortion

The definition of abortion is encompassed in the language of the law noted above.

**Wyoming<sup>xxvi</sup>**

Summary: Wyoming prohibits abortion unless it is necessary to save the life of the mother or protect her from substantial impairment, or when the pregnancy results from rape or incest. The definition of abortion excludes actions to protect the life or health of the unborn child.

The Law and the Exceptions

"An abortion shall not be performed except when necessary to preserve the woman from a serious risk of death or of substantial and irreversible physical impairment of a major bodily function, not including any psychological or emotional conditions, or the pregnancy is the result of incest ... or sexual assault ...."

## Definition of abortion and clarifications about what is not an abortion

Abortion “means an act, procedure, device or prescription administered to or prescribed for a pregnant woman by any person with knowledge of the pregnancy, including the pregnant woman herself, with the intent of producing the premature expulsion, removal or termination of a human embryo or fetus, except that in cases in which the viability of the embryo or fetus is threatened by continuation of the pregnancy, early delivery after viability by commonly accepted obstetrical practices shall not be construed as an abortion.”

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*Editor’s Note (9//2022): This paper, originally published in July 2022, has been updated to include a new Indiana law.*

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<sup>i</sup> 2022 U.S. LEXIS 3057, 19-1392 (2022).

<sup>ii</sup> Code of Ala. § 26-23H-1 et seq., <https://casetext.com/statute/code-of-alabama/title-26-infants-and-incompetents/chapter-23h-the-alabama-human-life-protection-act/section-26-23h-1-short-title>.

<sup>iii</sup> Az Rev. Stat. § 13-3603; § 36-2151, <https://casetext.com/statute/arizona-revised-statutes/title-13-criminal-code/chapter-36-family-offenses/section-13-3603-definition-punishment?>; <https://casetext.com/statute/arizona-revised-statutes/title-36-public-health-and-safety/chapter-20-abortion/article-1-general-provisions/section-36-2151-definitions>.

<sup>iv</sup> Ark. Code § 5-61-301 et seq.,

<https://casetext.com/statute/arkansas-code-of-1987/title-5-criminal-offenses/subtitle-6-offenses-against-public-health-safety-or-welfare/chapter-61-abortion/subchapter-3-arkansas-human-life-protection-act/section-5-61-301-see-notetitle?sort=relevance&type=case&resultsNav=false&tab=keyword>

<sup>v</sup> Fl House Bill No. 5, Chapter 2022-69, <http://laws.flrules.org/2022/69>;  
<https://www.flsenate.gov/laws/statutes/2018/390.011>

<sup>vi</sup> Ga. Code § 16-12-140, et seq., <https://casetext.com/statute/code-of-georgia/title-16-crimes-and-offenses/chapter-12-offenses-against-public-health-and-morals/article-5-abortion/section-16-12-140-criminal-abortion>

<sup>vii</sup> Idaho Code § 18-622, <https://casetext.com/statute/idaho-code/title-18-crimes-and-punishments/chapter-6-abortion-and-contraceptives/section-18-622-criminal-abortion>

<sup>viii</sup> Senate Enrolled Act No. 1 (2022), <http://iga.in.gov/legislative/2022ss1/bills/senate/1#document-ea18ee28>

<sup>ix</sup> IN Code § 16-18-2-1, <https://casetext.com/statute/indiana-code/title-16-health/article-18-general-provisions-and-definitions/chapter-2-definitions/section-16-18-2-1-abortion>

<sup>x</sup> Iowa Code § 146C.1, et seq., <https://casetext.com/statute/code-of-iowa/title-iv-public-health/subtitle-2-health-related-activities/chapter-146c/section-146c1-definitions>

<sup>xi</sup> Ky. Rev. Stat. § 311.772, <https://casetext.com/statute/kentucky-revised-statutes/title-26-occupations-and-professions/chapter-311-physicians-osteopaths-podiatrists-and-related-medical-practitioners/abortions/section-311772-prohibition-against-intentional-termination-of-life-of-an-unborn-human-being-definitions-when-section-takes-effect-penalties-not-to-apply-to-pregnant-woman-contraception-appropriation-of-medicaid-funds>

<sup>xii</sup> LA Rev Stat § 40:1061,

<https://law.justia.com/codes/louisiana/2015/code-revisedstatutes/title-40/rs-40-1061>

<sup>xiii</sup> Mich. Comp. Laws § 750.14, <https://casetext.com/statute/michigan-compiled-laws/chapter-750-michigan-penal-code/subchapter-abortion/section-75014-miscarriage-administering-with-intent-to-procure-felony-penalty?sort=relevance&type=case&tab=keyword&jxs=&resultsNav=false>

<sup>xiv</sup> Miss. Code § 41-41-45, <https://casetext.com/statute/mississippi-code-1972/title-41-public-health/chapter-41-surgical-or-medical-procedures-consents/performance-of-abortion-consent/section-41-41-45-effective-from-and-after-ten-days-following-the-date-of-publication-by-the-attorney-general-of-mississippi-that-the-attorney-general-has-determined-that-the-united-states-supreme-court-has-overruled-the-decision-of-roe-v-wade-and-that-it-is-reasonably-probable-that-this-section-would-be-upheld-by-the-court-as-constitutional-abortion-prohibited-exceptions?>

<sup>xv</sup> Mo. Rev. Stat. § 188.015, et seq., <https://casetext.com/statute/missouri-revised-statutes/title-xii-public-health-and-welfare/chapter-188-regulation-of-abortions/section-188017-see-note-right-to-life-of-the-unborn-child-act-limitation-on-abortions-when-affirmative-defense-contingent-effective-date?>

<sup>xvi</sup> N.D. CENT. CODE § 12.1-31-12, <https://casetext.com/statute/north-dakota-century-code/title-121-criminal-code/chapter-121-31-miscellaneous-offenses/section-121-31-12-see-note-abortion-affirmative-defenses?>

<sup>xvii</sup> Ohio Rev. Code Ann. § 2919.192, et seq., <https://casetext.com/statute/ohio-revised-code/title-29-crimes-procedure/chapter-2919-offenses-against-the-family/section-2919192-determination-of-presence-of-fetal-heartbeat?sort=relevance&type=case&tab=keyword&jxs=&resultsNav=false>

<sup>xviii</sup> Okla. Stat. tit. 21, § 861, <https://casetext.com/statute/oklahoma-statutes/title-21-crimes-and-punishments/chapter-32-abortion-concealing-death-of-child/section-861-procuring-an-abortion?>

<sup>xix</sup> S.C. Code Ann. § 44-41-650, et seq., <https://casetext.com/statute/code-of-laws-of-south-carolina-1976/title-44-health/chapter-41-abortions/article-6-fetal-heartbeat-and-protection-from-abortion/section-44-41-650?sort=relevance&type=case&resultsNav=false&tab=keyword>

<sup>xx</sup> S.D. CODIFIED LAWS § 22-17-5.1, <https://casetext.com/statute/south-dakota-codified-laws/title-22-crimes/chapter-17-unauthorized-abortion/section-22-17-51-procurement-of-abortion-prohibited-exception-to-preserve-life-of-pregnant-female-felony?>

<sup>xxi</sup> TENN. CODE ANN. § 39-15-213, <https://casetext.com/statute/tennessee-code/title-39-criminal-offenses/chapter-15-offenses-against-the-family/part-2-abortion/section-39-15-213-see-notecriminal-abortion-affirmative-defense?>

<sup>xxii</sup> Tex. Health & Safety Code §§ 170A.001 - 7, <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.170A.htm>

<sup>xxiii</sup> Utah Code Ann. § 76-7a-101, et seq., <https://casetext.com/statute/utah-code/title-76-utah-criminal-code/chapter-7a-abortion-prohibition/part-2-prohibition/section-76-7a-201-contingent-effective-date-see-note-abortion-prohibition-exceptions-penalties>

<sup>xxiv</sup> W. Va. Code § 61-2-8, <https://casetext.com/statute/west-virginia-code/chapter-61-crimes-and-their-punishment/article-2-crimes-against-the-person/section-61-2-8-abortion-penalty?>

<sup>xxv</sup> Wis. Stat. § 940.04, <https://casetext.com/statute/wisconsin-statutes/criminal-code/chapter-940-crimes-against-life-and-bodily-security/subchapter-i-life/section-94004-abortion?>

<sup>xxvi</sup> Wyo. Stat. § 35-6-102, et seq., <https://casetext.com/statute/wyoming-statutes/title-35-public-health-and-safety/chapter-6-abortions/section-35-6-102-abortion-restrictions-exception.>