



Americans  
United  
for Life

2021

# State Legislative Sessions Report

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Annual Report on Government Affairs from America's  
Leader in Life-Affirming Law and Policy



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Annual Report on Government  
Affairs from America’s Leader in  
Life-Affirming Law and Policy

So far in 2021, AUL counted:

71

PRO-LIFE  
BILLS IN



14

ANTI-LIFE  
BILLS IN

22

STATES, AND



11

STATES, AND

14

PRO-LIFE  
RESOLUTIONS



1

ANTI-LIFE  
RESOLUTION

## Executive Summary

As the COVID-19 global pandemic continued to change life for millions of Americans, state legislatures figured out effective ways to keep the 2021 sessions going. From focusing their efforts on narrower issues (such as targeted responses to the pandemic and appropriations) to utilizing live video testimony, states found solutions to keep their legislatures working. AUL’s attorneys testified in person, virtually, and in writing, providing critical legal expertise and assessing the constitutionality and policy effects of these proposed bills.

Despite these challenges, lawmakers across the nation still made time to promote Life. Pro-life legislation was introduced in 48 states as lawmakers nationwide actively and tirelessly worked to protect life from fertilization to natural death.

In fact, these dedicated legislators were so successful the anti-life movement panicked and christened this the “worst year ever” because state legislators continued to prioritize the health and welfare of mother and baby. So far in 2021, at least 70 life-affirming bills were passed and signed into law in 22 states.

Elections have consequences, and in 2020, Montana and New Hampshire made significant electoral gains that allowed lawmakers to enact life-affirming laws in 2021. After a decade of divided government, Montana Governor Gianforte signed six pro-life laws, including the most comprehensive chemical abortion bill in the country which was based on AUL’s coalition model bill. New Hampshire flipped its legislature and enacted

a law that ensures women receive an ultrasound and defunding abortion businesses from participating in Title X. After decades of being one of the only states with abortion throughout pregnancy, pro-choice Governor Sununu signed a budget limiting abortion to 24 weeks' gestation.

The law that garnered the most interest this year is

## The Supreme Court

The United States Supreme Court will hear two abortion-related cases in its upcoming term. The first case, *Dobbs v. Jackson Women's Health Organization*, has the potential to overturn nearly five decades of bad precedent and return the issue of regulating abortion to state and local lawmakers. Mississippi is asking the Court to uphold its law protecting the lives of unborn children at 15 weeks' gestation. AUL authored two briefs—one on behalf of 228 Members of Congress and one on AUL's behalf—supporting Mississippi and calling on the Court to overturn *Roe v. Wade*.

## State Legislative Trends

**Physician Assisted Suicide:** Despite COVID-19 and the nationwide consensus that those who are sick ought to be provided medical care, 22 states considered 37 bills relating to legalizing or expanding physician assisted suicide.<sup>1</sup> So far, only two states passed bills on this topic: New Mexico signed physician assisted suicide into law while California modified its existing law. On the other hand, one state, Arizona, passed a law stating the compounding pharmacy law does not allow any treatment or use of medication intending to cause the death of a patient.

**Born-Alive Protections:** Over the past two years, three states passed and signed into law legislation like AUL's model Born Alive Infant Protection Act, protecting newborns who survive attempted abortions. At least 19 states saw versions of born-alive protections this year, and seven ultimately passed and signed their bills into law.<sup>2</sup> In past years, the governors of Montana, Kentucky, and Wyoming all vetoed born-alive bills. In 2020, Montana voted in a pro-life governor, Greg

SB 8, Texas' unique heartbeat law that created a cause of action only enforced through private, civil lawsuits. This became the first so-called "heartbeat law" to go into effect after the Supreme Court declined to enjoin the law in a pre-enforcement challenge. SB 8 took effect on September 1, 2021, and we will be watching closely to see what future challenges bring.

In the second case, *Cameron v. EMW Women's Surgical Center*, Kentucky's pro-life Attorney General Daniel Cameron is seeking the ability to continue defending Kentucky's dismemberment abortion ban in the courts after the state's pro-choice governor declined to continue defending the law.

Legislators should not wait to see what the Court ultimately decides in the spring of 2022. Instead, we hope and urge that states will continue their push to defend life and pass meaningful life-affirming laws.

Gianforte, who proudly signed the born-alive law alongside five other pro-life laws. Relentless lawmakers in Kentucky and Wyoming reintroduced born-alive after vetoes in 2020, and both governors backed down, letting the laws take effect.

**Chemical Abortion:** President Biden's administration has signaled a rapid deregulation of chemical abortion drugs, and nearly half of all abortions are now chemical. In response, AUL and other national pro-life groups worked tirelessly to draft a model bill that would protect women from the dangers associated with chemical abortions should the Food and Drug Administration remove regulations on the abortion-inducing drug Mifeprex. Nine states successfully passed and signed into law ten bills related to some type of chemical abortion regulation, which include prohibiting its use in telemedicine, providing informed consent and information about pill reversal, improving complications reporting, and informing women about assistance for victims of sex trafficking or abuse.<sup>3</sup>

1 States that saw physician assisted suicide bills introduced are: Arizona, California, Connecticut, Delaware, Hawaii, Iowa, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Montana, Nevada, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, Virginia, Vermont, and Washington.

2 States that either newly passed or updated their preexisting born-alive laws are: Alabama, Indiana, Kentucky, Montana, North Dakota, South Dakota, and Wyoming.

3 The states that passed laws relating to chemical abortion are: Arkansas, Indiana, Louisiana, Montana, Ohio, Oklahoma, South Dakota, Texas, and West Virginia.

**Funding:** Mirroring the federal Hyde Amendment, many states refuse to spend taxpayer dollars funding elective abortions. There are different methods of defunding the abortion industry, including prohibiting government contracts with abortion providers, forbidding abortions from being done in public university health clinics or paid for with state employee insurance plans, and maintaining the federal rule that abortion businesses are excluded from Title X funding. Six states passed taxpayer funding restrictions this year.<sup>4</sup>

**Data Transparency:** Earlier this year, AUL released an updated version of *Unsafe*, AUL's investigative report documenting the health and safety conditions of abortion facilities across the country. This information comes from state reporting laws and is crucial for public health policymakers and women making informed decisions. Six states strengthened their reporting information in various ways, including publishing abortion data relevant to maternal mortality reporting, and requiring complications reporting for emergency admissions and broken down by type of abortion.<sup>5</sup>

## Life on the Ballot

Voters can voice their support for pro-life measures as well. Iowa passed a bill proposing an amendment to the state constitution that would establish that nothing in it recognizes or secures a right to abortion or the funding of abortion. It needs to pass a second session before it heads to the ballot, probably in 2024. Kansas

and Kentucky passed bills that will next appear on the ballot in 2022. Kansas' bill amends the state's Bill of Rights and reserves the right to regulate abortion while Kentucky's bill amends the state constitution to provide that nothing in it recognizes or secures a right to abortion or the funding of abortion.

## Anti-Life Measures

While only 14 anti-life bills have passed in 2021 so far, these are nevertheless incredibly concerning. For example, Connecticut had attempted to pass a law targeting pro-life pregnancy centers' advertisements before (AUL testified against similar bills every year since 2018), and in 2021 they were unfortunately successful. Washington passed a law that will require all student health plans that cover maternity care to also cover abortion services. Hawaii will now allow advance practice registered nurses to perform

medication and aspiration abortions, even though the FDA requires that abortion pills be administered by a certified physician. And California has expedited the assisted suicide process, shortening the waiting period between the two requests from 15 days to a mere 48 hours.

AUL will continue working with legislators across the country to keep the incredible momentum going in the coming year. We hope to see the states pass even more life-affirming laws in 2022.

## Legislative Victories

All bills that have been passed are sorted into two categories: legislation and resolutions. Legislation, when enacted by the state's governor, becomes codified

as a statute and is enforceable by law. Resolutions are statements by the legislative body expressing a policy preference without the force of law.

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<sup>4</sup> The states that passed defunding measures are: Arkansas, Idaho, Montana, Nebraska, New Hampshire, and Wyoming.

<sup>5</sup> States that passed reporting laws or enhancements are: Arkansas, Indiana, Louisiana, Montana, Oklahoma, and Texas.

# Legislative

## Pro-Life Legislative Victories

### ALABAMA (1)

1. HB 237 “Gianna’s Law” strengthening Born Alive protections by legally acknowledging a physician-patient relationship between physician and born-alive infant, and requiring a physician to exercise reasonable care to preserve the life of a child born during an abortion

### ARKANSAS (15)

1. HB 1116 “Simon’s Law” outlining parental consent with regards to end-of-life decisions for minors
2. HB 1195 “Every Mom Matters Act” which creates a phone program for support services
3. HB 1402 amending the “abortion-inducing drugs safety act” to require a physician examine the woman to confirm pregnancy, provide RhoGAM if necessary, and schedule a follow up with the woman to ensure the pregnancy is terminated
4. HB 1544 affirming the right of cities to declare themselves “pro-life cities”
5. HB 1572 “Informed Consent for Chemical Abortion Act” requiring informed consent 72 hours before the abortion, including risks and complications, information on post-abortion care and Rh-incompatibility, and literature on human trafficking. The bill also updates reporting requirements to include information on chemical abortion
6. HB 1589 prohibiting the use of taxpayer resource transactions for abortions
7. HB 1592 prohibiting public schools from contracting with any entity that provides abortions
8. SB 6 “Unborn Child Protection Act” abolishing abortion in the state
9. SB 85 “Right to Know and See Act” amending the right to view ultrasound
10. SB 152 amending the authority of PA’s, but prohibiting the delegated authority to perform an abortion

11. SB 289 “Medical Ethics and Diversity Act” expanding healthcare rights of conscience
12. SB 388 requiring that all clinics, health centers, and facilities that do ANY abortions be licensed by the state, and prohibiting abortions in a hospital except to save the life of the mother in a medical emergency
13. SB 463 collecting data on abortions done for rape/incest and sending all abortion data collected under state law to the CDC and making it publicly available
14. SB 474 creating the criminal offense of fertility fraud
15. SB 527 requiring abortion facilities to post information about sex trafficking; mandating that abortion facilities enter into a written agreement with a licensed acute care hospital and ambulance service to provide complication management/emergency transfer

### ARIZONA (5)

1. SB 1237 creating the criminal offense of fertility fraud
2. SB 1254 creating a state-run bilingual website providing adoption resources, including whether the agency offers counseling or free ultrasounds
3. SB 1353 clarifying that the compounding pharmacy law does not allow any treatment or use of medication intended to cause the death of the patient
4. SB 1457 prohibiting abortion because of a diagnosis of genetic abnormality; prohibiting use of public money, including federal money passing through the state treasury, for research using fetal remains from an abortion; requiring that fetal remains from a surgical abortion be cremated or interred; prohibiting the performance of or referral for an abortion on a public university.

5. SB 1838 changing “product of human conception” to “unborn child” in certain laws

## GEORGIA (1)

1. HB 128 “Gracie’s Law” prohibiting providers and insurers from discriminating against organ transplant recipients on the basis of physical or mental disability; requiring the oral or written consent of a minor’s parent before issuing an order not to resuscitate

## IDAHO (3)

1. HB 220 prohibiting government contracts with abortion providers and the use of public funds, including school tuition and fees, for abortion, and prohibiting abortion-related activities in school health clinics
2. HB 302 including information about Down syndrome and state resources for families of a child with Down syndrome in bilingual informed consent materials
3. HB 366 prohibiting abortions after the determination of fetal heartbeat

## INDIANA (3)

1. HB 1421 amending the existing born-alive law to provide more information about perinatal care if a woman goes into premature labor
2. HB 1577 requiring a physician to dispense and the patient consume (first dose) abortion-inducing drugs in person (through the first eight weeks), and prohibiting telemedicine abortion; extending parental consent to include notarized written consent for the abortion and for final disposition of fetal remains; adding mental health providers to existing conscience laws; providing information about abortion pill reversal during informed consent; requiring that the woman be advised of her right to an ultrasound at no charge and including an ultrasound in her patient file; including facility name and city of consent/counseling in reporting documentation; requiring that the state department consider results of abortion clinic inspection during license renewal and that a license not be renewed until noncompliance is remedied

3. SB 10 including abortion data if relevant to maternal mortality reporting

## KENTUCKY (2)

1. HB 2 allowing the state attorney general to defend pro-life laws
2. SB 9 prohibiting a person from denying care to a child born-alive during an abortion

## LOUISIANA (3)

1. HB 357 updating reporting for minors who undergo an abortion
2. HB 423 requiring complications reporting for ER admissions resulting from surgical abortions
3. HB 578 requiring a disclosure on reversal be given with the chemical abortion

## MISSISSIPPI (1)

1. SB 2746 “Hudson’s Law” including information about chromosomal disorders and state resources for families of a child with a chromosomal disorder in informed consent materials

## MONTANA (6)

1. HB 136 prohibiting abortion after the child is capable of feeling pain
2. HB 140 requiring that the woman be given the opportunity to see her ultrasound and hear fetal heart tone
3. HB 167, Born-Alive Infant Protection Act, providing that infants born-alive, including after an abortion, are legal persons entitled to lifesaving medical care
4. HB 171, Abortion-Inducing Drug Risk Protocol regulating chemical abortions
5. HB 229 prohibiting qualified health insurance plans offered on state exchange from covering abortion services
6. HB 620 prohibiting Title X funding from being granted to an entity that performs abortions

## NEBRASKA (1)

1. L 380 FY 22 budget excluding funding for fetal tissue research and funding for abortions



## NEW HAMPSHIRE (1)

1. HB 2 appropriations including a prohibition of funding for abortion services after 24 weeks, a prohibition on Title X funding for abortion providers, a prohibition on abortions after 24 weeks, and a requirement that ultrasounds be performed to determine gestational age before an abortion

## NORTH DAKOTA (2)

1. HB 1035 amending the born-alive law to clarify the government's custodial responsibility for a child born-alive during an abortion
2. SB 2030 appropriations which includes potential limitations on university funding based on the state's pro-life policies

## OHIO (2, ONE OF WHICH WAS PASSED DEC. 2020)

1. SB 260 prohibiting sending abortion-inducing drugs by mail
2. HB 110 amending admitting privilege requirements to a 25-mile radius from the facility

## OKLAHOMA (9)

1. HB 1102 including performance of an elective abortion in the definition of "unprofessional conduct" for medical licensing
2. HB 1904 amending the physician-only statute to require that a physician must be board-certified in obstetrics and gynecology
3. HB 2441 prohibiting abortion after a heartbeat is detected
4. SB 584 defunding of fetal body parts trafficking
5. SB 647 "Lily's Law" providing the opportunity for burial or cremation to families of a child who's stillborn or miscarried.
6. SB 778 the "Oklahoma Abortion-Inducing Drug Risk Protocol" regulating chemical abortions
7. SB 779 creating the Oklahoma Abortion-Inducing Drug Certification Program Act
8. SB 918 conditional bill repealing abortion laws in the event that Oklahoma has authority to govern abortion

9. SB 960 extending the timeframe for relinquishing a child to rescuers and awarding grants for safe haven baby boxes

## SOUTH CAROLINA (1)

1. SB 1 enacting the Fetal Heartbeat and Protection from Abortion Act

## SOUTH DAKOTA (5)

1. HB 1051 protecting the life of any child born-alive during an abortion
2. HB 1110 prohibiting abortion due to Down syndrome diagnosis
3. HB 1114 defining abortion in state law
4. HB 1130 requiring that women taking mifepristone be given information about abortion pill reversal and assistance to escape sex trafficking or abuse as part of informed consent
5. SB 183 invalidating any contract provision that requires a woman to undergo an abortion (surrogacy contracts)

## TENNESSEE (2)

1. HB 1181 requiring humane disposition of aborted fetal remains
2. SB 1370 stating that there is no cause of action for wrongful birth or wrongful life based on a claim that a person would or should have been aborted

## TEXAS (3)

1. HB 1280 a conditional law that would prohibit abortion after the right to regulate abortion is returned to the states
2. SB 4 (special session) regulating drug-inducing abortion procedures and adding to abortion complication reporting
3. SB 8 "Texas Heartbeat Act" prohibiting abortion after a fetal heartbeat is detected, creating a private right of action to enforce the law

## UTAH (1)

1. HB 113 amending the UT Child Support Act to require an unmarried father to pay for medical costs related to pregnancy

## WEST VIRGINIA (1)

1. HB 2982 providing information specific to chemical abortion, including about abortion pill reversal, as part of informed consent

## WYOMING (3)

1. HB 253 prohibiting UW and community colleges

from expending funds on abortions or insurance coverage for abortions

2. SB 34 imposing a duty to treat any infant born-alive during an abortion
3. SB 96 creating fetal homicide penalties and defining “unborn child”

# Anti-Life Legislative Losses

## CALIFORNIA (2)

1. AB 1356 criminalizing photographing, filming, and recording healthcare services employees or patients within 100 feet of the entrance to a healthcare facility with the intent to intimidate or posting personal information about employees and/or patients at abortion facilities
2. SB 380 shortening the amount of time needed between requests for assisted suicide from 15 days to 48 hours and eliminating the final attestation requirement

## COLORADO (1)

1. SB 142 removing the requirement only a licensed physician perform an abortion in a licensed health care facility

## CONNECTICUT (1)

1. SB 835 regulating “deceptive advertising” at limited services pregnancy centers

## DELAWARE (1)

1. HB 31 repealing “self-abortion,” “issuing abortifacient articles,” and “committing an abortion” from the criminal code

## HAWAII (1)

1. HB 576 authorizing APRNs to perform medication and aspiration abortions

## MASSACHUSETTS (1, PASSED DEC. 2020)

1. HB 5179 “ROE Act” repealing born-alive and parental consent and easing restrictions after 24 weeks

## NEW MEXICO (2)

1. HB 47 “End of Life Options Act” legalizing physician-assisted suicide
2. SB 10 repealing state abortion laws and conscience laws

## VERMONT (1)

1. SB 22 requiring disclosure before administering stem cell treatments not approved by FDA

## VIRGINIA (1)

1. HB 1896/SB 1276 removing the prohibition on abortion coverage in state insurance exchanges

## WASHINGTON (2)

1. HB 1009 requiring that student health plans that cover maternity care must also cover abortion
2. SB 5092 appropriations for researching pluripotent stem cells

## WYOMING (1)

1. HB 73 changing how parentage is listed on the birth certificate in cases of gestational surrogacy



# Resolutions

## Pro-Life Resolutions

### ALABAMA

1. HJR 24 Recognizing the “Day of Tears”

### ARIZONA

1. SCR 1009 “Survivors Act” showing support for BAIPA and accurate abortion data
2. HR 298 and SR 305 urging long-term care facilities to uphold the inalienable right to be treated with respect, dignity, and quality care

### IOWA

1. HJR 5, proposing a constitutional amendment that the State of Iowa does not recognize, grant, or secure a right to abortion or public funding for abortion

### KANSAS

1. HCR 5003 a ballot initiative amending the Bill of Rights of the State Constitution to reserve the right of the people to regulate abortion

### KENTUCKY

1. HR 4 supporting the Hyde Amendment
2. H 91 proposing an amendment to the Kentucky Constitution stating there is no state constitutional right to abortion or the funding of abortion

### LOUISIANA

1. HR 109 requesting the Louisiana State Law Institute to study consent provisions for persons with disabilities re: abortion and sterilization
2. SCR 38 Recognizing the “Day of Tears”

### MICHIGAN

1. HR 104 declaring May 13th as Pregnancy Resource Awareness Day
2. SR 8 and HR 22 affirming the right to life of every unborn child in the state

### WEST VIRGINIA

1. SCR 53 encouraging the improvement of palliative care programs
2. SR 7 recognizing the “life-affirming impact” of pregnancy care centers

## Anti-Life Resolutions

### CALIFORNIA

1. SR 6 urging the President and Congress to express support for the right to choose and abortion access

## Vetoed Bills

1. **Arizona:** Governor Doug Ducey vetoed SB 1022, which would have updated statutory language that used the term “a product of human conception” to “unborn child.” The accompanying message indicated it was because he wanted to prioritize passing budget bills first. The legislature reintroduced the provision and it was ultimately signed by the Governor.
2. **Massachusetts:** In December 2020, pro-choice Governor Charlie Baker vetoed the “Roe Act,” which would repeal parental involvement, gestational age limits, and other longstanding abortion regulations. Unfortunately, the legislature overruled his veto.
3. **Michigan:** Governor Gretchen Whitmer line-item vetoed portions of the state budget to remove

millions in funding for a plethora of pro-life items, including adoption promotion, pregnancy resource centers, and pregnant and parenting resources at colleges and universities.

4. **North Carolina:** Governor Roy Cooper vetoed HB 453 which would have prohibited abortions based solely on the unborn child’s race, sex, or diagnosis or potential diagnosis of Down syndrome. The accompanying message stated it “damages the doctor-patient relationship with an unprecedented government intrusion.”
5. **North Dakota:** Governor Doug Burgum vetoed the penalties section of SB 2030, an appropriations bill which includes potential limitations on university funding based on the state’s pro-life policies.

## Legislative Support

AUL testifies in person or on video and submits written testimony, letters, or memorandums to lawmakers across the United States. So far this year, our team testified in thirteen states.

- ★ **Arkansas:** AUL submitted a memo to lawmakers outlining the legal history of penalties in criminal prosecution of abortion laws
- ★ **Connecticut:** AUL President and CEO Catherine Glenn Foster testified against HB 6425 (physician assisted suicide), and Chief Legal Officer Steve Aden testified against SB 835 (targeting pregnancy centers)
- ★ **Hawaii:** AUL testified virtually against HB 576 (APRN authorization to perform chemical and aspiration abortion)
- ★ **Massachusetts:** AUL submitted a memo to Governor Baker urging his veto on HB 5179 (repealing longstanding gestational limits and parental involvement)
- ★ **Montana:** AUL testified in person three times and submitted written testimony six times before both

the House and Senate. President and CEO Catherine Glenn Foster testified in favor of HB 136 (pain capable 20 weeks’ gestation), HB 140 (ultrasound), and HB 167 (born-alive). Steve Aden testified in support of HB 167 (born-alive) and HB 140 (ultrasound) and Katie Glenn testified in support of HB 136 (20 weeks’) and HB 171 (chemical abortion)

- ★ **New Hampshire:** AUL President and CEO Catherine Glenn Foster testified virtually in support of HB 625 (24 weeks’ gestation) and AUL submitted a memo to Governor Sununu outlining the First Amendment implications of HB 685 (mandating abortion coverage in insurance plans)
- ★ **New Mexico:** AUL President and CEO Catherine Glenn Foster testified virtually and submitted written testimony twice against HB 47 (physician assisted suicide) and HB 7 and SB 10 (repealing conscience protections)
- ★ **Ohio:** AUL submitted written testimony in support of SB 260 (telemedicine)
- ★ **Iowa:** AUL virtually testified in support of SB 508 (abortion reporting)

- ★ **South Dakota:** AUL testified virtually in support of H 1247 (conscience)
- ★ **Rhode Island:** AUL submitted written testimony against HB 5787 (taxpayer funding) and in support of HB 645 (regulating abortion facilities consistently with other healthcare clinics)

- ★ **Texas:** AUL testified in person and submitted written testimony in support of HB 2337 and SB 394 (chemical abortion)
- ★ **Tennessee:** AUL submitted written testimony in support of HB 1181 (fetal remains)

## Federal

- ★ AUL President and CEO Catherine Glenn Foster testified against the Women's Health Protection Act before the U.S. Senate Judiciary Committee Subcommittee on the Constitution

- ★ Government Affairs Counsel Katie Glenn submitted written testimony in support of the Hyde Amendment to the U.S. House Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies

# Conclusion

In light of the overwhelming support for legal abortion limits in the states and the fact that the U.S. Supreme Court appears poised to affirm even greater state authority over abortion in the *Dobbs* case, Americans United for Life looks forward to the 2022 legislative sessions with great anticipation.

Increasingly, Americans are demanding:

- ★ earlier gestational limits that affirm the humanity of all persons in the womb,
- ★ prenatal non-discrimination laws that protect lives

in the womb from violence based on sex, Down syndrome, or other genetic anomaly,

- ★ basic health and safety protections for women from Gosnell-like fly-by-night abortion businesses, and
- ★ strengthened resources for abortion alternatives offered by pregnancy resource centers

We are here to help enact all these life-affirming policies. AUL eagerly anticipates the coming day when “All are welcomed in life and protected in law.”