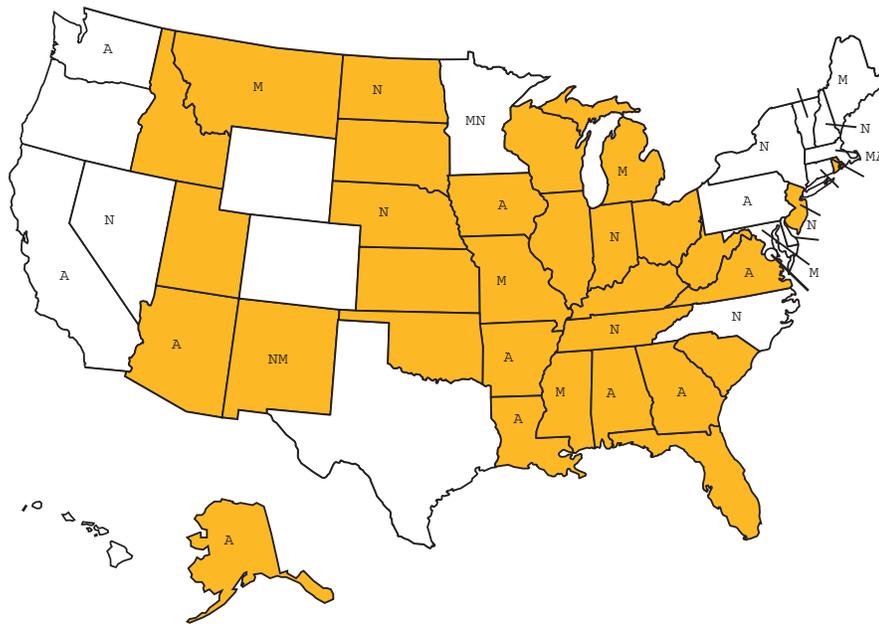


So-Called “Partial-Birth Abortion” Ban Legislation: By State



31 States where PBA bans are blocked or unenforceable.

On June 28, 2000, the U.S. Supreme Court struck down a Nebraska ban on so-called “partial-birth abortion,” finding it an unconstitutional violation of *Roe v. Wade*, the landmark decision that guaranteed women's right to choose abortion. The Supreme Court's decision in *Stenberg v. Carhart* exposed these bans for what they are: extreme and deceptive attempts to outlaw safe and common abortion procedures used in the second trimester of pregnancy—well before fetal viability. The Center for Reproductive Rights challenged the Nebraska ban in addition to other state bans.

So-called “partial-birth abortion” bans and similar laws have been passed by 31 states. Legal challenges to these laws have been brought in 22 states, and no fewer than 50 federal and state court judges have found them to be unconstitutional. Most of those statutes use language identical or comparable to the Nebraska law struck down in *Carhart*. In addition, each of the challenges to those laws involve the same legal principles at issue in that case. Accordingly, the Court's decision in *Carhart* renders virtually all of the bans invalid.

31 Bans Blocked or Unenforceable

Alabama ¹	Indiana ³	Montana ⁴	South Carolina ³
Alaska ¹	Iowa ¹	Nebraska ¹	South Dakota ³
Arizona ¹	Kansas ²	New Jersey ¹	Tennessee ³
Arkansas ¹	Kentucky ¹	New Mexico ²	Utah ¹
Florida ¹	Louisiana ¹	North Dakota ³	Virginia ¹
Georgia ⁴	Michigan ¹	Ohio ¹	West Virginia ¹
Idaho ¹	Mississippi ³	Oklahoma ³	Wisconsin ¹
Illinois ¹	Missouri ¹	Rhode Island ¹	

1 Abortion bans blocked by federal or state court

2 Abortion bans limited on their face to post-viability procedures, but contain limited health exceptions

3 Abortion bans on the books but unenforceable

4 Enforcement of bans limited to post-viability procedures by settlement approved by the court

- **Alabama** - Law permanently blocked (U.S. District Court, 2/26/01)
- **Alaska** - Law permanently blocked (Alaska Superior Court, 3/13/98)

Asterisk (*) indicates that the state passed a second version of an abortion ban after a court determined the first ban to be unconstitutional.

Center for Reproductive Rights Analysis: The decision of the United States Supreme Court that the Nebraska ban violates rights guaranteed by the Federal Constitution underscores the fact that the ban is unconstitutional under the even greater protection provided by the Alaska Constitution.

- **Arizona** - Law permanently blocked (U.S. District Court, 10/27/97)
- **Arkansas** - Law permanently blocked (U.S. Court of Appeals, Eighth Circuit affirmed district court's permanent injunction, 9/24/99)
- **Florida** * - Second law permanently blocked (U.S. District Court, 7/11/00). First statute permanently enjoined in 1998.
- **Georgia** - Enforcement of ban limited to post-viability abortions
- **Idaho** - Law permanently blocked (U.S. District Court, 10/12/99)
- **Illinois** - Law permanently blocked (U.S. Court of Appeals, Seventh Circuit affirmed district court's permanent injunction, 4/26/01)
- **Indiana** - Law Unchallenged

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Center for Reproductive Rights Analysis: Even though the so-called “partial-birth abortion” ban in this state has not yet been challenged in court, the ban is unconstitutional based on the Supreme Court’s ruling in *Stenberg v. Carhart* because it prohibits abortions prior to viability and fails to adequately protect women’s health.

- **Iowa** - Law permanently blocked (U.S. Court of Appeals, Eighth Circuit affirmed district court's permanent injunction, 9/24/99)
- **Kansas** - Law limited to post-viability bans on abortion

Center for Reproductive Rights Analysis: The Kansas ban, even though it is limited to so-called “partial-birth abortions” performed after viability, is unconstitutional under the *Carhart* decision because it fails to protect women’s health.

- **Kentucky** - Law permanently blocked (U.S. Court of Appeals, Sixth Circuit affirmed district court's permanent injunction, 7/31/00)
- **Louisiana** - Law permanently blocked (U.S. Court of Appeals, Fifth Circuit affirmed district court permanent injunction, 8/17/00)
- **Michigan*** - Second law permanently blocked (U.S. District Court, 4/26/01). First statute permanently enjoined in 1997.
- **Mississippi** - Law Unchallenged

Center for Reproductive Rights Analysis: Even though the so-called “partial-birth abortion” ban in this state has not yet been challenged in court, the ban is unconstitutional based on the Supreme Court’s ruling in *Stenberg v. Carhart* because it prohibits abortions prior to viability and fails to adequately protect women’s health.

- **Missouri** - Law blocked by temporary restraining order (U.S. District Court, 9/17/99). Permanent injunction pending.

Center for Reproductive Rights Analysis: The Supreme Court's decision pro-

States That Have Not Enacted Bans

California
Colorado (ballot initiative defeated)
Connecticut
Delaware
Hawaii
Maine (ballot initiative defeated)
Maryland
Massachusetts
Minnesota
Nevada
New Hampshire
New York
North Carolina
Oregon
Pennsylvania
Texas
Vermont
Washington (ballot initiative defeated)
Wyoming

vides clear direction to courts currently considering so-called “partial-birth abortion” and similar bans. Because the statute fails to contain a health exception and prohibits abortions prior to fetal viability, it is unconstitutional under *Carhart*.

- **Montana*** - Enforcement of second ban limited to post-viability abortions (Montana District Court, 3/21/00). First statute permanently enjoined in 1998.

Center for Reproductive Rights Analysis: The Montana ban, even though it is limited to so-called “partial-birth abortions” performed after viability, is unconstitutional under the *Carhart* decision because it fails to protect women's health.

- **Nebraska** - *Stenberg v. Carhart* Law permanently blocked (U.S. Supreme Court, 6/28/00)
- **New Jersey** - Law permanently blocked (U.S. Court of Appeals, Third Circuit affirmed district court's permanent injunction, 7/26/00)
- **New Mexico** - Law limited to post-viability bans on abortion

Center for Reproductive Rights Analysis: The New Mexico ban, even though it is limited to so-called “partial-birth abortions” performed after viability, is unconstitutional under the *Carhart* decision because it fails to protect women's health.

- **North Dakota** - Law Unchallenged

Center for Reproductive Rights Analysis: Even though the so-called “partial-birth abortion” ban in this state has not yet been challenged in court, the ban is unconstitutional based on the Supreme Court’s ruling in *Stenberg v. Carhart* because it prohibits abortions prior to viability and fails to adequately protect women’s health.

- **Ohio*** - Pending before U.S. Court of Appeals, Sixth Circuit. (U.S. District Court granted permanent injunction 9/20/01). First statute permanently enjoined in 1997.
- **Oklahoma** - Law Unchallenged

Center for Reproductive Rights Analysis: Even though the so-called “partial-birth abortion” ban in this state has not yet been challenged in court, the ban is unconstitutional based on the Supreme Court’s ruling in *Stenberg v. Carhart* because it prohibits abortions prior to viability and fails to adequately protect women’s health.

- **Rhode Island** - Law permanently blocked (U.S. Court of Appeals, First Circuit affirmed district court's permanent injunction, 2/12/01)
- **South Carolina** - Law Unchallenged

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- **South Dakota** - Law Unchallenged

Center for Reproductive Rights Analysis: Even though the so-called “partial-birth abortion” ban in this state has not yet been challenged in court, the ban is unconstitutional based on the Supreme Court’s ruling in *Stenberg v. Carhart* because it prohibits abortions prior to viability and fails to adequately protect women’s health.

- **Tennessee** - Law Unchallenged

Center for Reproductive Rights Analysis: Even though the so-called “partial-birth abortion” ban in this state has not yet been challenged in court, the ban is unconstitutional based on the Supreme Court’s ruling in *Stenberg v. Carhart* because it prohibits abortions prior to viability and fails to adequately protect women’s health.

- **Utah** - Amended law blocked by temporary restraining order (U.S. District Court 5/4/04)

Center for Reproductive Rights Analysis: The Supreme Court’s decision provides clear direction to courts currently considering “partial-birth abortion” and similar bans. Because the statute fails to contain a health exception and prohibits abortions prior to fetal viability, it is unconstitutional under *Carhart*.

- **Virginia*** - New statute blocked by permanent injunction (U.S. District Court, 2/2/04). First statute permanently blocked (U.S. Court of Appeals, Fourth Circuit affirmed district court's permanent injunction, 8/9/00).
- **West Virginia** - Law permanently blocked (U.S. District Court, 7/7/00)
- **Wisconsin** - Law permanently blocked (U.S. Court of Appeals, Seventh Circuit reversed district court's denial of permanent injunction, 4/26/01)

Conclusion

Stenberg v. Carhart has charted the course for reproductive rights in this country. Members of Congress and state legislators should heed the Supreme Court's clear message: sweeping abortion bans that apply before viability and ignore women's health are unconstitutional.

Any further attempts to adopt bans on so-called “partial-birth abortion,” or similar laws, should be seen for what they are - unconstitutional, deceptive and extreme attempts to end reproductive rights and deny women access to abortion.

