

WE ARE NOT NEW YORK, VERMONT OR VIRGINIA.....

NOR ARE WE GEORGIA, OHIO OR KENTUCKY

Michigan's abortion precedent is unique among the United States in a good way.

- We are one of only 8 states who have a pre-Roe ban on abortion.
- Our law has been in place since 1846 (See MCL 750.14)
- Our ban was reaffirmed in 1972 when the people of Michigan voted 69% to 31% against Proposal B which would have eliminated our abortion ban.
- In 1973 the Michigan Supreme Court in *People vs. Bricker* confirmed yet again that it is the policy of the State of Michigan to prohibit abortion except to save the life of the mother and held that our existing ban is Constitutional but under the constraints of *Roe vs. Wade* and *Doe vs. Bolton*.
- Michigan is the only state in the union with a State court ruling declaring there is no right to an abortion under the Michigan Constitution See *Mahaffey vs. Attorney General Michigan Court of Appeals 1997*. (This decision was appealed to the Michigan Supreme Court in 1998. The court denied the appeal thereby reaffirming the Court of Appeals decision).
- Michigan successfully prosecuted and convicted an abortionist for an illegal late term abortion in 2001. In *People vs. Higuera*, the Michigan Court of Appeals cited our pre-Roe ban as being applicable and still in force. Stating that all abortions would be illegal in Michigan except to save the life of the mother, but because of *Roe vs. Wade*, pre-viable abortions must be permitted and under *Doe vs. Bolton*, post-viable abortions with a "health" exception must be permitted. The Higuera abortion was post-viable and with no health exception.

Right to Life of Michigan is often asked why we aren't "doing the heartbeat ban or the 20-week ban" and the answer is simple: Michigan law already bans ALL abortions except to save the life of the mother. That means, we technically already have: *a heartbeat ban, *a pain-capable ban, and *a ban on sex-selection and Downs syndrome abortion. We just don't have separate bills addressing each subject.

We are not Georgia, Ohio, or Kentucky who **do not** have pre-Roe bans and are therefore attempting to push the envelope by passing heartbeat bans. Each heartbeat ban that has become law has been struck down as unconstitutional. The reason our complete ban was upheld is because of our Supreme Court decision which stated our law is allowable under the constraints of *Roe* and *Doe* and is fully enforceable to that extent.

We are also not New York, Virginia, or Vermont.....but we could be. **Michigan may be just 4 seats away from having a complete repeal of all of our existing abortion laws!** Endorsed prolife members hold a 2-seat majority in the House and a 2-seat majority in the Senate. If we were to lose just 4 seats, the current governor and proabortion members of the legislature would immediately attempt to repeal our old abortion ban and our subsequent abortion laws like parental consent, informed consent, and clinic licensing. This is not hypothetical. This is the first year that a bill has been introduced to completely repeal our longstanding ban on abortion and last year bills were introduced to repeal the 24-hour waiting period, the abortion insurance opt-out, and the ultrasound viewing law among others. If we lose

those 4 seats, we could become New York overnight. To put it into perspective, in 2018, there was a 10-person majority in the House and the Senate, meaning there were 10 people standing in the way of us becoming New York. Today there are only 4. Prolifers lost 8 seats in the 2018 election in Michigan. We cannot afford to lose any more.

Why are we seeing this rush to repeal old state laws on abortion when they can't be enforced due to Roe vs. Wade and Doe vs. Bolton? Why are New York, Vermont and Virginia seeking to allow abortion on demand throughout all 9 months of pregnancy? Because these states are worried Roe and Doe will be overturned. The composition of the U.S. Supreme Court is now a 5-4 conservative majority. Conservative states are attempting to pass laws they hope will make it to the Supreme Court to challenge Roe. Liberal states are passing laws to repeal as many abortion restrictions as possible in fear the court will return the abortion issue to the states.

So, knowing we are neither New York nor Georgia, what is the best strategy for the prolife movement in Michigan? Right to Life of Michigan considers the dismemberment abortion ban the best course of action given our unique legal foundation. Isn't that the same as a pain-capable ban? No, it isn't. Dismemberment or D&E abortion bans prohibit a specific procedure, not abortion based on a gestational age or aspect of the fetus. The ban on partial-birth abortions was upheld by the U.S. Supreme Court because it doesn't ban abortion per se, it bans a procedure. The decision in Gonzales vs. Carhart, the Supreme Court decision which allowed states to ban partial birth abortion, set the groundwork for limiting other procedures.

Remember, we already have a complete ban in place, so the best way for Michigan to potentially get a bill to the Supreme Court in order to challenge Roe vs. Wade is to pass a dismemberment abortion ban. It is possible the ban would be upheld as it is in two other states which would be beneficial considering there are 4-5 dismemberment abortions per day in Michigan. It is doubtful, however, that Governor Whitmer would sign a dismemberment abortion ban, and it is doubtful that the bill would not be challenged and possibly enjoined, but that would be the case for nearly any abortion law in today's political climate. SB 229 and HB 4320 are identical bills and have each been introduced in their respective chambers. One of them needs to be passed and sent to the governor for her to sign or veto. If she vetoes the bills, Right to Life of Michigan is prepared to go around her veto with a petition initiative. Time is of the essence because gathering 400,000 signatures is not an easy task and needs to be done in the summer.