

# New book, report assess status of abortion at state level

CHICAGO – A new book by constitutional scholar Paul Benjamin Linton assesses the legal status of abortion in each of the 50 states, concluding that more than half the abortions performed in the U.S. would remain “constitutionally protected” if *Roe v. Wade* were overturned.

“Abortion Under State Constitutions” was published with the assistance of the Thomas More Society in Chicago. At about the same time, the Chicago-based Americans United for Life released its annual report on abortion-related actions in state legislatures around the country in 2008.

Mr. Linton’s book provides “a road map for the pro-life movement in every state of the nation,” said Tom Brejcha, president and chief counsel for the society, a national public-interest law firm.

“We must prepare to stand up against an epidemic of state constitutional decisions, or mini-Roes, that would threaten to wipe out even modest abortion restrictions and pave the way for new onslaughts of abortion on demand,” Mr. Brejcha added in a news release.

According to Mr. Linton, “Abortion advocates have undertaken a long-term, national strategy to persuade state supreme courts to recognize abortion rights under state constitutions.

“They have already succeeded in 12 states, including several of our most populous states, where more than half of all abortions in the country are performed,” he added. “The book reviews those decisions and, more importantly, it provides a comprehensive analysis and evaluation of the arguments that are likely to be made in the remaining 38 states.”

For each state, the book provides information on the possible sources in the state constitution from which abortion advocates might try to derive a right to abortion; state court decisions interpreting those provisions; the relevant state constitutional

history; pre-Roe prohibitions on abortion and their interpretation by state courts; post-Roe regulations of abortion; and what rights state laws have conferred on unborn children outside the context of abortion.

The Americans United for Life report says 45 states considered nearly 450 measures related to abortion in 2008, a 12 percent increase over the previous year.

“We are seeing more and more legislation designed to protect women from the negative consequences of abortion,” said Denise Burke, vice president and legal director of the organization. “Examples include comprehensive informed consent requirements, stronger parental involvement provisions, and requirements that women be offered the opportunity to view an ultrasound before abortion.”

The pro-life victories cited in the report include:

- An omnibus measure in Oklahoma requiring a woman to undergo an ultrasound prior to an abortion, regulating the provision of RU-486, prohibiting coerced abortions and protecting the conscience rights of health care providers.
- New laws in Ohio, South Carolina and South Dakota requiring that women be offered an opportunity to view their ultrasounds prior to abortions.
- Limits on the use of taxpayer funding for abortions and abortion counseling in Colorado, Maryland and Michigan.
- “Meaningful funding” of alternatives to abortion in Louisiana, Missouri, Oklahoma and Pennsylvania.

*The 634-page book, “Abortion Under State Constitutions,” costs \$75 and may be ordered through the Carolina Academic Press at [www.cap-press.com](http://www.cap-press.com). The complete Americans United for Life 2008 state legislative session report is available online at [www.aul.org/2008\\_State\\_Sessions](http://www.aul.org/2008_State_Sessions).*