

The *GenBioPro* Case

Case Name: *GenBioPro v. Sorsaia*

Case Status: Hearing on motion to dismiss held on May 23, 2023.

Significance: Whether major chemical abortion drug manufacturers can ignore state laws protecting women and girls.



Background: Since the reversal of *Roe v. Wade* in June 2022, each state has the opportunity to protect unborn life, maternal health, and the integrity of the medical profession. In September 2022, West Virginia passed a statute protecting unborn life with limited exceptions – the Unborn Child Protection Act. In the same legislative session, West Virginia also amended its law to require that chemical abortion drugs be dispensed in person rather than prescribed via telehealth and sent through the mail, and ensure that only medically licensed doctors prescribe and dispense such drugs. In January 2023, GenBioPro sued the state of West Virginia over these laws. GenBioPro, a major pharmaceutical company that manufactures the chemical abortion drug mifepristone, challenged two provisions ensuring that doctors obtain informed consent from pregnant women before administering the drugs. GenBioPro claims that the Federal Food Drug and Cosmetic Act (FDCA) authorized the FDA to mandate nationwide access to mifepristone. However, that is not the case. Congress did not delegate authority to the FDA to set nationwide abortion policy or displace state laws regulating medical practice. GenBioPro’s claims are unfounded and disregard the State of West Virginia’s authority to protect mothers and their unborn children. Alliance Defending Freedom, serving as co-counsel to West Virginia Attorney General Patrick Morrissey, is defending the state law from GenBioPro’s attempts to sidestep state authority and bolster its business at the expense of women and girls.

Key Points

- Congress did not delegate authority to the FDA to set nationwide abortion policy or displace state laws regulating medical practice.
- The ruling in *Dobbs* makes clear that states like West Virginia can enact laws that protect life.
- GenBioPro and the rest of the abortion industry are disregarding the health and safety of the women and girls taking dangerous chemical abortion drugs.

Key Facts

- The FDA removed numerous safeguards that were in place around chemical abortion drugs, including removing the in-person dispensing requirement and eliminating the requirement for prescribers to report non-fatal complications – including extreme bleeding and injuries requiring hospitalization.
- Planned Parenthood encourages the use of chemical abortion drugs and claims that women may experience pain like a “really heavy, crampy period” with blood clots “[the size of a lemon](#).”
- Ectopic pregnancies may occur in as many as 1 out of 50 pregnancies, and chemical abortions increase the risk of death in women who have an ectopic pregnancy, especially when there is no in-person examination by a doctor.

The Bottom Line: West Virginia’s laws protect the health, safety, and welfare of women and girls from dangerous chemical abortion drugs.