



New Mexico | RANKING 42

New Mexico does not adequately protect the health and safety of women seeking abortions. It lacks an informed consent law, an enforceable parental involvement law, and comprehensive health and safety regulations for facilities performing abortions. In addition, the state's Supreme Court has found a broader right to abortion in the state constitution.

ABORTION

- The New Mexico Supreme Court has held that the Equal Rights Amendment to the state constitution provides a broader right to abortion than that interpreted in the U.S. Constitution. Under this ruling, the court has struck down restrictions on the use of taxpayer funding to pay for abortions.
- New Mexico prohibits partial-birth abortion performed after viability.
- New Mexico does not have an informed consent law.
- The state Attorney General has issued an opinion that New Mexico's parental notice law does not provide the constitutionally required judicial bypass procedure and is unenforceable.
- New Mexico maintains no regulations mandating that abortion facilities meet minimum patient care standards.
- Only physicians licensed in New Mexico may perform abortions.
- New Mexico has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The measure applies to both surgical and nonsurgical abortions.
- New Mexico provides court-ordered coverage for all "medically necessary" abortions for women eligible for public assistance. This requirement essentially equates to funding abortion-on-demand in light of the U.S. Supreme Court's broad definition of "health" in the context of abortion.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- New Mexico law does not affirmatively protect infants born alive during attempted abortions.
- New Mexico law does not recognize an unborn child as a potential victim of homicide or assault.
- New Mexico defines criminal assaults on a pregnant woman that result in miscarriage, stillbirth, or "damage to pregnancy" as enhanced offenses for sentencing purposes.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- New Mexico has a "Baby Moses" law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring that the infants receive appropriate care and protection.



- It provides for both reports of “spontaneous fetal death” (for an unborn child who has reached at least 20 weeks’ gestation) and for certificates of stillbirth.

BIOETHICS LAWS

- New Mexico does not prohibit human cloning or destructive embryo research.
- Its prohibition on fetal experimentation applies only to experimentation that might be harmful to a live child (i.e., it does not apply to aborted children).
- All healthcare providers are required to advise pregnant patients of the option to donate umbilical cord blood following delivery.
- New Mexico maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting, but its Uniform Parentage Act includes “donation of embryos” in its definition of “assisted reproduction.”

PATIENT PROTECTION LAWS

- In New Mexico, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A person associated with, employed by, or on the staff of a hospital who objects on religious or moral grounds is not required to participate in an abortion.
- A hospital is not required to admit a woman for the purpose of performing an abortion.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. There is a conscience exemption for religious employers.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- New Mexico currently provides no protection for the rights of healthcare providers who conscientiously object to participation in human cloning, destructive embryo research, and other forms of medical research that violate a provider’s moral or religious beliefs.

DID YOU KNOW?

- In 2017, the House Select Investigative Panel on Infant Lives referred abortion clinic Southwestern Women’s Options to the New Mexico Attorney General’s Office for potential criminal violations associated with its fetal tissue program.
- In 2019, New Mexico considered a “Reproductive Health Act” and a suicide by physician bill, both of which were defeated.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal up to at least viability, and likely throughout pregnancy, based on existing law with broad exceptions enacted before *Roe*.



RECOMMENDATIONS FOR NEW MEXICO

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Right to Know Act with reflection period
 - Coercive Abuse Against Mothers Prevention Act
 - Women's Health Protection Act (abortion clinic regulations, emergency transfer and admission provisions)
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Notification for Abortion Act
 - Child Protection Act
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INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
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PATIENT PROTECTION ACT PRIORITIES

- Joint Resolution Opposing Suicide by Physician
 - Charlie Gard Act (formerly the Life Sustaining Care Act)
 - Pain Management Education Act
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ADDITIONAL PRIORITIES

ABORTION

- State Constitutional Amendment (providing that there is no state constitutional right to abortion)
- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Crimes Against the Unborn Child Act
- Pregnant Woman's Protection Act

BIOETHICS

- Human Cloning Prohibition Act
- Destructive Embryo Research Act
- Prohibition on Public Funding of Human Cloning and Destructive Embryo Research Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act