



## Alabama | RANKING: 11

Alabama has made progress in protecting women from the harms of abortion. It requires informed consent and parental consent before abortion, and it has prohibited abortion coverage in the state health insurance exchanges (required under the federal healthcare law). Alabama has also passed legislation to protect an individual's freedom of conscience in the context of abortion and research harmful to human life.

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### ABORTION

- In 2018, voters approved an amendment to the state constitution affirming that “it is the public policy of this state to recognize and support the sanctity of unborn life and the rights of unborn children” and declaring that Alabama’s constitution “does not protect the right to abortion or require the funding of abortion.”
- In 2019, Alabama passed legislation prohibiting abortion at all stages of pregnancy except when necessary to “prevent a serious health risk” to the mother, as defined by the statute. The law is enjoined and in ongoing litigation.
- Alabama prohibits abortion at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- Alabama passed a law prohibiting the dismemberment abortion procedure, but it is permanently enjoined.
- Alabama requires that a woman be given a 48-hour reflection period before a physician may perform an abortion and requires that she be informed of the risks of and alternatives to abortion, the probable gestational age of her unborn child, and the probable anatomical and physiological characteristics of the child at his/her current stage of development.
- Alabama also requires an abortion provider to give a woman the opportunity to review a state-sponsored videotape and written materials detailing sources of public and private support, adoption agencies, fetal development, abortion methods, and the father’s legal responsibilities.
- It also requires an abortion provider to perform an ultrasound prior to an abortion and to offer the woman the opportunity to view her ultrasound.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without first obtaining the written consent of one parent or a legal guardian unless there is a medical emergency or the minor obtains a court order. Alabama requires proof of relationship between the parent and the minor seeking an abortion and prohibits a parent, legal guardian, custodian, or any other person from coercing a minor to have an abortion. Some procedural aspects of the judicial bypass process are enjoined and in ongoing litigation.
- Alabama has an enforceable abortion reporting law but does not require the reporting of information

to the Centers for Disease Control and Prevention (CDC). The measure requires abortion providers to report short-term complications to the state.

- Alabama follows the federal standard for Medicaid funding for abortions, only permitting the use of federal or state matching Medicaid funds for abortions necessary to preserve the life of the woman or when the pregnancy is the result of rape or incest.
- Alabama requires abortion providers to explain in printed materials that it is illegal for someone to coerce a woman into having an abortion.
- Abortion facilities must meet the same health and safety standards as facilities performing other outpatient surgeries.
- A law requiring the state Department of Health to not issue or renew a health center license for an abortion clinic located within 2,000 feet of a K-8 public school was declared unconstitutional.
- Only a physician licensed by the state to practice medicine or osteopathy may perform an abortion.
- Alabama's requirement for abortion providers to maintain hospital admitting privileges was declared unconstitutional.
- Abortion facilities are required to report suspected child abuse.
- Alabama requires that abortion-inducing drugs be administered by a physician and mandates that the physician examine the woman before providing the drugs.
- The Alabama Office of Women's Health may not advocate, promote, or otherwise advance abortion or abortion-inducing drugs.
- Alabama prohibits abortion coverage in the state health insurance exchanges (required under the federal healthcare law) except in cases of life endangerment, rape, incest, or ectopic pregnancy. Further, Alabama voters approved a constitutional amendment that "prohibit[s] any person, employer, or health care provider from being compelled to participate in any health care system."
- Alabama offers "Choose Life" license plates, the proceeds of which benefit organizations providing abortion alternatives.

## **LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS**

- Alabama requires that when an abortion is performed, a physician be present to provide "immediate medical care. . . to preserve the child's life and health"
- Alabama defines a "person" under its homicide laws to include the unborn child in utero at any stage of development.
- Alabama also defines a nonfatal assault on an unborn child as a criminal offense.
- It allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Alabama has enacted a "Baby Moses" law under which a mother or legal guardian who is unable to care for a newborn infant may anonymously and safely leave the infant in the care of a responsible person at a hospital, police station, fire station, or other prescribed location.
- Alabama enacted the Unborn Infants Dignity Act, based on AUL model language, providing parents an

option for a dignified final disposition of the bodily remains of deceased unborn infants and prohibiting the sale or other unlawful disposition of the bodily remains of a deceased unborn infant.

## **BIOETHICS LAWS**

- Alabama maintains no laws regarding human cloning, destructive embryo research, or human egg harvesting, and it does not promote ethical forms of research.
- It maintains laws regarding the parentage of children conceived through assisted reproductive technologies.

## **PATIENT PROTECTION LAWS**

- Alabama prohibits suicide by physician.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION**

- A healthcare provider is not required to participate in an abortion procedure contrary to his or her conscience so long as the provider first provides notice in writing.

### **PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE**

- Alabama protects the rights of healthcare providers who conscientiously object to participation in medical procedures or research, including human cloning, human embryonic stem cell research, and sterilization, that violate the provider's conscience.

## **WHAT HAPPENS AFTER *ROE* IS OVERTURNED?**

- Abortion will be legal up to 20 weeks of pregnancy and possibly throughout pregnancy based on an existing law with undefined "health" exceptions enacted before *Roe*.

# RECOMMENDATIONS

## FOR ALABAMA

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### WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion laws
  - Drug-Induced Abortion Information and Reporting Act
  - Additional components of the Parental Involvement Enhancement Act
  - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
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### INFANTS' PROTECTION PROJECT PRIORITIES

- Partial-Birth Abortion Ban Act
  - Prenatal Nondiscrimination Act
  - Perinatal Hospice Information Act
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### PATIENT PROTECTION ACT PRIORITIES

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

#### ABORTION

- Defunding the Abortion Industry and Advancing Women's Health Act

#### LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Statutory prohibition on wrongful birth lawsuits
- Pregnant Woman's Protection Act

#### BIOETHICS

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