



## California | RANKING: 47

California is incredibly hostile to life. Despite performing the highest volume of abortions in the nation, there is no reporting requirement. California attempted to force pregnancy resource centers to post and disseminate a notification about state government-funded abortions, but this law was declared unconstitutional by the Supreme Court.

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### ABORTION

- The California Supreme Court has found that the state constitution provides a broader right to abortion than that interpreted in the U.S. Constitution.
- California has also adopted a Freedom of Choice Act providing a right to abortion even if *Roe v. Wade* is eventually overturned and specifically providing that “[e]very woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion” and “[t]he state may not deny or interfere with a woman’s right to choose or obtain an abortion prior to the viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.”
- California requires a physician have the consent of one parent or a court order prior to performing an abortion on a minor under the age of 18. The law is permanently enjoined.
- California had required abortion facilities to meet rudimentary standards for patient care, equipment, and staffing, but in 2013, California exempted abortion facilities from many generally applicable building code standards.
- Non-physicians including nurse practitioners, certified nurse-midwives, or physician assistants may perform surgical abortions or administer abortion-inducing drugs.
- The California Supreme Court has mandated that taxpayers pay for “medically necessary” abortions for women eligible for state medical 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.
- Grants made by the California Adolescent Family Life Program may not be expended for abortions, abortion referrals, or abortion counseling.
- Family planning grants may not be used for abortions or services ancillary to abortions.
- California protects “freedom of access” to abortion clinics and has established procedures for investigating “anti-reproductive rights crimes” under its Reproductive Rights Law Enforcement Act.
- California has adopted a measure mandating “comprehensive sex education” which includes a provision that “instruction on pregnancy shall include an objective discussion on all legally available pregnancy outcomes including...abortion.”

- In 2019, California passed a bill that would require the abortion pill (mifepristone) be made available through state college and university student health centers. This law will go into effect in 2023.

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

- California law grants infants born alive during an attempted abortion the same right to medical treatment as a natural born infant of “similar medical status.”
- Since 1970, California law has defined the killing of an unborn child after the embryonic stage (7 to 8 weeks of gestation) as a form of homicide.
- The state allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- California maintains 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.
- California funds drug treatment programs for pregnant women and newborns.

## **BIOETHICS LAWS**

- A California constitutional amendment funds and protects the “right” to engage in destructive embryo research and human cloning.
- California prohibits cloning to produce children, but explicitly allows cloning for biomedical research, making it a “clone-and-kill” state.
- California allows research on “fetal remains.”
- California also promotes ethical forms of research, tasking the University of California with developing a plan to establish and administer an Umbilical Cord Blood Collection Program for the purpose of collecting units of umbilical cord blood for use in transplantation. It also conducts an Umbilical Cord Blood Awareness Campaign to disseminate information about cord blood banking options.
- California regulates assisted reproductive technologies including specifically requiring that a patient be provided information on embryo donation.
- It requires that any advertising for egg donors (for fertility treatments) contain a statement that “there may be risks associated with human egg donation.” Moreover, no human eggs may be sold for “valuable consideration,” which does not include reasonable payment for the removal, processing, disposal, preservation, quality control, and the storage of the eggs.

## **PATIENT PROTECTION LAWS**

- Suicide by physician is legal in California.
- California enacted a measure requiring physicians to provide end-of-life counseling to patients.
- California has amended its medical school curriculum requirements to include instruction on pain management and end-of-life issues.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION AND CONTRACEPTION**

- California currently provides legal protection for individual healthcare providers and private healthcare institutions that conscientiously object to participating in abortions. Protection also extends to medical and nursing students. However, this protection does not apply in “medical emergencies.”
- It provides some protection for the conscience rights of pharmacists and pharmacies.
- Health insurance plans that provide prescription coverage must provide coverage for contraception. This requirement includes an exemption so narrow that it precludes the ability of most employers and insurers with moral or religious objections from exercising it.

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

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

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

- Abortion will be legal throughout pregnancy due to a state court decision.

# RECOMMENDATIONS FOR CALIFORNIA

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## WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
  - Reflection period for abortion
  - 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 (or parental notice initiative)
  - Child Protection Act
  - Coercive Abuse Against Mothers Prevention Act
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## INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
  - Prenatal Nondiscrimination Act
  - Unborn Infants Wrongful Death Act
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## PATIENT PROTECTION ACT PRIORITIES

- Suicide by Physician Ban Act
  - 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

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

### LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Amend fetal homicide law to protect unborn from conception
- Statutory prohibition on wrongful birth and wrongful life lawsuits
- Pregnant Woman's Protection Act

### BIOETHICS

- Constitutional amendment banning state funding for human cloning and destructive embryo research

### END OF LIFE

- Repeal of law legalizing suicide by physician.

### HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act