

DEFENDING LIFE 2021



Americans
United for Life

DEFENDING LIFE 2021



Americans United for Life
Copyright © 2021 by Americans United for Life
All rights reserved

Published in the United States of America

979-8-7084664-3-3

Copyright © 2021 by Americans United for Life. All rights reserved under International and Pan-American Copyright Conventions. No part of *Defending Life 2021* may be reproduced or transmitted in any form, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system now known or to be invented, without permission in writing from the publisher, except by a reviewer who wishes to quote brief passages in an article or a review written for inclusion in a magazine, newspaper, or broadcast.

For information, please contact:
Americans United for Life
(202) 289-1478

Catherine Glenn Foster, M.A., J.D.
PRESIDENT & CEO

EDITOR-IN-CHIEF

Steven H. Aden, J.D.
CHIEF LEGAL OFFICER & GENERAL COUNSEL

ASSOCIATE EDITORS

Tom Shakely, M.S.
CHIEF ENGAGEMENT OFFICER

Evangeline J. Bartz, M.A., J.D.
CHIEF OPERATING OFFICER & CORPORATE COUNSEL

Katie Glenn, J.D.
GOVERNMENT AFFAIRS COUNSEL

Natalie M. Hejran, J.D.
STAFF COUNSEL

CONTRIBUTING EDITORS

Clarke D. Forsythe, M.A., J.D.
SENIOR COUNSEL

Noah Brandt, M.P.S.
COMMUNICATIONS DIRECTOR

PRAISE FOR AMERICANS UNITED FOR LIFE

AMERICA'S LEADER IN LIFE-AFFIRMING LAW & POLICY

KRISTI NOEM

Governor of South Dakota

“As a former state legislator, eight-year member of Congress, and now Governor of South Dakota, I am proud of my 100% pro-life record. Given the science we know today about the preborn, no reasonable person can be anything other than pro-life. With that in mind, I am grateful for the work of Americans United for Life, an organization that for 50 years has stood up in the courts, in the legislatures, and in the public arena for the most defenseless among us: the preborn. God bless the people of AUL and their mission.”

SENATOR MARSHA BLACKBURN

Tennessee

“It is an honor to stand with Americans United for Life and the people of Tennessee in advocating for the protection of vulnerable persons throughout the whole of their natural lives. As I’ve seen first-hand as a Tennessee state legislator, as a Member of the U.S. House of Representatives, and now as a U.S. Senator, the spirited, tireless persistence of advocates for life is speaking powerfully to the conscience of this great nation.”

MEGHAN MCCAIN

Co-Host, ABC’s *The View*

“I applaud Americans United for Life for their comprehensive beginning-to-end approach, which is reducing abortions and helping state after state enact life-saving law and policy. We cannot let politics overrule what science and medicine reveals to be true about our shared humanity.”

USA TODAY

“The USA TODAY/Arizona Republic analysis found Americans United for Life was behind the bulk of the more than 400 [pro-life] bills introduced in 41 states. The analysis compares known model legislation with bills introduced by lawmakers using a computer algorithm developed to detect similarities in language.”

THE WASHINGTON POST

“Americans United for Life ... frames proposals that will be palatable to state legislatures, can be discussed in ways that will generate less political backlash and will appeal to the courts that will eventually have to review legislative intent and discussion.”

TABLE OF CONTENTS

3	Contributors
4	Praise for Americans United for Life
6	Catherine Glenn Foster, M.A., J.D.: Envisioning the Opportunities and Challenges of the Next 50 Years
14	Clarke D. Forsythe, J.D.: <i>Roe is Teetering—and We Need to Push It Over</i>

18 STATE OF THE STATES

19	Katie Glenn, J.D.: Annual Report on Government Affairs from America's Leader in Life-Affirming Law and Policy
22	What is an Injunction?
23	Americans United for Life 2020 State Rankings
24	State Report Cards

221 INFANTS' PROTECTION PROJECT

221	Introduction
223	State Of The States: Fetal Homicide
224	State Of The States: Pain-Capable Unborn Child Act
225	State Of The States: Wrongful Death

226 WOMEN'S PROTECTION PROJECT

226	Introduction
228	State Of The States: Ultrasound Requirement
229	State Of The States: Parental Involvement Laws

230 PATIENTS' PROTECTION PROJECT

231 APPENDICES & RESOURCES

232	Evaluation Criteria
240	Additional Model Legislation
244	About Americans United for Life
246	A Proven Track Record of Success



AMERICANS UNITED FOR LIFE:

ENVISIONING THE OPPORTUNITIES AND CHALLENGES OF THE NEXT FIFTY YEARS

*Catherine Glenn Foster, M.A., J.D., President & CEO
Americans United for Life*

There is no question that 2020 was a strange and difficult year, a season of lockdown and of unprecedented social isolation. At times, it has been challenging to keep things in proper perspective, in light of the tumultuous changes and adjustments we all made to protect ourselves and our neighbors from the deadly COVID-19 pandemic. And yet that perspective is critical as we seek to lead fulfilling lives that balance our obligation to care for one another with the day to day demands of living. Much was lost or missed this year. In separation, we faced distance and isolation from loved ones, travel that was indefinitely postponed then canceled, and of course, worst of all, the tragic loss of countless Americans to the scourge of coronavirus. Every one of the beautiful souls lost to the pandemic deserves mourning, and their legacy demands that our society act to ensure that all members of the human family are being treated humanely and given access to quality medical care. But while we must not forget the tragedies of the year now behind us, we are also called to take stock of all the progress we made for life in 2020.

One of my greatest joys is the opportunity to travel our great nation and fellowship both with pro-life advocates and with women in need. Meeting the girls who need help, and the strong and compassionate leaders who are on the ground to stand alongside them, is an inspiration. So during this past year, when travel was often impossible, I was challenged by how I could continue to make the same level of impact without the chance to partner in person with dear allies and friends. And what this extended time of working remotely gave me was the opportunity to really plan—for Americans United for Life, and for all the vital, diverse breadth of the pro-life movement at large—our next fifty years of victory, and inclusion and hope for each and every American.

This year, Americans United for Life will be celebrating our fiftieth anniversary. AUL was founded on the basic notion, our core tenet, that every person matters — every single person — and that the law must reflect that. In 1971, when AUL was founded, the tragedy and violence of abortion had only been legalized in six states. The vast majority of states forbade abortion, many of them directly acknowledging the humanity of children in the womb, as well as the state's interest in their lives and obligation to protect them under law. The same interest and obligation was enshrined in our Declaration of Independence, that all Americans have the right to "Life, Liberty and the pursuit of Happiness." That marvelous promise of equal creation, unalienable rights, and lifelong dignity, expressed by Thomas Jefferson and passed down through the generations, was never

meant to be limited by such factors as age, size, or geographic location. Indeed, the blessings of American liberty were meant to be extended to children in utero. James Wilson, a signer of both the Declaration and the Constitution—in addition to being one of the first U.S. Supreme Court justices, appointed by President George Washington—wrote this on the matter:

With consistency, beautiful and undeviating, human life, from its commencement to its close, is protected by the common law. In the contemplation of law, life begins when the infant is first able to stir in the womb. By the law, life is protected not only from immediate destruction, but from every degree of actual violence, and, in some cases, from every degree of danger.

Isn't that so powerful and encouraging to read? After all, one of the most pernicious lies peddled by the abortion lobby is the fallacy that abortion was some significant piece of our history or heritage. That is absolutely false; it is not now and never was. From the very beginning of our republic, abortion was acknowledged as a crime under the common law and, starting in the early 19th century, legally forbidden in the vast majority of the states, by law and by provisions enshrined in the state constitution. Their rationale was simple and straightforward; the states in which abortion was forbidden simply acknowledged that the act of abortion, intentionally ending the life of a child in her mother's womb, is in blatant violation of the most fundamental right upon which our republic was founded.

As the years passed, some abortion activists sought to change state laws, to undermine and subvert fundamental human rights, to somehow ignore the reality of abortion and convince states to make it legal. Their success was limited. When the power over whether to protect preborn children under the law was left to the people and to the duly elected representatives in their communities, the vast majority chose to protect the rights of the most vulnerable and marginalized among us.

But our current reality is quite the opposite. In fact, children in the womb are currently *unprotected* in fifty states...because in 1973 the Supreme Court stripped the issue of abortion away from the people, invalidating protective, life-affirming laws from coast to coast. And the Court's tragic abortion decisions in *Roe v. Wade* and its progeny haunt us to this day, impacting millions of lives every year. Yet that is not the end of the story! Over the past fifty years, we have seen surging momentum in the pro-life movement, with more and more young Americans, in particular, raising awareness, demanding consistency, and declaring their support for life. And we at Americans United for Life have made a stand for life in courts and statehouses from coast to coast, advocating for the inherent human rights of all Americans.

Now, both ends of the spectrum of life, those yet to be born and those nearing life's end, are facing new challenges that call us to offer new solutions. As we look forward to celebrating our fiftieth year, what will define our next fifty years? I see five broad challenges and opportunities that will follow us into the next generation of our work to protect life.

[5] CARING FOR OUR CHERISHED SENIOR CITIZENS

For years, abortion activists have repeated the tired old lie that those of us in the pro-life movement “only care about babies before they’re born,” or don’t “truly” care about preserving the right to life, but just seek to forbid abortion. Nothing could be further from the truth. But the sad trend in reporting can also be identified as more news outlets refuse to use our preferred description of pro-life, and instead, use anti-abortion. Honestly, I *am* proud to say that I am “anti-abortion,” that I believe in a brighter future in which no human being, no woman and no child, is left alone or excluded from fundamental human rights. But more than that, I am *pro-life*. The pro-life movement encompasses so much more than just an effort to end the legalized violence of abortion. Recently, the urgent need to care better for our senior citizens has come into stark view.

Widespread neglect in the American nursing home system has been well documented, especially in light of the COVID-19 pandemic, and it is absolutely disgraceful. Simply put, policymakers made very bad choices to return residents who were sick with COVID to their assisted living facilities, exponentially increasing the danger to those who were already at the greatest risk of succumbing to the novel virus. The data bears that horrible reality out. Tens of thousands of excess deaths, directly attributable to subpar care given to senior Americans in the facilities that exist purely to give adequate and humane care.

In the coming decades, we must do better for our seniors. Only because of the sacrifice of the generation before us do we have the freedom and opportunities that we can enjoy, and it is our responsibility to care for Americans in their twilight. The pro-life movement has always acted as a voice to the voiceless, and many residents in long term care facilities are increasingly voiceless. We cannot leave an entire class of Americans to wither and die with subpar care and neglect.

I foresee a move to a more “household model” for nursing homes which allow for more individualized care and attention. A smaller footprint and resident number also allows less room for abuse to be swept under the rug. A pro-life America is one in which we cherish and care for elder Americans. As the American population continues to age in the aggregate, we must protect our fundamental rights.

[4] SUICIDE IS NOT AN OPTION

Acknowledging that we all matter means rejecting the cloaked effort to medicalize and legalize the tragedy of suicide. Allowing state-sanctioned suicide means giving up on each other. Yet the same phenomenon that we fight against in our schools and churches and communities, suicide, is now being propagated by some as a medical remedy that should be administered by doctors. We say no.

Doctors are trained to heal, not to kill. And no matter how you may phrase it, that is what the effort to legalize suicide by physician is. In the coming years, we must be creative and stalwart in offering life-affirming alternatives to those who may seek and those who may condone suicide by physician. Social science literature has conclusively shown that the primary reason a person may choose suicide by physician is not unmitigated physical pain or even fear of pain, but instead the inability to participate in things that gave their life meaning

and feeling like a burden to those around them. Those harms cannot be solved by doctors; they must be confronted head-on by family and friends.

Being there for those in our life who are in the most challenging of circumstances is step one towards preventing suicide. I challenge the pro-life movement to be there. To be the light in the darkness that someone may need to choose life for themselves in a difficult moment. We must couple our personal witness and empathy with a commitment to stop suicide legalization in the states. Suicide is never medicine, and suicide should never be an option.

[3] WOMEN WILL LEAD THE CAUSE FOR LIFE TO VICTORY

Since the very beginning of the pro-life movement, women have been at the forefront. Whether behind the scenes or in front of a camera, women have played an integral role in the success of pro-life policies for fifty years. From Susan B. Anthony, to Phyllis Schlafly, to Dr. Mildred Jefferson, women have blazed a path for the next generation of female leaders. With all of that in mind, the abortion industry has continued to lie about women's role in the fight for our children. The redefinition of "women's rights" to mean nothing but unlimited abortion at any time, for any reason, and at any stage of pregnancy—paid for by the American taxpayer—is a mangling of language so Orwellian that it makes the term completely useless. Women's rights have never been centered on a woman's ability to end the life of her own child. Instead, women's rights are about the freedom to dream and the opportunity to achieve. Any honest conception of women's rights must include all women, even the youngest among us. And I am emboldened by the amazing women leading the pro-life movement into the next generation and taking back women's rights for all women.

In the 2020 congressional elections, pro-life women had the most impressive year we have ever seen. The U.S. House of Representatives will be occupied by twenty-four strong pro-life women...twenty-four warriors for life. And that's just at the federal level! In the states, female pro-life governors and legislators are setting the standard for what it means to be brave and ambitious in the protection of human life. You don't have to look far to see what I mean.

The most important life-related Supreme Court decision in 2020 was undoubtedly *June Medical Services v. Russo* from the state of Louisiana. The issue in *June Medical* was a basic health and safety standard: Do communities have the right to protect their citizens by ensuring that abortionists have admitting privileges at a local hospital, so that when there is a complication during an abortion, they are able to admit their patient and get her every chance at life-saving care? While the Supreme Court's final decision in that case was a mixed bag, it is instructive to the present and future of the pro-life movement to look at the advocates in Louisiana that were behind the law before the Court. State Senator Katrina Jackson is one of the leaders who gives me such hope and enthusiasm for the future.

Senator Jackson was the quarterback behind the *Women's Protection Act* in Louisiana, the law that was challenged by the state's abortion industry and ultimately taken all the way up to the Supreme Court. Katrina is a rising star and an inspiring advocate for life. She did the near-impossible: She took her and her colleagues' compassion and hope to protect Louisiana women from an idea, to a bill, to a law passed overwhelmingly and

with a bipartisan majority, all the way to the United States Supreme Court. And *June Medical* has turned out to be a win for life, and a win for women all across the nation. Because of *June Medical*, states now have a better opportunity to protect women and protect life in their states than they have had in decades. The Chief Justice's controlling opinion followed a standard of review for these types of community protections that opens the door for more states to pass protective laws, and more courts to approve them. It is because of the ceaseless advocacy of Katrina Jackson, and women across Louisiana and the nation, that women and children coast to coast will have a better shot at life and at real medical care.

Senator Katrina Jackson embodies the ethic of the modern woman. Even when it looks like the cards are stacked against her. Even when national party leaders would rather she stay silent. Even when it would just be easier politically to focus her efforts elsewhere, Katrina chose to defend life. Women will continue to lead the charge to give voice to the voiceless and show the world what it looks like to advocate for the rights of every woman.

[2] STANDING ATHWART THE NEW EUGENICS MOVEMENT

The most heinous crimes of humanity can be traced back to dehumanization. To hate someone, to hurt someone, and especially to seek to exterminate someone, the human mind must first be twisted to see the object of hate not as another person to connect with, understand, and care for, but as another category of being altogether undeserving of human rights and worthy only of enmity. A look back at America's original sin, slavery, makes this clear.

Owning another person, another human being, is counter to our instincts and ethos. How could a country built on the individual rights of each person tolerate such a crime as slavery? The answer is simple, and we still see it all around us today: dehumanization. By stripping the humanity from Black Americans, apologists for slavery attempted to justify their crimes. They said that slaves were different, lesser, that they weren't full humans, and that only full humans are deserving of human rights.

The same could be seen in the 20th century in Nazi Germany. How could a civilized nation prosecute a genocide on people they had lived in community with for hundreds of years? How could they murder six million of their neighbors, grocers, schoolmates? By dehumanizing Jews and other classes deemed unworthy, the Nazis made it easy for regular people to aid in an extermination. They said, if the people we are targeting aren't fully human, then no one should even feel guilty, right?

Thankfully, we can now look back at examples like these with horror and disgust. We can all now say that one is entitled to fundamental human rights not based on their race, wealth, or station in life; but merely by virtue of being human. But tragically, there is one class of persons that still faces vicious discrimination, the preborn. In America in the year 2020, most states allow a pregnancy to be terminated for any reason, at almost any time. And this inhumane policy of destruction, combined with a willingness to pervert scientific and medical advances with the goal of discrimination, culminates in targeting one class of people with particular carnage: those with "negative" genetic diagnoses.

In the United States, 67% of children with a fetal diagnosis of Down syndrome are aborted. In France it's 77%, and in Iceland it's 99%. Among the abortion industry and its allies in the media, these numbers are celebrated.

They congratulate themselves for “eradicating” Down syndrome. A just society simply cannot accept this new eugenics. No class of persons should ever be eradicated, or targeted for discrimination, and every single human being should be understood, supported, and empowered.

A world in which everyone with Down syndrome or any one of a whole host of other medical conditions is terminated, is a world less diverse, less safe, and I would argue, less human. Discriminating on the basis of a disability diagnosis should never be grounds to end a life. And the pro-life movement has had real success fighting this pernicious ideology; Americans United for Life has led the way by authoring the “Prenatal Nondiscrimination Act” to ensure that no child's life can be ended simply because of the presence of a genetic or medical condition.

Supreme Court Justice Clarence Thomas guides the cause for life on this issue, writing in his dissent in *Box v. Planned Parenthood* regarding an Indiana law that would have prohibited abortion for discriminatory reasons:

This law and other laws like it promote a State’s compelling interest in preventing abortion from becoming a tool of modern-day eugenics. The use of abortion to achieve eugenic goals is not merely hypothetical. The foundations for legalizing abortion in America were laid during the early 20th-century birth- control movement. That movement developed alongside the American eugenics movement. And significantly, Planned Parenthood founder Margaret Sanger recognized the eugenic potential of her cause.

Stopping the new eugenics movement will be one of the highest priorities for the pro-life movement in the next fifty years.

[1] THE LINCOLN PROPOSAL

In the coming years, I expect the President to reclaim the spirit of her oath and her interpretive authority, and to fulfill her constitutional duty by issuing an executive order recognizing preborn persons as constitutional “persons” entitled to due process and equal protection of the laws.

While the effort to overturn *Roe v. Wade* in the Supreme Court will continue to play a critical part in pro-life law and policy strategy, I also advocate for a pro-life president to learn from the example of President Abraham Lincoln’s response to *Dred Scott v. Sandford*, the embarrassing case that ruled that the privileges of American citizenship didn’t apply to slaves. As a Senate candidate, Lincoln acknowledged the Court’s decision as binding on the parties, but denied that the opinion possessed precedential effect. Once elected President, Lincoln reaffirmed his commitment to resisting *Dred Scott* in his first inaugural address, warning that:

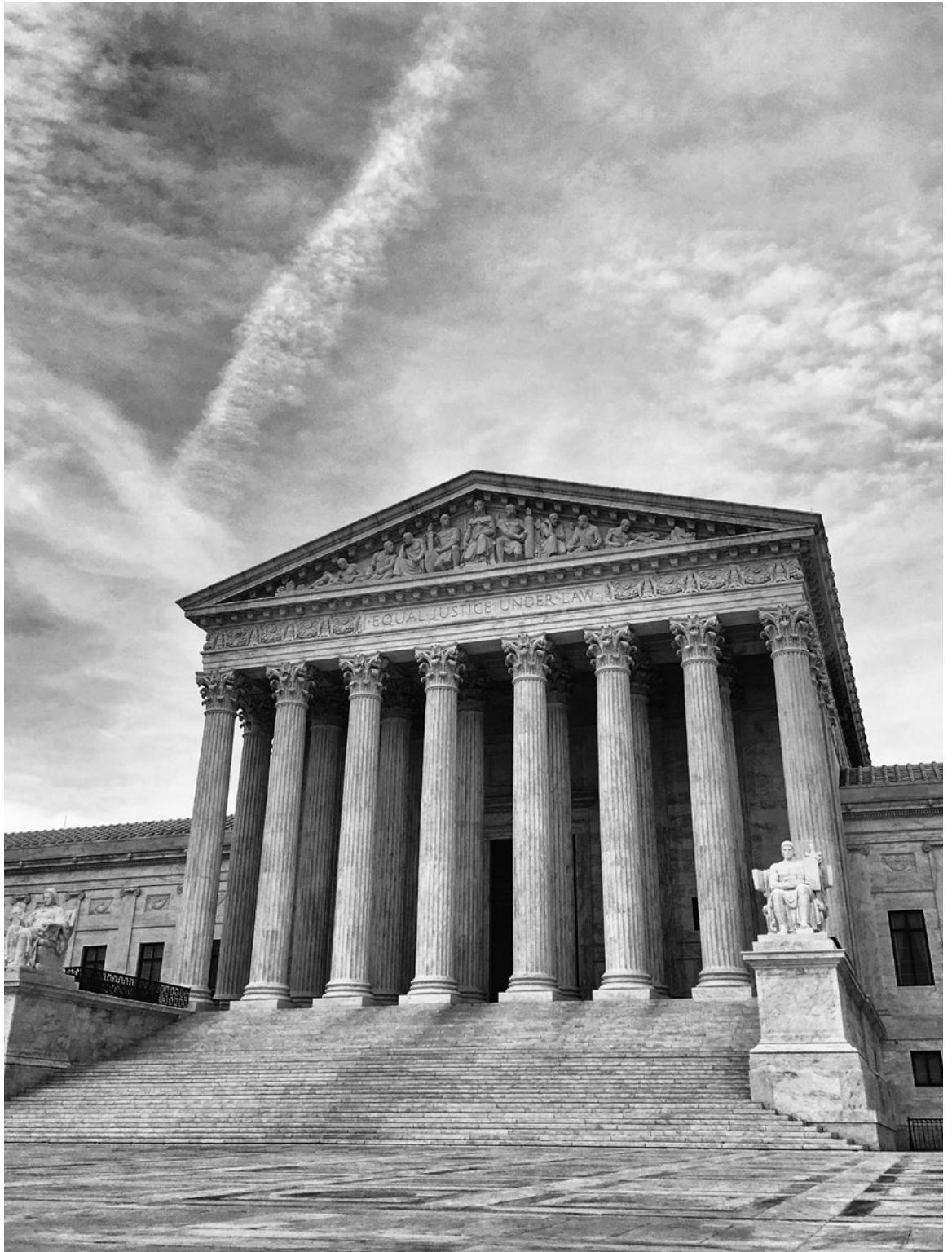
[I]f the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal.

Relying on her constitutionally prescribed oath and her Take Care Clause interpretive authority, the president should fulfill her duty to faithfully execute the guarantees of the Fourteenth Amendment to the Constitution by issuing an executive order recognizing preborn persons as constitutional “persons” entitled to due process and equal protection of the laws. Such an executive order would set a precedent that all future pro-life presidents would be expected to follow and build upon.

The Lincoln proposal is an ambitious next step for the pro-life movement as we look toward the next fifty years. We must not confine our fight to abolish abortion only to the courts, or the legislature, or the presidency. It is vital that we expand the field and advocate for life on every front possible.

CONCLUSION

I am so very proud of the progress we have made over the last fifty years, but I am even more excited for what I see coming in the future. We will abolish abortion. We will beat back the violence of new eugenics. We will ensure that each and every American enjoys the fundamental rights enshrined in our most sacred laws that remind us that we all matter. I urge you to be encouraged, and to gear up for the fight of our generation. We will win.





ROE IS TEETERING—AND WE NEED TO PUSH IT OVER.

Clarke D. Forsythe¹, J.D., Senior Counsel
Americans United for Life

Before 2020, there have been long stretches during which the abortion issue languished in the Supreme Court. But now, the Court's decision in *June Medical* and Justice Amy Coney Barrett's confirmation are two significant, historic developments that need to be carefully studied and strategically acted upon. Many observers believe that *Roe* is teetering. We need to push it over the brink through cases in the courts, an outpouring of state pro-life legislation, and electoral victories, recognizing that the ferocious opposition of legal and cultural elites will be unrelenting.

Early media reports of *June Medical Services v. Russo*² were inaccurate because they missed Chief Justice John Roberts' head fake. They focused on the 5-4 result that struck down the Louisiana law but did not take account of the implications of the Chief Justice's separate opinion combined with the dissents of Justices Thomas, Alito, Gorsuch and Kavanaugh. (See AUL's July 31, 2020 White Paper, "Disappointment and Opportunity: Americans United for Life Assesses the Supreme Court's Decision in *June Medical Services*," for more details.)

The Chief Justice's reliance on precedent (*stare decisis et non quita movere*) to strike the Louisiana law was narrowly focused on "the present case" and the narrow proposition that the Court should "treat like cases alike."³ He was led to believe, unfortunately, that the facts and law in Louisiana were "nearly identical" to the facts and law struck down in Texas in *Whole Woman's Health*.⁴

But then in one subtle, transitional paragraph, he switched gears:

Stare decisis principles also determine how we handle a decision [*Whole Woman's Health*] that itself departed from the cases that came before it [*Casey*]. In those instances, "[r]emaining true to an 'intrinsically sounder' doctrine established in prior cases [*Casey*] better serves the values of *stare decisis* than would following" the recent departure [*Whole Woman's Health*].⁵

The Chief Justice cites former Justice Sandra Day O'Connor's plurality opinion in *Adarand Constructors*, which quoted a phrase from *Helvering v. Hallock*, where Justice Frankfurter referred to an instance "when such adherence [to precedent] involves collision with a prior doctrine more embracing in its scope, intrinsically sounder, and verified by experience."⁶ The flexibility of what now might be called the *Adarand-Helvering* doctrine allowed the Chief Justice to leave *Whole Woman's Health* in the dust and return to *Casey* in future cases. *But if the Adarand-Helvering doctrine applies to Whole Woman's Health, why not to Planned Parenthood v. Casey or Roe v. Wade?*

In that way, Roberts indirectly indicated that in the future he would be the fifth vote, along with Justices Thomas, Alito, Gorsuch and Kavanaugh, to apply *Casey's more lenient standards* for reviewing state abortion limits. But Justice Kavanaugh noted that explicitly.⁷

The momentum is with the four dissenters in *June Medical*, who issued three powerful opinions. They are worth a careful read.

First, Thomas wrote, for himself alone, that *Roe v. Wade* should be overturned entirely.⁸

Then, Justice Alito wrote a 34-page dissent, joined in the essential parts by Justices Thomas, Gorsuch and Kavanaugh, that would have upheld Louisiana's law, concluding together, "there is ample evidence in the record showing that [hospital] admitting privileges help to protect the health of women by ensuring that physicians who perform abortions meet a higher standard of competence than is shown by the mere possession of a license to practice."⁹ Justices Alito, Thomas, Gorsuch and Kavanaugh were united in saying that they would overrule *Whole Woman's Health* expressly and reinstate the more lenient 1992 *Casey* decision for purposes of examining the Louisiana statute.¹⁰ Alito goes on to suggest that the majority has unsettled the nature of the abortion right itself: "The divided majority cannot agree on what the abortion right requires."¹¹ Alito's dissent may be his most critical opinion of the Court's abortion doctrine since he joined the Court in February 2006, and, more than in most Supreme Court cases on abortion, conducts a searching and skeptical review of the record evidence.¹²

Justice Gorsuch wrote a dissent which gave numerous reasons why the Court's abortion doctrine is unworkable, closing with the statement, "it is a sign we have lost our way."¹³

Justice Kavanaugh joined most of Alito's dissent and then penned his own, which expressly noted that five Justices rejected *Whole Woman's Health*. More important than Justice Kavanaugh's dissent in *June Medical*, though, is his concurring opinion in *Ramos v. Louisiana*,¹⁴ his first major opinion on precedent, where he sorted out the Court's stare decisis doctrine in a comprehensive way that has important though unstated implications for *Roe* and *Casey*.

The 4-1-1-3 decision in *June Medical* leaves *Roe* and *Casey* radically *unsettled*.

Then came the Barrett confirmation. Professor Thomas Molony's useful 2020 article in the Harvard Journal of Law & Public Policy examines many of the Chief Justice's opinions on stare decisis since he joined the Court in October 2005 and how they might apply to *Roe*.¹⁵ Molony writes that if Roberts revisits *Roe*, he will likely start with *Casey*. *Casey* has been severely criticized by judges and scholars, but perhaps the biggest influence may be the new Justice. Barrett doesn't seem impressed with *Casey*. Justice Kavanaugh described *Casey* as "precedent on precedent" at his 2018 confirmation hearings. In contrast, Justice Barrett noted in a 2013 article:

“Indeed, *Planned Parenthood of Southeastern Pennsylvania v. Casey* shows that the Court is quite incapable of transforming precedent into superprecedent by *ipse dixit*.”¹⁶ Moreover, Barrett brings to the Court her own thoughtful perspective on precedent which she has formulated in a number of law review articles before joining the Seventh Circuit.¹⁷

There are 50 to 60 abortion cases in the lower courts, and so the Court will have many opportunities to address abortion in 2021, 2022, and 2023. Will the Court move any faster on abortion with Justice Barrett replacing Justice Ginsburg? How will Justice Barrett influence the Chief Justice and work with Justices Thomas, Alito, Gorsuch and Kavanaugh on abortion cases? Every abortion case will be important.

How did we get to this position where *Roe* is unsettled, the Court has a majority of “abortion-skeptical” Justices, the states are creating momentum with numerous legislative limits on abortion, and scholars and political commentators are voicing expectations that *Roe* will be overturned sooner or later?

In his review of Mary Ziegler’s book, *Abortion and the Law in America* in the October 2020 issue of *First Things*, Professor Daniel Williams suggested that “pro-life lawyers” have gotten lost in debating “abortion access,” and that pro-life Americans “need to insist anew that their movement is not merely an effort to make abortions more difficult to obtain but is instead a human rights campaign to protect all human life....”

Williams’ questions are important, but the debate needs four things to be fruitful: a fuller understanding of (1) the history, (2) the constraints of the legal system and the Supreme Court, (3) the diversity of complementary pro-life strategies that are being pursued, and (4) the ripple effect of test cases on abortion in the courts.

There’s no room here to lay out a comprehensive response to Professor Williams.¹⁸ It has been published elsewhere over the years. However, to summarize, there are four problems with Williams’ objection to court cases involving clinic regulations: (1) staying out of the courts after *Roe* would have abandoned any attempt to weaken *Roe*, (2) working in the courts was essential to undermining *Roe* and has had collateral benefits in politics, state legislation and state leadership, and public education, (3) a rhetoric of human rights can and has been used to defend any limit on abortion, and (4) a rhetoric of human rights is not confined to court cases but can and has been used in any pro-life forum, including sidewalk counseling, pregnancy care and counseling, and public education. The diverse strategies used since *Roe* have been both-and, not either-or.

Suppose after *Roe*—or after the Court rejected Rhode Island’s total prohibition on abortion in May 1974—the movement had decided to abandon the Supreme Court arena. That would have meant abandoning virtually all state legislative work, because many, if not most, of all the legislative abortion limits have been challenged in the courts by Planned Parenthood, the ACLU, et al. Abandoning the Supreme Court would have meant not defending those laws. Abortion would no longer be a judicial issue, left instead to education and direct services to women. And if there’s no legislation, there’s no electoral issue. Abortion would have been excluded from the public realm and left to the private realm—education, direct services, charity, the church, etc.

After 19 years of test cases, four of the nine Supreme Court justices in 1992 pronounced *Roe* unconstitutional and advocated overturning it wholesale in the *Casey* decision. If four Justices expressed that conviction in 1992, why should the movement give up and go home?

There are additional ripples. Professor Michael New’s studies on the dramatic decline of the abortion rate since 1992 point to the impact of pro-life legislation.¹⁹ One result of working in the legislatures and the courts, and

not leaving *Roe* unchallenged, is that every Supreme Court confirmation hearing starting with Robert Bork's has focused on *Roe*. As Matthew Franck wrote recently in the *Wall Street Journal*, "The politics of nominations to the Court are now simply inseparable from the legacy and future of the abortion precedent."²⁰ The reason Justice Barrett's confirmation hearing focused on *Roe* is because the test cases in the courts since *Roe* have given the abortion issue momentum. These are the ripple effects created by state abortion laws and work in the courts to defend them.

In the wake of *June Medical* and the Barrett confirmation, state legislators should carefully review their goals for legislation. Do they want or need to create the 61st test case? Do they want to solve a real problem in their own state? Do they want an enforceable law that can contribute to creating a culture of life? Should they look at laws they will need post-*Roe*? Perhaps they need an ultrasound informed consent law or need to enhance women's information about the short-term and long-term risks of abortion. There are also other life issues that are important for the States and that will contribute to a culture of life that will also positively affect the abortion issue. Look at the recommendations for your state in *Defending Life 2021*. In the wake of *June Medical* and the Barrett confirmation, we need to push hard through test cases, state legislative victories, and electoral victories. These are all necessary to persuade the Justices that *Roe* must go.

-
1. Clarke D. Forsythe is Senior Counsel at Americans United for Life and author of ABUSE OF DISCRETION: THE INSIDE STORY OF ROE V. WADE (2013) and A Draft Opinion Overruling *Roe v. Wade*, 16 Geo. J. L. & Pub. Pol. 445 (2018).
 2. 140 S. Ct. 2103 (2020).
 3. 140 S. Ct. at 2134.
 4. 140 S. Ct. at 2133.
 5. 140 S. Ct. at 2134–35.
 6. 309 U.S. 106, 119 (1940).
 7. 140 S. Ct. at 2182 ("Today, five Members of the Court reject the *Whole Woman's Health* cost-benefit standard.").
 8. 140 S. Ct. at 2142 ("But those decisions created the right to abortion out of whole cloth, without a shred of support from the Constitution's text. Our abortion precedents are grievously wrong and should be overruled.").
 9. 140 S. Ct. at 2155.
 10. 140 S. Ct. at 2154 (end of section I, Alito J., joined by Thomas, Gorsuch, Kavanaugh, J.J., dissenting).
 11. 140 S. Ct. at 2153.
 12. 140 S. Ct. at 2158 (referring to "the gross deficiencies of the evidence in the record.").
 13. 140 S. Ct. at 2182.
 14. 140 S. Ct. 1390, 1410 (2020).
 15. Thomas J. Molony, *Taking Another Look at the Call on the Field: Roe, Chief Justice Roberts, and Stare Decisis*, 43 Harv. J. L. & Pub. Pol. 733 (2020).
 16. Amy Coney Barrett, *Precedent and Jurisprudential Disagreement*, 91 Notre Dame L. Rev. 1711, 1735 (2013).
 17. Id. See, e.g., Amy Coney Barrett, *Originalism and Stare Decisis*, 92 Notre Dame L. Rev. 1921 (2017); Amy Coney Barrett, *Symposium on Stare Decisis and Nonjudicial Actors: Introduction*, 83 NOTRE DAME L. REV. 1147 (2008).
 18. See, e.g., Joseph W. Dellapenna, DISPELLING THE MYTHS OF ABORTION HISTORY (2006); Clarke D. Forsythe, ABUSE OF DISCRETION: THE INSIDE STORY OF ROE V. WADE (2013).
 19. Michael J. New, *Analyzing the Effect of Anti-Abortion U.S. State Legislation in the Post-Casey Era*, 11 State Pol. & Pol'y. Q. (2011).
 20. Matthew J. Franck, *Is the Supreme Court Too Catholic?*, WALL STREET JOURNAL (Oct. 8, 2020).

STATE OF THE STATES

2021 RANKINGS & REPORT CARDS





2020 STATE LEGISLATIVE SESSIONS REPORT:

ANNUAL REPORT ON GOVERNMENT AFFAIRS FROM AMERICA'S LEADER IN LIFE-AFFIRMING LAW AND POLICY

*Katie Glenn, J.D., Government Affairs Counsel
Americans United for Life*

Every election year brings unexpected challenges, but 2020 has truly been a year like no other. While state lawmakers hit the ground running in January, pursuing dozens of life-affirming bills, efforts stalled in March when the COVID-19 global pandemic prematurely ended the legislative sessions in most states.

Americans United for Life responded to the pandemic by putting the spotlight on the growing threat of healthcare rationing and denials of medical care, publishing *Ethical First Principles in a National Crisis*, while mourning the loss of so many of our fellow Americans.

As lawmakers settled into virtual meetings, many state legislatures reopened, resulting in 13 states passing Life-affirming laws in 2020. Lawmakers across the country continue to press forward to ensure that mothers are well informed about the risks of abortion, that the public has valuable statistics on the realities of abortion and its complications, and that public resources are no longer flowing to the abortion industry.

And thankfully, the shortened legislative sessions slowed down the worrying trend of states passing extreme abortion laws, and no state passed a suicide by physician bill in 2020. The only state to pass an expansive anti-Life law was Virginia; the District of Columbia also passed a “*Roe*” ordinance, removing the few safeguards that did exist.

AUL attorneys testified and weighed in on legislation in a number of states, providing critical legal expertise and assessing the constitutionality of these proposed bills.

Building on the momentum from last year, two states, Idaho and Utah, passed conditional bills similar to AUL's model bill, which would ban abortion in the event that *Roe v. Wade* was overturned or lawmaking authority was otherwise handed back to the states.

Three states passed Born-Alive Infant Protection Acts similar to AUL's model bill, but just one, West Virginia's, was enacted into law. The governors of Kentucky and Wyoming vetoed the BAIPA bills that passed through their legislatures.

After a long fight in Tallahassee, Florida passed a parental consent law which was strongly backed by AUL and based in part on AUL legislation. It requires that a minor receive parental consent before obtaining an abortion, and it is widely expected to allow the Sunshine State to ratchet back the state supreme court's bad caselaw holding that a right to abortion exists in the state constitution, now that the court is more reliably pro-life.

Several states continue to put Life on the ballot. Alaska, Iowa, Kansas, and Kentucky are pursuing ballot initiatives or constitutional amendments in 2021 and 2022. In November 2020, Louisianans overwhelmingly voted in support of the "Love Life" amendment, affirming that there is no right to abortion in the Louisiana state constitution. Coloradoans voted no on Prop 115, which would have banned late-term abortions.

Some of the most extreme bills AUL opposed failed to pass without a vote, including suicide by physician bills and "Roe" bills in Maryland and Wisconsin. A "right to abortion" constitutional amendment in New Hampshire was never voted on. In New Hampshire, AUL vocally opposed a bill that would have required virtually all health insurance plans to cover elective abortion in the state; it was vetoed by Governor Sununu.

In June, the Supreme Court struck down Louisiana's admitting privileges law in a fractured decision. The opinion eliminated a critical safeguard for Louisiana women in the event that they need emergency care due to complications from abortion. Despite our disappointment at the Court's decision in *June Medical Services v. Russo*, there are reasons to be optimistic, as AUL's analysis *Disappointment and Opportunity* explains. Chief Justice Roberts, writing in concurrence, signaled an end to the confusing and subjective benefit-burden test created in 2016 in *Whole Woman's Health v. Hellerstedt*. It appears that the Court reverted back to the more pro-life friendly *Planned Parenthood v. Casey* standard.

In August, the Eighth Circuit Court of Appeals appeared to agree in *Hopkins v. Jegley*, allowing four Arkansas laws that had previously been struck down to go into effect this fall. These included: 1) a ban on dismemberment abortion, 2) a prohibition on sex-selective abortion, 3) a humane disposal of fetal remains law, and 4) a bill requiring the preservation of forensic evidence in cases of suspected abuse of a minor. Several are based in whole or part on AUL model bills.

After the *June Medical* decision, state lawmakers should feel empowered to pass and enact life-affirming laws with less concern that they will be immediately challenged and struck down by district judges making subjective judgments about the benefits or burdens of the law.

Abortion activists strongly opposed the confirmation of Justice Amy Coney Barrett to the Supreme Court this fall. Already we have seen fearmongering claims that women will be imprisoned en masse for seeking abortions. This is patently false. Twenty-six states have laws specifically saying that a woman can never be charged under laws that create criminal penalties for doctors or other healthcare professionals who violate state abortion laws. Another twenty states have criminal penalties specifically naming who could be found liable that do not include the pregnant woman within the criminal prohibition.

The biggest victory for Life is that the national abortion rate continues its downward trend, and it is now the lowest rate since 1973, when *Roe v. Wade* legalized abortion. According to Dr. Michael New, professor of social research and political science at the Catholic University of America and associate scholar at the Charlotte Lozier Institute, there is a direct correlation between increasing the number of state pro-life laws and reducing the number of abortions. In observing this trend across three decades, the Life-saving effect of state laws, including parental involvement, informed consent, and other laws based on AUL model bills, is undeniable.

AUL will continue working with legislators across the country to keep the momentum going. Almost every state is in play to pass life-affirming laws, and pro-life lawmakers picked up seats and expanded majorities in a number of states during the 2020 elections. With the new incoming administration, states will take center stage.

The Biden administration will undoubtedly roll back some of the federal protections added under President Trump, including Title X and international aid spending. The FDA safeguards regarding distribution of chemical abortion pills are at risk, meaning that states will have to lead on health and safety protections. Whatever the next year brings, we hope to pass even more Life-affirming laws in 2021.



WHAT IS AN INJUNCTION?

An injunction is a judicial order requiring a person or entity to perform or refrain from performing a specific action. A judge (or group of judges) issues an injunction to prevent a potential wrong from occurring, such as a violation of a state constitution or the U.S. Constitution. Many of the lawsuits involving the laws covered in *Defending Life* are resolved through injunctions.

WHAT IS A PRELIMINARY INJUNCTION?

A preliminary injunction is an injunction issued before trial begins. If a plaintiff believes he or she will suffer some harm during the time it takes for the court to decide the case, he or she can seek an injunction that lasts for a specific amount of time. Once issued, it can remain in effect until a final judgment is issued in the case. There are certain considerations that a court takes into account, such as the plaintiff's likelihood of success and the severity of the alleged harm, before the court decides to issue a preliminary injunction. The issuance or denial of a preliminary injunction may be appealed, resulting in a decision by a court of appeals whether the injunction was properly issued (or should have been issued), but such preliminary appeals do not ordinarily resolve the case.

WHAT IS A PERMANENT INJUNCTION?

A permanent injunction is an injunction that is issued at the resolution of a lawsuit. The losing party can choose to appeal the case until they reach the highest court. At each stage, the permanent injunction may be affirmed or reversed. Permanent injunctions may be rescinded or vacated at a later time if there is a changed circumstance in the case or in the governing law that would require a change to the injunction.

DOES A PERMANENT INJUNCTION REMOVE THE LAW?

No, the statute will remain "on the books" but it will not be enforceable. A statute has to be explicitly removed through legislative action to be "off the books."

HOW IS THIS ADDRESSED IN *DEFENDING LIFE*?

Throughout *Defending Life*, we use three phrases to explain the status of a particular law that is in litigation:

- i) "The law is in ongoing litigation." The law is in litigation but remains enforceable.
- ii) "The law is enjoined and in ongoing litigation." A preliminary or permanent injunction was issued and the law cannot be enforced, but there is still active litigation which may eventually vacate the injunction.
- iii) "The law is permanently enjoined." The lawsuit has reached its conclusion, either by going through the highest court or by the decision of the failing party to cease litigation, and as a result the injunction remains in effect, preventing the enforcement of the law.

STATE RANKING LIST

1. Arkansas
2. Louisiana
3. Oklahoma
4. Mississippi
5. Indiana
6. Kansas
7. Arizona
8. Missouri
9. South Dakota
10. Idaho
11. Alabama
12. North Dakota
13. Tennessee
14. Georgia
15. Michigan
16. Utah
17. Florida
18. Kentucky
19. Ohio
20. Texas
21. Nebraska
22. South Carolina
23. Pennsylvania
24. Iowa
25. Wisconsin

26. West Virginia
27. Minnesota
28. North Carolina
29. Wyoming
30. Alaska
31. Delaware
32. Virginia
33. Colorado
34. Maryland
35. Nevada
36. New Hampshire
37. Illinois
38. Rhode Island
39. Maine
40. Connecticut
41. Massachusetts
42. New Mexico
43. Montana
44. Washington
45. New York
46. Hawaii
47. California
48. Oregon
49. New Jersey
50. Vermont



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.

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

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
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Partial-Birth Abortion Ban Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

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



Alaska | RANKING: 30

Alaska maintains few legal protections for women seeking abortion. The Alaska Supreme Court has determined that the state constitution provides a broader right to abortion than that interpreted in the U.S. Constitution and, using this reasoning, struck down the state's parental notice law. Moreover, it maintains no laws regulating emerging biotechnologies.

ABORTION

- The Alaska Supreme Court has determined that the Alaska Constitution provides for a broader right to abortion than that interpreted in the U.S. Constitution.
- Alaska maintains an abortion information website and requires that a woman seeking an abortion certify in writing that a physician provided her with information on the following: fetal development, various abortion procedures, possible risks and complications associated with abortion and childbirth, eligibility requirements for medical assistance benefits, child support orders, and contraceptive options.
- It includes information about the abortion-breast cancer link in the educational materials a woman must receive prior to an abortion.
- Alaska requires a parent be notified before a minor under the age of 18 obtains an abortion unless the minor is the victim of abuse by a parent or legal guardian, there is a medical emergency, or the minor obtains a court order. The law is permanently enjoined.
- Alaska limits the performance of abortions to licensed physicians. However, the Alaska Attorney General has issued opinions that laws requiring that only licensed physicians perform abortions and imposing minimal health and safety regulations on abortion clinics are unconstitutional and unenforceable.
- Alaska law allows for telemedicine abortion if all other abortion requirements be met, including that the abortion provider be in the room.
- Alaska 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.
- In 2014, Alaska enacted a law prohibiting state taxpayer dollars under its state Medicaid program to pay for abortion services unless the abortion is a “medically necessary abortion”, or the pregnancy was the result of rape or incest. A “medically necessary abortion” is defined as an abortion “performed to avoid a threat of serious risk to the life or physical health of a woman.” The law is enjoined and in ongoing litigation. With the law enjoined, Alaska is required to fund abortions “necessary to prevent the death or disability of the woman, or to ameliorate a condition harmful to the woman's physical or psychological health.”
- Alaska 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

- Alaska law does not affirmatively protect infants born alive during botched abortions.
- Under Alaska criminal law, an unborn child at any stage of development may be considered a victim of murder, manslaughter, and criminally negligent homicide.
- Alaska also criminalizes nonfatal assaults on the unborn.
- Alaska provides a wrongful death (civil) cause of action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Alaska maintains a “Baby Moses” law, which provides immunity for a parent who leaves an unharmed infant, no more than 21 days old, with police, medical personnel, hospital employees, emergency services personnel, or any person the parent believes will act in the infant’s best interest.
- Alaska requires healthcare professionals to report suspicions of drug use during pregnancy.
- In the case of a stillbirth, Alaska law requires that the mother and the father (if present) must be advised that they may request the preparation of a Certificate of Birth Resulting in Stillbirth.

BIOETHICS LAWS

- Alaska maintains no laws regarding human cloning, destructive embryo research, fetal experimentation, human egg harvesting, or assisted reproductive technologies, and it does not promote ethical research alternatives.

PATIENT PROTECTION LAWS

- Alaska law specifically prohibits suicide by physician, classifying it as manslaughter.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Alaska law provides that no person or hospital may be required to participate in an abortion.
- Legal protection for hospitals was narrowed through court decisions. Currently, non-sectarian hospitals built or operated with public funds may not refuse to offer or provide abortions.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Alaska currently provides no protection for the conscience 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 ALASKA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - 24-hour reflection period for abortion
 - 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
 - Components of the Child Protection Act related to mandatory reporting of abuse and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Perinatal Hospice Information Act
 - Prenatal Nondiscrimination Act
 - Born-Alive Infant Protection Act
-

PATIENT PROTECTION ACT PRIORITIES

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

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

- Pregnant Woman's Protection Act

BIOETHICS

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

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Arizona | RANKING: 7

Historically, Arizona has been a strong and consistent force in its efforts to protect women from the well-documented harms inherent in abortion and from the substandard care given at many abortion clinics.

ABORTION

- The Arizona Supreme Court has suggested that equal protection issues that involve abortion may be subjected to strict scrutiny but stopped short of holding that a fundamental “right” to abortion exists under the state constitution.
- Arizona’s Women’s Health Defense Act, limiting abortion at or after 5 months (i.e., 20 weeks) gestation and predicated on the significant risks of later-term abortions to maternal health (and also concerns for fetal pain) is permanently enjoined.
- Arizona makes it a felony to perform an abortion knowing that the abortion is sought based on the sex or race of the child or the race of a parent. Further, it is a felony to use force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-based abortion.
- Arizona prohibits partial-birth abortion.
- At least 24 hours prior to an abortion, a woman must receive information about the nature of the procedure, the immediate and long-term risks of abortion, the risks of childbirth, alternatives to abortion, and the probable gestational age and anatomical and physiological characteristics of her unborn child.
- At least 24 hours prior, the woman must also receive information about medical assistance benefits, the father’s liability for child support, and the public and private agencies available to assist her. Arizona also requires abortion providers to inform women about alternatives to abortion.
- Arizona requires that an ultrasound be performed at least 24 hours prior to an abortion.
- One parent must provide written, notarized consent before a physician may perform an abortion on a minor under the age of 18, unless the minor is the victim of incest by someone in her home, there is a medical emergency, or she obtains a court order. Arizona prohibits a third party from interfering with parental rights and assisting a minor in obtaining an abortion without the requisite parental consent.
- In 2002, the Arizona Supreme Court concluded that state taxpayers must fund “medically necessary” abortions for women eligible for public assistance, suggesting but not holding that a broader state constitutional right to abortion may exist than that interpreted in the U.S. Constitution. However, a law passed in 2010 prohibits state funds from being used to pay or provide coverage for abortion, unless it is necessary to avoid “irreversible impairment of a major bodily function” or save the life of the mother.
- A woman who is seeking abortion because of fatal fetal anomalies must be informed about perinatal hospice programs.

- A woman considering an abortion must be informed that it is illegal for a person to intimidate or coerce her into having an abortion.
- Arizona law requires that if a woman has not yet taken the second drug in the chemical abortion regimen and consults an abortion clinic questioning her decision to abort, seeking information regarding the health of her fetus, or questioning the effectiveness of the abortion drug regimen, the staff shall inform her that the use of the first drug alone to end a pregnancy is not always effective and that she should immediately consult a physician for more information.
- Arizona has comprehensive licensing requirements for abortion clinics, including regulations related to administration, incident reporting, personnel qualifications and records, staffing requirements, patient rights, abortion procedures, patient transfer and discharge, medications and controlled substances, medical records, and environmental and safety standards. Two provisions, one regulating the minimum equipment standards for abortions performed at 20 weeks or more and one requiring medication abortions to comply with FDA protocol, are permanently enjoined.
- Arizona allows unannounced inspections of abortion facilities to ensure compliance with state abortion laws and regulations.
- Only licensed physicians may perform surgical abortions. Physicians who perform abortions must maintain admitting privileges at a local hospital and must submit verification that they have the requisite admitting privileges.
- Physician assistants may not prescribe, dispense, or administer prescription medicine to induce an abortion, and the state board of nursing may not decree that the scope of practice for registered nurse practitioners includes performing abortions.
- Arizona 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 and requires abortion providers to report short-term complications as well as any abortions that result in live birth.
- The abortion reporting law was amended to require abortion providers include specific information about the reason for obtaining the abortion, known medical complications as a result of the abortion, how the patient was admitted to the clinic or hospital, and other important information.
- Arizona requires that Medicaid providers cover family planning services that do not include abortion or abortion counseling.
- Arizona prohibits public funding for training to perform abortions or the use of “monies paid by students as part of tuition or fees to a state university or a community college” for abortions.
- Organizations that receive state funds through Women’s Services programs may not use those funds to provide abortions or abortion referrals, and grantees cannot provide the grant money to entities that promote, refer, or perform abortions.
- A state statute permitting a tax credit for voluntary cash contributions by a taxpayer or on a taxpayer’s behalf to charitable organizations does not permit donations to qualify for the credits if the beneficiary organizations provide, pay for, promote, provide coverage of, or provide referrals for abortion or financially support any other entity that does so.

- A woman may not obtain an abortion at any university facility under the jurisdiction of the Arizona Board of Regents unless the procedure is necessary to save her life.
- Arizona prohibits insurance companies from offering abortion coverage within state insurance exchanges established pursuant to the federal healthcare law, except in cases involving rape, incest, or threats to a woman's life or health.
- Arizona further prohibits the use of state funds "directly or indirectly to pay the costs, premiums or charges associated with a health insurance policy, contract or plan that provides coverage, benefits or services related to the performance of any abortion" except in cases of life endangerment or substantial and irreversible impairment of a major bodily function.
- Arizona offers "Choose Life" license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Arizona law states it is the physician's duty to "see that all available means and medical skills are used to promote, preserve and maintain the life" of an unborn child delivered alive.
- Arizona law defines the killing of an unborn child at any stage of development as manslaughter.
- It defines a nonfatal assault on an unborn child as a criminal offense.
- Arizona provides enhanced sentencing for domestic violence offenses when the victim is pregnant.
- Arizona allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Arizona maintains a Dangerous Crimes Against Children Act which allows for the prosecution of a woman for prenatal drug use or abuse that causes harm or injury to her unborn child. Under the law, the woman can be charged with child abuse and/or drug transfer to a minor under 12 years of age. It further requires healthcare professionals to report suspected prenatal drug exposure.
- Arizona prohibits the use of an aborted human fetus or embryo in animal or human research, experimentation on a fetus or embryo intended to be aborted, offering or performing an abortion solely for the purpose of research, and the sale of body parts of deceased infants.

BIOETHICS LAWS

- Arizona prohibits destructive embryo research, human cloning, and the creation, transfer, and transportation of human-animal hybrids.
- It also prohibits taxpayer funding of human cloning and denies special tax credits to entities engaged in destructive embryo research.
- Arizona requires healthcare professionals to notify patients in the second trimester of pregnancy of post-delivery options related to stem cells contained in umbilical cord blood and options for their donation or storage in a family donor banking program.
- It also requires that women providing eggs receive information on the risks of human egg harvesting and prohibits payment for human eggs when the eggs are to be used for research purposes.
- Arizona passed a law that establishes custody of in vitro human embryos in the case of dissolution of marriage.

PATIENT PROTECTION LAWS

- In Arizona, suicide by physician is considered manslaughter.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Arizona law protects healthcare providers who conscientiously object to participation in abortions. Under the law, healthcare providers must object in writing, and objections must be based on moral or religious beliefs.
- A pharmacy, hospital, or healthcare professional is not required to participate in or provide an abortion, abortion medication, “emergency contraception,” or any medicine or device intended to inhibit or prevent implantation of a fertilized egg.
- Arizona also allows a “religiously-affiliated employer” to offer a health plan that does not cover contraceptives based on the religious beliefs of the employer or a beneficiary. “Religiously-affiliated employer” is defined as either a non-profit that primarily employs and serves individuals who share the non-profit’s religious beliefs or as an organization that has incorporating documents that clearly state that religious beliefs are “central to the organization’s operating principles.”

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Arizona 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 not be legal based on existing law enacted before *Roe*.

RECOMMENDATIONS FOR ARIZONA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion laws
 - Components of the Drug-Induced Abortion Information & Reporting Act
 - Components of the Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- State Constitutional Amendment (affirming that there is no state constitutional right to 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

- Assisted Reproductive Technologies Disclosure and Risk Reduction Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Arkansas | RANKING: 1

Arkansas has been a leader in implementing the Mother-Child strategy, enacting laws that protect both mother and unborn child against the harms inherent in abortion. It maintains strong informed consent and parental involvement requirements, comprehensive health and safety requirements for abortion facilities, and effective limits on state taxpayer funding for abortion and abortion providers. Arkansas has also begun to regulate biotechnology.

ABORTION

- Arkansas' policy, as explained in an amendment to the state constitution, is to "protect the life of every unborn child from conception until birth, to the extent permitted by the Federal Constitution."
- Arkansas maintains an enforceable abortion prohibition should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified.
- In 2019, Arkansas passed legislation that would prohibit abortion should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified, except in cases where necessary to protect the life of the mother as defined by the statute.
- Arkansas prohibits an abortion if an unborn child's heartbeat is detected and the unborn child is at 12 weeks of development or greater. The law is permanently enjoined.
- Arkansas limits abortion after 18 weeks' gestation. Arkansas also limits abortion at or after 5 months of development (i.e., 20 weeks) on the basis of the pain felt by unborn children.
- Arkansas prohibits sex-selective abortion and abortion based on the diagnosis or potential diagnosis of Down syndrome. The law is in ongoing litigation.
- If the unborn child is diagnosed with a lethal fetal anomaly, the woman must be informed about the option of perinatal palliative care and given a list of available services prior to the abortion.
- Arkansas prohibits partial-birth abortion.
- It also prohibits the dismemberment abortion procedure. The law is in ongoing litigation.
- Arkansas requires that, 72 hours prior to an abortion, a woman must sign a form provided by the physician that contains information about the proposed abortion method, the immediate and long-term risks associated with the proposed method, alternatives to abortion, the probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed, and the medical risks associated with carrying the unborn child to term.
- Further, state-prepared materials must be made available to her. These materials include color photographs of the probable anatomical and physiological characteristics of the unborn child at 2-week gestational increments and a list of private and public agencies providing counseling and alternatives to abortion.
- Arkansas law requires that, before administering an abortion-inducing drug, a physician must first

examine a woman to ensure she does not have an ectopic pregnancy. She must be informed of the possibility of reversing the effects of the chemical abortion.

- After administering an abortion-inducing drug, a physician must schedule a follow-up visit to ensure that the abortion is completed. The physician must also have a contract with a physician who has active admitting privileges and gynecological/surgical privileges at a hospital and who agrees to handle any complications. The contracted physician requirement is enjoined and in ongoing litigation.
- An abortion provider must check for the unborn child's heartbeat prior to abortion and must inform the woman if a heartbeat is detected. Arkansas also requires that women considering abortion receive information about fetal pain.
- Arkansas requires that an abortion provider offer a woman the opportunity to see the ultrasound image if an ultrasound is used in preparation for the abortion.
- A woman must also be informed that a spouse, boyfriend, parent, friend, or other person cannot force her to have an abortion.
- Arkansas' informed consent requirements include a provision requiring that women be given information on the potential ability to reverse the effects of chemical abortions.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without notarized written consent or in-person consent (with photo identification) from a parent or legal guardian, unless the minor states by affidavit that she is the victim of physical or sexual abuse and her only living parent or guardian is the perpetrator, a medical emergency exists, or the minor obtains a court order. Arkansas requires a detailed consent form prior to a minor's abortion.
- Arkansas prohibits intentionally causing, aiding, abetting, or assisting a child to obtain an abortion without parental consent and requires the collection of forensic samples when an abortion is performed on a minor under the age of 14. The requirement forensic samples be retained is in ongoing litigation.
- Arkansas's comprehensive abortion facility regulations apply to "any facility in which the primary function is the willful termination of pregnancy." The regulations prescribe minimum health and safety standards for the facility, staffing, and clinic administration. Arkansas strengthened these regulations in 2019.
- All abortion facilities performing ten or more abortions per month must be licensed by the state Department of Health.
- Only a person licensed to practice medicine in the State of Arkansas may perform an abortion.
- Arkansas has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The measure pertains to both surgical and nonsurgical abortions and requires abortion providers to report complications.
- When an abortion is performed, an abortion provider must report information related to the post-fertilization age of the unborn child.
- Arkansas passed legislation in 2019 that prohibits a state agency from consenting to or approving an abortion procedure for women in the custody of the state unless necessary to save the life of the woman. It does not allow state funding to be authorized to cover the cost of such a procedure.
- Employees and volunteers at "reproductive health facilities" are included in the list of mandatory reporters of suspected sexual abuse of minors.

- The Arkansas Constitution provides that no public funds will be used to pay for any abortion, except to save the mother's life. However, Arkansas follows the federal standard for Medicaid funding for abortions, 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.
- Arkansas enacted a measure prohibiting the disbursement of federal and state funds to entities that perform abortions or provide abortion referrals.
- It prohibits the use of public funds for abortions, abortion referrals, or the purchase or dispensing of abortion-inducing drugs in public schools.
- Arkansas prohibits abortion coverage in the state health insurance Exchanges (required under the federal healthcare law), except in cases of rape, incest, or when the mother's life is in danger.
- Arkansas 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

- In 2017, Arkansas enacted the Born-Alive Infant Protection Act, which strengthened existing protections for infants born alive after an attempted abortion.
- Under Arkansas law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- It also criminalizes nonfatal assaults on an unborn child.
- Arkansas permits women to use force to defend their unborn children from criminal violence.
- Arkansas allows a parent or other relative to bring a wrongful death (civil) lawsuit when an unborn child is killed through a negligent or criminal act.
- It prohibits wrongful birth and wrongful life lawsuits.
- Arkansas requires the proper burial or cremation of remains resulting from an abortion. The law is in ongoing litigation
- Under the Child Maltreatment Act, "neglect" includes prenatal drug use that causes the child to be born with an illegal substance in his or her system or a drug-related health problem. Moreover, test results may be used as evidence of neglect in subsequent proceedings.
- Arkansas requires healthcare providers to report the birth of an infant who suffers from fetal alcohol syndrome.
- Arkansas allows a woman who loses a child after 5 months (i.e., 20 weeks) gestation to seek a Certificate of Birth Resulting in Stillbirth which is filed with the state registrar.

BIOETHICS LAWS

- Arkansas prohibits both cloning to produce children and cloning for biomedical research.
- However, it maintains no laws pertaining to destructive embryo research.
- Arkansas' fetal experimentation statute prohibits research on a born-alive child as well as research on a child born dead (e.g., aborted).

- It is prohibited to buy, sell, give, exchange, or barter, or offer to buy sell, give, exchange or barter, any aborted fetus or fetal material resulting from an abortion.
- Arkansas prohibits public funds from financing human cloning or destructive embryo research and from buying, receiving, or transferring human embryos or gametes with knowledge it will be used in destructive research. The state and its affiliates cannot use funds, facilities, or employees to knowingly destroy human embryos for research and cannot knowingly participate in human cloning.
- The Newborn Umbilical Cord Initiative Act has established a network to collect and store postnatal tissue and fluid.
- Arkansas excludes an “unborn child” from the definition of “person” in the context of assisted reproductive technologies.
- Arkansas mandates that only physicians may perform artificial insemination procedures.
- Arkansas maintains no regulations related to human egg harvesting.

PATIENT PROTECTION LAWS

- Under Arkansas law, suicide by physician is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- No person may be required to perform or participate in a medical procedure that results in abortion and cannot be subject to civil liability or other recriminatory action for their refusal to participate in abortions. In addition, no hospital is required to permit an abortion within its facility and cannot be subject to civil liability or other recriminatory action for its refusal.
- Arkansas provides some protection for the conscience rights of pharmacists and pharmacies.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Arkansas 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?

- Arkansas has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS

FOR ARKANSAS

PATIENT PROTECTION ACT PRIORITIES

- Charlie Gard Act (formerly the Life Sustaining Care Act)
 - Pain Management Education Act
-

ADDITIONAL PRIORITIES

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



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.

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

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
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Unborn Infants Wrongful Death Act
-

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
-

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



Colorado | RANKING: 33

Colorado lacks the most basic protections for maternal health and the unborn. It does not require informed consent for abortion or that abortion facilities meet minimal health and safety standards. It is also in the minority of states that do not recognize an unborn child as a potential crime victim or require some level of care for infants born alive after an attempted abortion.

ABORTION

- A physician may not perform an abortion on a minor under the age of 18 until at least 48 hours after written notice has been given to her parents, unless the parents waive the notice requirement, the minor declares she is a victim of abuse or neglect by a party entitled to notice and the abuse has been reported by the physician, there is a medical emergency, or the minor obtains a court order. Substitute notice of a grandparent, aunt, or uncle is permitted if the minor lives with him/her.
- Only licensed physicians using accepted medical procedures may perform abortions.
- Colorado 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.
- The Colorado Constitution prohibits public funds from being used to pay for an abortion except when the abortion is necessary to preserve the woman's life. However, a federal court has declared this provision, along with two related statutes, in conflict with federal law. Currently, Colorado follows the federal standard for Medicaid funding for abortions, 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.
- Organizations that provide abortions are prohibited from receiving state family planning funds.
- School-based health clinics cannot provide abortion services.
- The Colorado Attorney General has issued an opinion stating that group health insurance provided for state employees must exclude coverage for abortion.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Colorado law does not affirmatively protect infants born alive during botched abortions.
- Actions by a third party designed to “intentionally, knowingly, recklessly, or with extreme indifference terminate or attempt to terminate a woman’s pregnancy” are felonies. Colorado also imposes enhanced criminal penalties for an assault on a pregnant woman. However, it does not recognize an unborn child as a second (and separate) victim of a crime.
- Colorado has created a civil action for “unlawful termination of a pregnancy.” However, this “one-victim” measure fails to recognize an unborn child as a separate person.

- Colorado allows a parent or other relative to bring a wrongful death (civil) lawsuit when a viable unborn child is killed through the negligent or criminal act of another.
- In its definition of “child abuse or neglect,” Colorado includes instances where an infant tests positive for a controlled substance at birth. It also funds substance abuse treatment for pregnant women and prohibits the use of drug tests performed as part of prenatal care in criminal prosecutions.
- Women must be informed of the availability of stillbirth certificates and be given the option to request one following a miscarriage or stillbirth.
- Colorado requires that death certificates indicate whether a woman was pregnant at the time of her death.

BIOETHICS LAWS

- Colorado maintains no laws regarding human cloning, destructive embryo research, fetal experimentation, human egg harvesting, or assisted reproductive technologies.
- Voluntary financial contributions to the Adult Stem Cells Cure Fund may be designated on state income tax forms and an account for the proceeds has been created in the state treasury.
- Colorado has enacted legislation preventing genetic information from being used to deny access to healthcare insurance or Medicare supplement insurance coverage.

PATIENT PROTECTION LAWS

- Colorado has passed legislation legalizing suicide by physician for adults.
- Colorado protects healthcare providers from liability for manslaughter when prescribing or administering palliative care prescriptions to terminally ill patients.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A hospital staff member or person associated with or employed by a hospital who objects in writing and on religious or moral grounds may not be required to participate in medical procedures that result in abortions.
- A hospital is not required to admit a woman for the purpose of performing an abortion.
- Private institutions, physicians, and their respective agents may, based upon religious or conscientious objections, refuse to provide contraceptives and information about contraceptives based upon religious or conscientious objections. In addition, county and city employees may similarly refuse to provide family planning and birth control services.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Colorado 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 likely be legal throughout pregnancy based on an existing law with broad exceptions enacted before *Roe*.

RECOMMENDATIONS

FOR COLORADO

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 (including emergency transfer and admitting provisions)
 - Parental Consent for Abortion Act
 - Parental Involvement Enhancement Act
 - Drug-Induced Abortion Information and Reporting Act
 - Child Protection Act
-

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)
-

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
-

ADDITIONAL PRIORITIES

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



Connecticut | RANKING: 40

Connecticut law evinces a profound disrespect for human life, providing for a broad state constitutional “right” to abortion and failing to adequately protect unborn victims of violence. Moreover, it permits cloning for biomedical research and destructive embryo research.

ABORTION

- The Connecticut Supreme Court has determined that the state constitution protects the “right” to an abortion as a fundamental right and to a greater extent than that interpreted in the U.S. Constitution.
- Connecticut maintains a Freedom of Choice Act, mandating a legal right to abortion even if *Roe v. Wade* is eventually overturned. The Act specifically provides that “[t]he decision to terminate a pregnancy prior to the viability of the fetus shall be solely that of the pregnant woman in consultation with her physician.”
- Connecticut law requires that all women considering abortion receive counseling on the type of abortion procedure to be used and the discomfort and risks involved in that procedure.
- In addition to counseling on the type of abortion procedure and its inherent risks, minors must also receive information on the alternatives to abortion and public and private agencies that can provide them with assistance. Further, a qualified counselor must discuss the possibility of the minor involving a parent or other adult in her abortion decision, but there is no parental involvement requirement.
- Connecticut mandates that abortion facilities meet rudimentary health and safety standards. The regulations prescribe minimum standards for the building or facility, patient medical testing, and the maintenance of patient records.
- Connecticut limits the performance of abortions to licensed physicians.
- It 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 and requires abortion providers to report short-term complications.
- Connecticut taxpayers are required by court order to fund “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.
- Connecticut 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

- Connecticut defines an assault on a pregnant woman resulting in “the termination of pregnancy that does not result in live birth” as a crime. The law recognizes an affirmative defense if the defendant did not know that the victim was pregnant at the time of the assault.

- Connecticut allows a parent or other relative to bring a wrongful death (civil) lawsuit when a viable unborn child is killed through the negligent or criminal act of another.
- It funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Connecticut prohibits cloning to produce children but allows cloning for biomedical research, making it a “clone and kill” state. It also permits and funds destructive embryo research, while also permitting human cloning.
- Connecticut has appropriated at least \$10 million to its Regenerative Medicine Research Fund, funding both embryonic and adult stem-cell research. It does not prohibit fetal experimentation.
- Connecticut requires a physician to provide a woman in the last trimester of pregnancy with information regarding options to bank or donate umbilical cord blood. The Connecticut Umbilical Cord Blood Collection Board has been directed to engage in public education and establish an umbilical cord blood collection program.
- Connecticut regulates assisted reproductive technologies. For example, only persons certified to practice medicine in the state may perform artificial insemination.
- Connecticut prohibits direct or indirect payment for the donation of human eggs for stem-cell research.

PATIENT PROTECTION LAWS

- Assisting a suicide constitutes manslaughter.
- Connecticut enacted a “right to try” measure allowing certain terminally ill patients, under specified conditions, to use investigational drugs.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Under Connecticut law, no person is required to participate in any phase of an abortion against his or her judgment or religious, moral, or philosophical beliefs.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. Certain conscience exemptions apply to religious employers or organizations.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Connecticut 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.

RECOMMENDATIONS FOR CONNECTICUT

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
-

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)
-

PATIENT PROTECTION ACT PRIORITIES

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

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

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

BIOETHICS

- Repeal of existing laws permitting human cloning, destructive embryo research, and the funding of these practices

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Delaware | RANKING: 31

Delaware maintains only minimal protections for a woman considering an abortion. Loopholes in its parental notice law eviscerate the protection such a law normally provides, and Delaware does not require that abortion facilities meet minimal health and safety standards. Further, it does not proscribe or limit human cloning, destructive embryo research, fetal experimentation, or human egg harvesting.

ABORTION

- Delaware passed legislation codifying *Roe v. Wade* under state law and has no limitation on abortion prior to viability. Abortion after viability is prohibited except in cases where it is necessary to protect the woman's life or health or if there is a fetal anomaly "for which there is not a reasonable likelihood of the fetus's sustained survival outside the uterus without extraordinary medical measures."
- In 2017, Delaware's informed consent law was repealed in its entirety.
- Delaware prohibits a physician from performing an abortion on an unemancipated minor under the age of 16 until 24 hours after notice has been given to one parent; however, the Delaware Attorney General has issued a "Statement of Policy" providing that state officials will not prosecute abortion providers who fail to comply with this requirement. The law also permits substitute notice of a grandparent or mental health professional.
- Delaware prohibits some coerced abortions, defining "coercion" as "restraining or dominating the choice of a minor female by force, threat of force, or deprivation of food and shelter." It emancipates a minor for social assistance purposes if her parents or guardians deny financial support because of her refusal to undergo an abortion.
- Only licensed physicians may perform abortions.
- Delaware 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.
- Delaware follows the federal standard for Medicaid funding for abortions, 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.
- Delaware 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

- It has a specific affirmative duty of physicians to provide medical care to infants born alive after an abortion or attempted abortion that would be provided to an infant born alive as a result of natural birth.
- Delaware law does not provide for the prosecution of third parties who kill or injure an unborn child.

- Delaware allows a parent or other relative to bring a wrongful death (civil) lawsuit when a viable unborn child is killed through the negligent or criminal act of another.

BIOETHICS LAWS

- Delaware does not proscribe or limit human cloning, destructive embryo research, fetal experimentation, or human egg harvesting. It also does not promote ethical forms of research or regulate assisted reproductive technologies.

PATIENT PROTECTION LAWS

- Suicide by physician is a felony in Delaware.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Delaware law provides that no person can be required to participate in any medical procedure that results in an abortion.
- Hospitals are not required to permit abortions within their facilities.
- If health insurance plans provide coverage for prescription drugs, coverage must also be provided for contraception. A conscience exemption exists for religious employers.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Delaware 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.

RECOMMENDATIONS

FOR DELAWARE

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 Consent for Abortion Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

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
- Protection for unborn children from nonfatal assaults
- 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

District of Columbia | NOT RANKED

The District of Columbia provides virtually no protection for human life, failing to protect women from the harms inherent in abortion, to recognize and protect unborn victims of violence, or to prohibit suicide by physician. It also fails to protect the fundamental freedom of conscience of healthcare providers.

ABORTION

- In 2020, the “Strengthening Reproductive Health Protections Amendment Act of 2020” was passed, which affirmed a “right to have an abortion as a human right in the District of Columbia.”
- Taxpayer funds may not be used for abortions unless the abortion is necessary to preserve the woman’s life, or the pregnancy was the result of rape or incest.
- Abortion may not be performed after viability unless necessary to preserve the woman’s life or health.
- Abortions may only be performed under the direction of a licensed medical practitioner.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- The laws of the District of Columbia do not recognize an unborn child as a potential crime victim.
- The District of Columbia allows a parent or other relative to bring a wrongful death (civil) lawsuit when a viable unborn child is killed through another’s negligent or criminal act.

BIOETHICS LAWS

- The District of Columbia maintains no laws related to human cloning, destructive embryo research, fetal experimentation, human egg harvesting, or assisted reproductive technologies.

PATIENT PROTECTION LAWS

- Suicide by physician is now legal for patients who have received a terminal diagnosis of six months or less.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- The District of Columbia currently provides no protection for the rights of healthcare providers who conscientiously object to participation in abortion.
- Healthcare employers are prohibited from making hiring decisions based on the willingness of a healthcare professional to participate in abortion or sterilization procedures.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- The District of Columbia 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.

RECOMMENDATIONS

FOR DISTRICT OF COLUMBIA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the District'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
-

INFANTS' PROTECTION PROJECT

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
 - Unborn Infants Wrongful Death Act
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

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

END OF LIFE

- Repeal Suicide by Physician Law and Enact Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Florida | RANKING 17

Despite a Florida Supreme Court decision enunciating a broader state constitutional “right” to abortion than that interpreted in the U.S. Constitution, Florida continues to make strides in protecting women and unborn children from the harms inherent in abortion. In 2020, Florida passed a parental consent law.

ABORTION

- The Florida Supreme Court determined in *In re T.W.* that the right to privacy in the state constitution provides a right to abortion. The court stated, “Florida’s privacy provision is clearly implicated in a woman’s decision of whether or not to continue her pregnancy.” However, it went on to say that “[u]nder our Florida Constitution, the state’s interest becomes compelling upon viability.”
- Florida limits abortions after viability.
- At least 24 hours prior to abortion, Florida requires that a woman receive in-person counseling regarding the nature and medical risks of abortion, the risks of continued pregnancy, and the gestational age of the unborn child. The law is enjoined and in ongoing litigation.
- It also requires that the woman receive printed materials discussing pregnancy services and abortion alternatives, providing a description of the unborn child, and discussing available medical benefits. The law is permanently enjoined.
- Florida requires that an ultrasound be performed, and that the ultrasound be reviewed with a woman before she gives her consent for the abortion.
- Parental notice and consent are required for a minor seeking an abortion unless there is a notarized waiver, a medical emergency, or the minor obtains a court order. Parents must be notified about the emergency abortion within 24 hours of the procedure. Parental notification must be given in person, by telephone, or by mail at least 48 hours prior to performing the abortion. Parental consent must be notarized and include proof of identification.
- Only physicians licensed by the state in medicine or osteopathy or those physicians practicing medicine or osteopathy and employed in the United States may perform abortions.
- In addition, abortion providers are required to have hospital admitting privileges and abortion clinics are required to have written emergency transfer agreements to facilitate the transfer of a patient with a medical emergency and/or abortion complication with a local hospital.
- Florida law mandates health and safety standards for abortion facilities and abortion providers, including annual inspections of abortion facilities as well as prompt investigations of credible allegations that abortions are being performed at unlicensed clinics. Portions of the law were challenged by Planned Parenthood, and the inspection requirements have been preliminarily enjoined.

- Florida has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The measure requires abortion providers to report information such as the gestational age of the unborn child and the number of infants who were born alive after an attempted abortion.
- Florida follows the federal standard for Medicaid funding for abortions, 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.
- Florida prohibits insurance plans that cover abortions (except in cases of life endangerment, rape, or incest) from receiving federal or state subsidies through a health insurance Exchange established pursuant to the federal healthcare law.
- Florida provides direct funding to pregnancy resource centers including faith-based centers.
- In 2018, Florida passed a bill allowing the state Department of Health to contract with not-for-profit pregnancy support organizations that provide various pro-life services including pregnancy testing, education, and counseling and a 24-hour hotline so clients can contact a nearby pregnancy center, as well as wellness-related care such as high blood pressure and diabetes screening.
- Florida 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

- An infant born alive during or immediately after an attempted abortion is entitled to the same rights, powers, and privileges as any other child born alive in the course of natural birth. Healthcare providers must take reasonable and medically appropriate measures to preserve the life and health of born-alive infants.
- Florida criminalizes the killing of an unborn child at any stage of gestation.
- Any crime that results in the death of an unborn child is subject to the same penalties as a crime that causes the death of another.
- Florida allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- Florida also prohibits the sale, donation or transfer of the bodily remains of an aborted infant.
- Florida 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.
- It defines substance abuse during pregnancy as “child abuse” under civil child-welfare statutes and funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Florida does not prohibit human cloning or destructive embryo research, and its prohibition on fetal experimentation applies only to a live child (and not to an aborted child).

- Florida maintains a Public Cord Blood Tissue Bank to collect, screen for infectious and genetic diseases, perform tissue banking, cryopreserve, and store umbilical cord blood. Women admitted to a hospital or birthing facility may be offered the opportunity to donate umbilical cord blood to the Bank (which is a public resource).
- Florida regulates assisted reproductive technologies and includes “embryo adoption” in a statutory list of “fertility techniques.”
- Only “reasonable compensation” directly related to the donation of human eggs is permitted.

PATIENT PROTECTION LAWS

- Suicide by physician is considered manslaughter.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Under Florida law, a hospital staff member, person associated with or employed by a hospital, or physician’s employee who objects on religious or moral grounds is not required to participate in any medical procedure that results in an abortion.
- Certain individuals including physicians may refuse to furnish any contraceptive or family planning service, supplies, or information because of religious objections.
- Hospitals are not required to perform abortions.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Florida does not expressly protect the rights of conscience of all healthcare providers who conscientiously object to participation in procedures other than abortion, such as destructive embryo research and human cloning.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal up to viability based on an existing, enforceable law enacted before the state court decision.

RECOMMENDATIONS FOR FLORIDA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Child Protection Act
-

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
-

PATIENT PROTECTION ACT PRIORITIES

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

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Crimes Against the Unborn Child Act (protecting a child from conception)
- 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



Georgia | RANKING 14

Georgia provides significant legal protections for women and unborn children including an informed consent law, a parental involvement requirement for minors considering abortions, and an ultrasound mandate.

ABORTION

- Georgia prohibits abortion at or after 5 months (i.e., 20 weeks) on the basis of the pain felt by unborn children. Further, if an abortion is performed at or after 5 months of pregnancy, the abortion provider must report the medical diagnosis that necessitated the procedure.
- Georgia passed legislation prohibiting abortion after a heartbeat has been detected except when a medical emergency exists or the pregnancy is medically futile. If the pregnancy is the result of rape or incest, an abortion is prohibited after 20 weeks' gestation. The law is enjoined and in ongoing litigation.
- Georgia prohibits partial-birth abortions performed after viability.
- Georgia requires that, 24 hours prior to an abortion, a woman receive information on the medical risks of abortion and pregnancy and the gestational age of the unborn child. A woman must also receive information on medical assistance benefits, child support, and the right to review state-prepared material on a state-sponsored website.
- In addition, a woman must be orally informed that information on fetal pain is available on the state-sponsored website.
- A woman must also be offered the opportunity to view any ultrasound performed as part of the preparation for the abortion. State-developed materials must include information on organizations that provide ultrasounds.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until at least 24 hours after notice has been given in person or over the telephone to one parent, unless notice is waived in person by the parent who also presents photo identification, there is a medical emergency, or the minor obtains a court order.
- Georgia requires the juvenile court clerk to report judicial bypass statistics.
- Georgia imposes cursory administrative requirements on abortion facilities. Further, second- and third-trimester abortions must be performed in hospitals or ambulatory surgical centers.
- Only physicians licensed to practice medicine and surgery may perform abortions.
- Georgia 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.
- Georgia includes "reproductive healthcare facilities" in the definition of mandatory reporters for suspected child abuse.

- Georgia includes mifepristone (i.e., RU-486) in its definition of “dangerous drugs” which may be dispensed only upon prescription by a “registered practitioner.” However, “practitioner” is defined broadly to include physicians, advance practice nurses, physician assistants, and even veterinarians.
- Georgia follows the federal standard for Medicaid funding for abortions, 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.
- No facility operated on public school property or operated by a public school district and no employee of any such facility acting within the scope of such person’s employment may provide abortions, abortion referrals, or abortion-inducing drugs.
- Georgia prohibits abortion coverage in the state’s health insurance Exchange (established in each state under the federal healthcare law). It also prohibits abortion coverage for state employees.
- Georgia 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

- Georgia has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Under Georgia criminal law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Georgia also maintains the crime of “feticide-by-vehicle,” making an unborn child at any stage of development a potential victim under the state’s homicide-by-vehicle law.
- Georgia defines a nonfatal assault on an unborn child as a criminal offense.
- Georgia allows a parent or other relative to bring a wrongful death (civil) lawsuit when an unborn child is killed (after “quickenings”) through the negligent or criminal act of another.
- In *Norman v. Xytex Corp.*, the state supreme court held that “claims arising from the very existence of the child are barred,” therefore rejecting wrongful birth/life lawsuits.

BIOETHICS LAWS

- Georgia maintains no laws regulating human cloning, destructive embryo research, fetal experimentation, human egg harvesting, or assisted reproductive technologies.
- Georgia maintains the Newborn Umbilical Cord Blood Bank for postnatal tissue and fluid, making them available for medical research and treatment. All physicians and hospitals must inform pregnant patients of the full range of options for donation of postnatal tissue and fluids.
- Georgia law provides for embryo adoption.

PATIENT PROTECTION LAWS

- Under Georgia law, assisting in another person’s suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A person who objects in writing to participating in abortions and whose objections are based on moral or religious grounds may not be required to participate in any medical procedure that results in an abortion.
- A hospital, medical facility, or physician is not required to admit a woman for the purpose of performing an abortion.
- Georgia provides some protection for the conscience rights of pharmacists and pharmacies.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. There is no conscience exception for religious employers.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Georgia 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 up to 20 weeks of pregnancy.

RECOMMENDATIONS

FOR GEORGIA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - 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 Consent for Abortion Act
 - 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
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (providing protection from conception)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



Hawaii | RANKING 46

Hawaii lacks the most basic protections for women and unborn children. It fails to require informed consent for abortion, to mandate parental involvement in a minor's abortion decision, or to ensure that abortion facilities meet minimum health and safety standards. It also fails to protect and recognize unborn victims of violence or to proscribe or limit destructive biotechnologies such as embryo research or human cloning.

ABORTION

- Hawaii has adopted a Freedom of Choice Act. The Act provides a “right” to abortion even if *Roe v. Wade* is eventually overturned, specifically providing that “[t]he State shall not deny or interfere with a female’s right to choose or obtain an abortion of a nonviable fetus or an abortion that is necessary to protect the life or health of the female.”
- Hawaii has no informed consent or parental involvement law.
- Hawaii maintains no enforceable abortion facility regulations; however, only licensed physicians or surgeons may perform abortions.
- It has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC).
- Hawaii’s taxpayers are required by statute to pay for “medically necessary” abortions for women receiving 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.
- Hawaii offers “Choose Life” license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Hawaii law does not affirmatively protect infants born alive during attempted abortions.
- Hawaii’s criminal law does not recognize or protect unborn children.
- Hawaii allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Hawaii has a “Baby Moses” law, which permits a person to leave an unharmed infant no more than 72-hours old at a hospital, fire station, or police station and be immune from prosecution for child abandonment. The professional receiving the child must inquire into the child’s medical history and provide information on social services to the person relinquishing the infant.

BIOETHICS LAWS

- Hawaii does not prohibit or regulate human cloning, destructive embryo research, or fetal experimentation.

- It supports ethical research and treatments in a unique way by providing for a leave of absence for stem cell donors.
- Hawaii does not maintain any meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Hawaii also has a Pain Patients' Bill of Rights which directs the Hawaii State Board of Nursing to develop and implement a pain and palliative care policy.
- In 2018, Hawaii passed legislation legalizing suicide by physician.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Under Hawaii law, no person or hospital is required to participate in abortions.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. A conscience exemption exists for religious employers.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Hawaii 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 based on existing law with broad exceptions after viability enacted before *Roe*.

RECOMMENDATIONS

FOR HAWAII

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
-

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)
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

- Repeal 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

- 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



Idaho | RANKING 10

Idaho has made significant strides in protecting women and unborn children from abortion and maintains comprehensive legal protection for the conscience rights of healthcare providers.

ABORTION

- Idaho has adopted a legislative declaration recognizing “the fundamental importance” of Idaho’s interest in preserving the lives of unborn children and declaring that it is the “public policy of this state that all state statutes, rules, and constitutional provisions shall be interpreted to prefer, by all legal means, live childbirth over abortion.”
- Idaho passed a conditional law that would prohibit abortion except when necessary to save the life of the mother, or in cases of rape or incest, once the authority to regulate abortion is returned to the state.
- A law prohibiting abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children is permanently enjoined.
- Idaho prohibits partial-birth abortion.
- A physician may not perform an abortion until 24 hours after he or she provides a woman with an “accurate and substantially complete” explanation of the abortion procedure to be used; the inherent risks and possible complications of the procedure including possible effects on future childbearing; and alternatives to abortion and the risks of those alternatives.
- State-prepared material on fetal development, the availability of assistance from public and private agencies, and a description of commonly used abortion procedures and their specific risks must also be made available to a woman.
- At least 24 hours prior to an abortion a woman must be informed about the option to view an ultrasound image and to hear the heart tone of her unborn child. State-prepared materials also includes a list, arranged geographically, of facilities and clinics that perform ultrasounds free of charge as well as the hours of operation and contact information for each listed facility.
- An abortion provider must offer a woman seeking an abortion the opportunity to view any ultrasound that is conducted in preparation for the procedure. Additionally, a woman has the right to ask for an ultrasound, even if the abortion provider does not routinely conduct one.
- Idaho passed legislation requiring abortion-minded women to be given information regarding the possibility of medical intervention to stop or reverse chemical abortion and encouraging them to consult a health care provider prior to taking the abortifacient.

- Idaho prohibits anyone from coercing a woman into having an abortion and allows a victim of coercive abuse to bring a civil lawsuit against her abuser.
- Idaho requires written consent from one parent, a guardian, or a conservator before an abortion is performed on an unemancipated minor under the age of 18, unless there is a medical emergency, the pregnancy is the result of rape or incest, or a judicial order is obtained.
- Only licensed physicians may perform abortions.
- Idaho has an enforceable abortion reporting law but does not require the reporting of information, such as gestational age of the fetus, whether the woman had to be referred to a hospital or emergency care, and complications to the Centers for Disease Control (CDC). The measure applies to both surgical and chemical abortions.
- Idaho requires a physician to examine a woman before administering abortion-inducing drugs. It also provides that no drug may be prescribed through “telehealth” services for the purpose of causing an abortion.
- Idaho follows the federal standard for Medicaid funding for abortions, 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.
- Idaho also provides that no funds available to the state Department of Health and Welfare, by appropriations or otherwise, may be used to pay for abortions, except when necessary to save the life of the mother or when the pregnancy is the result of rape or incest.
- Idaho prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment, rape, or incest.
- Idaho prohibits private insurance companies from covering abortion, except in cases of life endangerment.
- Idaho 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

- Idaho law does not affirmatively protect infants born alive during botched abortions.
- Idaho defines the killing of an unborn child at any stage of gestation as homicide.
- Idaho defines a nonfatal assault on an unborn child as a criminal offense.
- Idaho allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Idaho’s Unborn Infants Dignity Act requires that in every instance of fetal death involving a miscarriage or stillbirth, the mother or her authorized representative is informed of the right to direct the final disposition of the unborn infant’s bodily remains.
- The law requires consent for experimentation or research on the bodily remains of the miscarried or stillborn infant.
- The Unborn Infants Dignity Act also prohibits selling, transferring, distributing, donating, accepting,

using, or attempting to use the body or bodily remains of an aborted infant. The law further prohibits experimenting or conducting research on the bodily remains of an aborted infant.

BIOETHICS LAWS

- Idaho has not enacted laws regulating human cloning, destructive embryo research, fetal experimentation, or human egg harvesting, nor does it promote ethical alternatives to such destructive research.
- Idaho mandates that only physicians may perform artificial insemination and regulates semen donation.

PATIENT PROTECTION LAWS

- In Idaho, suicide by physician is a felony.
- Idaho has enacted a “right to try” law allowing terminally ill patients to use investigational drugs and biological products.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician is not required to perform or assist in abortions. Idaho protects “health care professionals” (principally, licensed medical providers including pharmacists) who decline to participate in abortion or the distribution and administration of abortion-inducing drugs.
- Nurses, medical technicians, hospital employees, and employees of physicians who object on religious, moral, or personal grounds are not required to participate in abortions. Objections must be in writing.
- A hospital, upon an objection of its governing board, is not required to admit a woman or permit the use of its facilities for the purposes of performing an abortion.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Idaho protects “health care professionals” (principally, licensed medical providers including pharmacists) who decline to participate in human cloning, embryo research, and destructive stem-cell technologies.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal up to 20 weeks of pregnancy.

RECOMMENDATIONS FOR IDAHO

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Health Protection Act (abortion clinic regulations, emergency transfer and admission provisions)
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
-

PATIENT PROTECTION ACT PRIORITIES

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

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



Illinois | RANKING 37

Illinois provides scant protections for women considering abortion. Further, Illinois funds and promotes unethical forms of research including destructive embryo research and human cloning. In 2017, Illinois passed legislation requiring taxpayer funds to be used to pay for abortions and in 2019, expanded the “right to abortion” beyond Roe.

ABORTION

- In 2019, Illinois passed the Reproductive Health Act which asserts there is a fundamental right to have an abortion. It also asserts a fertilized egg, embryo, or fetus does not have independent rights under Illinois law.
- The Reproductive Health Act prohibits the state from denying, restricting, or interfering with an individual’s right to abortion.
- Illinois requires notice to a parent or other adult family member at least 48 hours prior to a minor’s abortion. The law provides exceptions in cases of rape, incest, child abuse by an adult family member, or in a medical emergency and permits a minor to seek a court order to bypass the notice requirement.
- Illinois’ abortion facility regulations are not uniformly applied to all of the state’s abortion clinics.
- Illinois expanded the scope of individuals allowed to perform abortions to include physicians, physicians’ assistants, and advanced practice registered nurses.
- Illinois has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC).
- Illinois requires abortion providers, as well as those who provide abortion referrals, to report suspected child abuse or neglect.
- Illinois taxpayers are required by court order to fund “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.
- Illinois Department of Children and Family Services grants may be made to non-profit agencies and organizations which do not use such grants to refer for, counsel for, or perform abortions.
- The state health plan provides coverage for all abortions.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Illinois does not require medical attention be provided to infants born alive after an attempted abortion.
- Under Illinois criminal law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Illinois defines a nonfatal assault on an unborn child as a crime.

- Illinois allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Illinois maintains an Abandoned Newborn Infant Protection Act, or “Baby Moses” law, which includes a prohibition preventing persons accepting an infant under the Act from publicly discussing the circumstances surrounding the infant’s legal surrender.
- Illinois defines substance abuse during pregnancy as “child abuse” under its civil child-welfare statutes. Illinois also requires healthcare professionals to report suspected prenatal drug exposure and funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Under the Stem Cell Research and Human Cloning Prohibition Act, Illinois permits and funds destructive embryo research. While the Act prohibits cloning to produce children, it specifically allows “therapeutic cloning,” making it a “clone-and-kill” state.
- The state Department of Public Health has been directed to establish a network of human cord blood banks. The Department also encourages healthcare providers to distribute a state-produced publication on umbilical cord blood banking and urges all licensed hospitals to offer pregnant women the option of donating cord blood.
- Illinois provides no meaningful regulation of assisted reproductive technologies, does not regulate human egg harvesting, and permits gestational surrogacy.

PATIENT PROTECTION LAWS

- In Illinois, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Illinois allows physicians, healthcare personnel, and institutions who conscientiously object to participating in healthcare services, including abortion, to refuse to participate. However, if requested, the provider must give a referral, transfer the patient, or give written information on other available providers.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. A conscience exemption is provided for religious employers.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- By statute, Illinois protects the civil rights of all healthcare providers who conscientiously object to participating in procedures such as human cloning or destructive embryo research.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal throughout pregnancy.

RECOMMENDATIONS

FOR ILLINOIS

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)
 - Abortion Reporting Act
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Reinstate the Partial-birth Abortion Ban Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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

- Repeal 2016 mandate on healthcare providers to provide information on where to obtain abortions
- Repeal a 2019 mandate that private insurance cover abortions



Indiana | RANKING 5

Indiana has made significant strides in recent years to protect women and unborn children from the harms inherent in abortion and from substandard conditions and practices in many abortion clinics. Further, it has taken steps to regulate the rapidly growing (and generally under-regulated) biotechnologies industry, prohibiting human cloning for any purpose and encouraging the donation of umbilical cord blood to support ethical research. Whole Woman's Health has challenged many of the laws in court and litigation is ongoing.

ABORTION

- Abortions may be performed at or after 5 months (i.e., 20 weeks) only for “medical necessity.”
- Indiana prohibits abortions based solely on the baby’s race, sex, or diagnosis or potential diagnosis of a disability. The law also requires that a woman be provided with information on perinatal hospice when considering an abortion because the unborn child has been diagnosed with a lethal fetal anomaly. The law is permanently enjoined.
- Indiana prohibits partial-birth abortion.
- Indiana also prohibits the dismemberment abortion procedure. The law is enjoined and in ongoing litigation.
- Indiana law requires that, at least 18 hours before an abortion, a woman receive information about the type of abortion procedure to be used, the risks of and alternatives to that particular procedure (including the risks of chemical abortion), the probable gestational age of the unborn child, the risks associated with carrying the pregnancy to term, and the name of the physician who will perform the abortion. Further, the woman must be told about state medical assistance benefits, the father’s liability for child support, and abortion alternatives.
- Informed consent information must include the fact that human physical life begins when a human ovum is fertilized by a human sperm. Further, before an abortion, women must be informed that “objective scientific information shows that a fetus can feel pain” at or before 5 months (i.e., 20 weeks) gestation, but that portion of the law has been declared invalid as applied to women in the first trimester. The law is in ongoing litigation.
- Indiana requires an ultrasound at least 18 hours before an abortion. The image must be displayed unless the woman signs a form indicating that she does not desire to see the image. Further, the auscultation of fetal heart tone must be made audible, if possible, unless the woman signs a form indicating that she does not wish to hear the heart tone.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without first obtaining written consent from one parent, a legal guardian, or a custodian accompanying the minor, unless there is a medical emergency or court order. The adult must bring government-issued identification as well as evidence showing the relationship between the adult and the minor. The law is in ongoing litigation.

- If an abortion is performed on a female who is less than 14 years of age, the physician who performed the abortion must transmit an informational form to both the state Department of Health and the state Department of Child Services within a specified time period.
- A woman must be informed that she has a right to determine how the fetal remains are disposed.
- All facilities performing surgical abortions must be licensed by the state Department of Health and meet comprehensive health and safety standards. State officials are required to inspect abortion facilities once a year.
- Indiana also requires that post-first-trimester abortions be performed in a hospital or ambulatory outpatient surgical center. A law requiring facilities providing chemical abortions to meet the same standards as facilities providing surgical abortions was struck down by a federal district court.
- Only physicians licensed to practice medicine in Indiana may perform abortions. Abortion providers must have admitting privileges in the county where they provide abortions or in a contiguous county. In 2014, Indiana amended its admitting privileges requirement to remove the option of contracting with another physician who has admitting privileges and to require that each abortion provider personally maintain local admitting privileges.
- Indiana's abortion reporting law requires the reporting of information to the Centers for Disease Control (CDC). The measure applies to both surgical and nonsurgical abortions and requires abortion providers to report both short-term and long-term complications. The law is in ongoing litigation.
- Abortion providers must report, among other things, the post-fertilization age (of the unborn child) and, if an abortion is performed at or after 5 months (i.e., 20 weeks), the medical reason for the abortion.
- Indiana requires that a physician examine a woman before providing abortion-inducing drugs, effectively preventing the dangerous practice of "webcam abortion." The law also provides that the drugs cannot be administered past nine weeks post-fertilization unless the Food & Drug Administration (FDA) has approved them for such use.
- Indiana funds abortions for women eligible for public assistance when necessary to preserve the woman's life or physical health or when the pregnancy is the result of rape or incest. It further provides that neither the state nor any political subdivision of the state may make a payment from any fund under its control for the performance of an abortion unless the abortion is necessary to preserve the life of the pregnant woman.
- The state Office of Women's Health director and employees are not permitted to advocate, promote, refer for, or otherwise advance abortion or abortion-inducing drugs.
- In 2011, Indiana prohibited state agencies from contracting with or making grants (of state or state-administered federal funds) to entities that perform abortions or maintain or operate facilities where abortions are performed, and cancelled existing contracts with such entities. However, the Seventh Circuit enjoined the law as applied to Medicaid funding.
- Indiana prohibits insurance companies from offering abortion coverage within the state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment, substantial and irreversible impairment of a major bodily function, rape, or incest.
- Indiana prohibits insurance coverage of abortion, with exceptions protecting the mother's life, guarding against substantial threats to the mother's health, and applying in cases of rape and incest. The measure is based on AUL's Abortion Coverage Prohibition Act.

- Indiana offers “Choose Life” license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Under Indiana criminal law, the killing of an unborn child is defined as a form of homicide. In 2018, it expanded this to include the crimes of voluntary manslaughter, involuntary manslaughter, and feticide.
- A person who causes the death of a child in utero while committing murder or felony murder may be sentenced to an additional fixed term of imprisonment that is equal to the advisory sentence for murder. This provision applies at any stage of gestation.
- An assault on a viable unborn child is a prosecutable crime.
- In addition, Indiana defines criminal assaults on a pregnant woman that result in miscarriage, stillbirth, or “damage to pregnancy” as an enhanced offense for sentencing purposes.
- Indiana allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- Indiana has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Indiana defines substance abuse during pregnancy as “child abuse” under civil child welfare statutes. In 2013, it allocated funds for “prenatal substance use and prevention” for pregnant women.
- The state Department of Health has been directed to develop a system of registry for stillbirth information.
- Indiana law requires that an abortion clinic or healthcare facility having possession of an aborted fetus shall provide for the final disposition of the aborted fetus by interment or cremation. The woman may provide interment or cremation for the final disposition herself or request the abortion facility provide interment or cremation.
- It is a felony to sell or unlawfully transfer fetal tissue.
- Indiana prohibits altering the timing, method, or procedure of an abortion for the purpose of obtaining or collecting fetal tissue.

BIOETHICS LAWS

- Indiana prohibits human cloning for any purpose and prohibits taxpayer funding of human cloning.
- While Indiana does not explicitly prohibit destructive embryo research, it does prohibit research on embryos created from ova initially provided for use in in vitro fertilization (IVF) procedures as well as experimentation on aborted fetuses. However, the state’s prohibition on experimentation on embryos created for use in IVF explicitly excludes fetal stem-cell research from its application.
- Indiana has established a public umbilical cord-blood bank and an educational initiative to promote public awareness of the importance of donating. Participating facilities must offer patients the option of donating cord blood following delivery.
- Indiana has also directed the Board of Trustees at Indiana University to establish an adult stem-cell research center.

- Indiana prohibits the purchase or sale of human ova but does not prohibit certain transactions between a woman and a qualified IVF clinic for certain expenses (e.g., earnings lost, travel expenses, medical expenses, or recovery time).
- It does not otherwise regulate assisted reproductive technologies but does prohibit gestational surrogacy contracts.

PATIENT PROTECTION LAWS

- Assisting a suicide constitutes a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A physician, nurse, physician's assistant, pharmacist, or hospital employee or staff member who objects on religious, moral, or ethical grounds is not required to perform abortions or prescribe, administer, or dispense abortion inducing drugs.
- A private or religiously affiliated hospital is not required to permit the use of its facilities for the performance of an abortion.
- Indiana has a "contraceptive equity" law, requiring health insurance coverage for contraception. No exemption is provided for employers or insurers with a moral or religious objection to contraception.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Indiana 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 up to 20 weeks of pregnancy.

RECOMMENDATIONS FOR INDIANA

WOMEN'S PROTECTION PROJECT PRIORITIES

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

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Wrongful Death Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Pregnant Woman's Protection Act

BIOETHICS

- Promotion of ethical research alternatives



Iowa | RANKING 24

Iowa maintains only minimal protections for women considering abortion. The Iowa Supreme Court has impeded the state Board of Medicine's ability to enforce regulations prohibiting the use of "telemedicine" for dangerous chemical abortions. Iowa allows cloning for biomedical research and destructive embryo research, while prohibiting cloning to produce children, making it a "clone-and-kill" state. Further, it does not prohibit fetal experimentation or promote ethical forms of research. After the Iowa Supreme Court struck down a law that would prohibit abortion after a fetal heartbeat is detected in 2018, Iowa legislators pursued passage of a constitutional amendment asserting the state constitution does not protect or create a right to abortion. Voters may see this amendment on the ballot in the coming years.

ABORTION

- The Iowa Supreme Court has found that "under the Iowa Constitution . . . implicitly in the concept of ordered liberty is the ability to decide whether to continue or terminate a pregnancy."
- Iowa prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain felt by unborn children.
- Iowa passed legislation prohibiting abortion once there is a detectable heartbeat. The law is enjoined.
- Iowa requires that before performing the abortion, the physician receive written certification from the woman that an ultrasound was performed and she was given an opportunity to view the image, hear a description, and hear the heartbeat of her unborn child 24 hours prior to the abortion.
- A physician may not perform an abortion on an unmarried or never married minor under the age of 18 until at least 48 hours after written notice has been provided to a parent or grandparent. There are exceptions when the minor is the victim of rape, incest, or child abuse, there is a medical emergency, or a court order is issued.
- In 2002, Iowa issued the "Information, Not Criminalization" directive. The directive purportedly makes reproductive health information, including information on family planning, abortion, and adoption, available to a woman at her request. However, the information is not mandated, and there are no penalties for failure to supply the information or to otherwise provide access to the information.
- Only physicians licensed by the State of Iowa in medicine or osteopathy may perform abortions.
- Iowa 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.
- The Iowa State Board of Medicine issued regulations requiring that a physician physically examine a woman and document (in her medical record) the age and location of the pregnancy prior to administering abortion-inducing drugs. The regulations also require the physician to be present when the drugs are dispensed. The regulations were challenged by Planned Parenthood and invalidated by the Iowa Supreme Court.

- Iowa taxpayers are required to pay for abortions for women eligible for state medical assistance if the continued pregnancy endangers the woman's life, the unborn child is physically deformed, mentally deficient, or afflicted with a congenital condition, or the pregnancy is the result of reported rape or incest.
- Iowa requires abortion providers to meet certain informed consent requirements before performing abortions for which they plan to seek reimbursement from the state.
- Iowa offers "Choose Life" license plates, the proceeds of which benefit non-abortion related services.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Iowa has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive after viability.
- Iowa does not protect unborn children from criminal violence.
- Iowa law provides that an attack on a pregnant woman that results in a stillbirth or miscarriage is a criminal assault.
- In 2017, Iowa passed legislation that prohibits providing, receiving, or transferring fetal body parts.
- It also requires an investigation into a newborn's death when 1) the death is believed to have occurred during or after delivery and when the delivery was only attended by the mother; or 2) the medical examiner otherwise believes an investigation is warranted.
- Iowa allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- It defines substance abuse during pregnancy as "child abuse" under its civil child welfare statutes. Iowa also requires healthcare professionals to report suspected prenatal drug exposure and to test newborns for such exposure when there is suspicion of prenatal drug use or abuse.
- Iowa has authorized stillbirth certificates.

BIOETHICS LAWS

- Under the Stem Cell Research and Cures Initiative, Iowa allows cloning for biomedical research and destructive embryo research, while prohibiting cloning to produce children, making it a "clone-and-kill" state.
- It does not prohibit fetal experimentation, promote ethical forms of research, or regulate assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Assisting a suicide constitutes a felony.
- Iowa also has a "right to try" law that allows terminally ill patients to use investigational drugs.
- The courts do not have authority to require life-sustaining care be withdrawn from a minor child over the parents' objection unless there is "conclusive medical evidence" the child has died.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- An individual who objects on religious or moral grounds is not required to participate in an abortion unless that abortion constitutes “emergency medical treatment” of a serious physical condition necessary to save the woman’s life.
- A private or religiously affiliated hospital is not required to perform or permit an abortion that is not necessary to save a woman’s life.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. No conscience exemption is provided for religious employers.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Iowa 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 up to at least 20 weeks of pregnancy due to a state court decision.

RECOMMENDATIONS

FOR IOWA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Health Protection Act (abortion clinic regulations, emergency transfer and admission provisions)
 - Women's Right to Know Act with reflection period
 - Coercive Abuse Against Mothers Prevention Act
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Consent Act for Abortion
 - Parental Involvement Enhancement Act
 - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

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



Kansas | RANKING 6

In recent years, Kansas has aggressively implemented a life-affirming legal strategy for protecting women and their unborn children. It has prohibited certain abortions such as those performed for sex selection, adopted protective health and safety standards for abortion facilities, and ensured that taxpayer dollars are not used to subsidize abortions or abortion providers like Planned Parenthood. In 2019, the Kansas Supreme Court found a right to abortion in the state's Constitution. The decision was controversial, and voters in Kansas may see a constitutional amendment on the ballot in the future.

ABORTION

- The Kansas Supreme Court held that there is a right to abortion under the Kansas Constitution.
- Kansas maintains a “delayed enforcement” provision prohibiting abortion should *Roe v. Wade* be overturned.
- Kansas prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- Kansas permits abortions after viability only when an abortion provider has a documented referral from another physician not legally or financially affiliated with the abortion provider and both physicians determine that the abortion is necessary to preserve the life of the pregnant woman or the continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman. The impairment must not result from the woman's own behavior.
- Kansas prohibits sex-selection abortions.
- Kansas prohibits partial-birth abortion.
- Kansas prohibits dismemberment abortions. The law is enjoined and in ongoing litigation.
- Under Kansas law, a physician may not perform an abortion until at least 24 hours after a woman has received complete and accurate information on the proposed abortion method, the risks of the proposed method, the probable gestational age of the unborn child, the probable anatomical and physiological development of the unborn child, the medical risks of carrying the pregnancy to term, and the name of the physician who will perform the abortion.
- Further, a woman must be informed that “abortion will terminate the life of a whole, separate, unique, living human being” and be provided written information on medical assistance benefits, agencies offering alternatives to abortion, the father's legal liability, and the development of the unborn child.
- The informed consent law also requires information on fetal pain, the woman's right to view an ultrasound image, the increased risk of breast cancer associated with abortion, and the documented risk of subsequent pre-term births following abortions.
- In 2017, Kansas passed a law that requires that women be given information regarding the qualifications and background of the physician performing their abortion.

- Kansas requires an ultrasound evaluation for all women seeking abortions. Further, the physician or other healthcare professional must, at the request of the woman, review and explain the ultrasound results including the probable gestational age of the unborn child before the abortion procedure is performed.
- Women must also be informed that the state-mandated written materials are available online and provided with a list of organizations providing free ultrasound examinations.
- All women in “medically challenging pregnancies” must be given a list of websites for national perinatal assistance including information regarding which entities provide these services free of charge. Similarly, Kansas has authorized grants, contracts, or cooperative agreements to help a family after they learn that their child has Down syndrome or other conditions.
- Kansas requires abortion providers to state in their printed materials that it is illegal for someone to coerce a woman into having an abortion. Abortion facilities must also post signs stating that it is illegal to force a woman to have an abortion.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written, notarized consent of two parents, unless there is a medical emergency or the minor obtains a court order. The consent of only one parent is required when the parents are not married to each other, one cannot be found, or the minor is the victim of incest by her father (which must be reported).
- Any physician who performs an abortion on a minor under the age of 14 must retain fetal tissue extracted during the procedure and send it to the Kansas Bureau of Investigation. The tissue is to be submitted “for the purpose of DNA testing and examination” and will be used to investigate (and potentially prosecute) incidents of child rape and sexual abuse.
- Kansas enacted comprehensive health and safety regulations for abortion clinics which include a requirement that the clinic be licensed by the state. The law is enjoined and in ongoing litigation.
- Kansas requires that a physician performing abortions have admitting privileges at an accredited hospital located within 30 miles of the abortion facility.
- Kansas 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.
- Kansas also requires reporting of the medical reasons supporting the termination of a late-term pregnancy.
- Kansas mandates that the state Department of Social and Rehabilitation Services produce and distribute a report on the number of child abuse reports received from abortion providers.
- When RU-486 or any drug is used for the purpose of inducing an abortion, the drug must be administered by a physician or in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug to the woman.
- Kansas follows the federal standard for Medicaid funding for abortions, 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.
- A Kansas law effectively preventing abortion providers from receiving federal Title X funding was upheld by the Tenth Circuit.
- No state funds may be expended for any abortion, and tax benefits for abortion or abortion providers are specifically prohibited.

- Contracts with the Kansas Department of Health and Environment's pregnancy maintenance program may not be granted to groups that promote, refer for, or educate in favor of abortion.
- Abortions may not be performed in any facility, hospital, or clinic owned, leased, or operated by the University of Kansas Hospital Authority unless necessary to preserve a woman's life or prevent "a serious risk of substantial and irreversible impairment of a major bodily function."
- Kansas prohibits abortions in state-run or state-leased facilities except when necessary to save a woman's life.
- School districts, district employees or volunteers, and educational service providers are prohibited from contracting with a school district to provide abortion services (except when necessary to save a woman's life).
- Kansas prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment.
- Kansas prohibits private insurance companies from covering abortion, except in cases of life endangerment. Further, the state employee health benefits plan may not provide coverage for abortion except in cases of life endangerment. Kansas has also removed any tax benefit for insurance coverage of abortion.
- Public health benefits coverage for children cannot be used for abortions or abortion coverage.
- Kansas provides direct funding to pregnancy resource centers and other organizations promoting abortion alternatives.
- Kansas offers "Choose Life" license plates, the proceeds of which benefit non-abortion related services.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Under Kansas law, an "unborn child" (from fertilization to birth) is recognized as a potential victim of murder, manslaughter, vehicular manslaughter, and battery.
- Kansas defines a criminal assault on a pregnant woman that results in miscarriage, stillbirth, or "damage to pregnancy" as an enhanced offense for sentencing purposes.
- Kansas allows a wrongful death (civil) action when a viable unborn child is killed by a negligent or criminal act.
- It prohibits wrongful birth and wrongful life lawsuits.
- Kansas law requires that an attending physician take "all reasonable steps necessary to maintain the life and health" of a child (at any stage of development) who survives an attempted abortion.
- Kansas maintains a law related to fetal death or stillborn certificates.

BIOETHICS LAWS

- Kansas maintains no laws banning human cloning, destructive embryo research, or fetal experimentation.
- Kansas has enacted a measure promoting morally responsible growth in the biotechnology industry. It has specifically indicated that the terms "bioscience," "biotechnology," and "life sciences" shall not be

construed to include 1) induced human abortions or the use of cells or tissues derived therefrom and 2) any research the funding of which would be contrary to federal law. The law effectively prohibits funding of human cloning and destructive embryo research.

- Kansas has directed the state Department of Health and Environment to develop and make available education and training (for healthcare providers) in the basic procedures and requirements for collecting and maintaining umbilical cord, cord blood, amniotic fluid, and placenta donations. A healthcare provider giving health services to a pregnant woman must advise her of post-delivery options to donate the umbilical cord.
- Kansas has appropriated funds for adult stem-cell research.
- Kansas maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In Kansas, assisting a suicide is a felony.
- Kansas maintains a Pain Patient's Bill of Rights, which, among other provisions, allows physicians to prescribe a dosage of opiates deemed medically necessary to relieve pain. The law does not expand the scope of medical practice to allow suicide by physician or euthanasia.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- No person may be required to participate in medical procedures that result in abortion.
- No hospital may be required to perform abortions in its facilities.
- Kansas permits an individual or healthcare facility to refuse to perform, make referrals for, or participate in abortion services or services that the individual or facility "reasonably believes" would end a pregnancy.
- Kansas provides some protection for the conscience rights of pharmacists and pharmacies.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Kansas 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 up to 20 weeks of pregnancy.

RECOMMENDATIONS FOR KANSAS

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Parental Involvement Enhancement Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Drug-Induced Abortion Information and Reporting Act
 - Components of the Child Protection Act related to mandatory reporters of suspected child sexual abuse and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

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



Kentucky | RANKING 18

Kentucky has laid the groundwork necessary to protect women and their unborn children. Enhancements of its informed consent law, its parental involvement requirement, and its abortion facility regulations are recommended to advance Kentucky's efforts to protect maternal health and defend unborn life. Kentucky currently has only one abortion clinic operating within the state.

ABORTION

- Kentucky's legislature has declared its opposition to abortion, stating that if the U.S. Constitution is amended or certain judicial decisions are reversed or modified, the legal recognition and protection of the lives of all human beings "regardless of their degree of biological development shall be fully restored."
- Kentucky enacted a measure prohibiting abortion in the event *Roe v. Wade* is overturned or federal law otherwise changes to give broad powers over abortion back to the states. There is an exception for when necessary to prevent the death or "permanent impairment of a life-sustaining organ."
- In 2019, Kentucky passed legislation that requires an ultrasound be performed in order to determine whether the unborn child has a detectable heartbeat. If a heartbeat is detected, an abortion is prohibited. The law is enjoined and in ongoing litigation.
- Kentucky prohibits abortion at or after 5 months (i.e., 20 weeks) on the basis of the pain felt by unborn children.
- No abortion may be performed after viability unless necessary to protect the life or health of the mother.
- Kentucky prohibits sex-selection abortions, abortions based on the race, color, or national origin of the child, or abortions based on the child's diagnosis or potential diagnosis of Down syndrome or other disability. The law is enjoined and in ongoing litigation.
- Kentucky prohibits the dismemberment abortion procedure when the unborn child is 11 weeks or older. The law is enjoined and in ongoing litigation.
- Under Kentucky law, a physician may not perform an abortion until at least 24 hours after a woman has received information about the probable gestational age of her unborn child, the nature and risks of the proposed abortion procedure, alternatives to abortion, and the medical risks of carrying the pregnancy to term. She must also be told that state-prepared materials are available for her review, that medical assistance may be available, and that the father is liable for child support even if he offered to pay for the abortion.
- In 2019, Kentucky added a requirement that the woman be told of the possibility of reversing the effects of a chemical abortion.
- In 2017, Kentucky enacted an ultrasound requirement that includes a description of the unborn child, and mandates that ultrasound images be displayed, and an audible heartbeat be provided to a woman before an abortion. The law is enjoined and in ongoing litigation.

- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written consent of one parent, unless there is a medical emergency or a court order is issued.
- Kentucky requires abortion clinics to meet licensing requirements and minimum health and safety standards including maintaining written policies and procedures, conducting appropriate patient testing, ensuring proper staffing, maintaining necessary equipment and medication, and providing medically appropriate post-operative care.
- Kentucky limits the performance of abortions to licensed physicians, and all abortion providers must maintain written emergency transfer agreements.
- Kentucky 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.
- Kentucky follows the federal standard for Medicaid funding for abortions, 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.
- It otherwise prohibits the use of public funds for abortions unless necessary to save the life of the mother.
- Kentucky restricts the use of some or all state facilities for the performance of abortions.
- Kentucky prohibits school districts from operating a family resource center or a youth services center that provides abortion counseling or makes referrals to a healthcare facility for the purpose of seeking an abortion.
- Hospitals with emergency room services may not counsel victims of reported sexual offenses on abortion.
- All private health insurance contracts, plans, and policies must exclude coverage for abortion unless the procedure is necessary to preserve the woman's life.
- Kentucky also prohibits insurance coverage of abortions for public employees.
- Kentucky maintains a "tiering system" for the allocation of family planning funding including funding for which abortion providers might be eligible. Under the system, first priority for funding is given to public entities that are operated by state or local government entities. Most abortion providers fall into the lowest priority category of this system.
- Kentucky offers "Choose Life" license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- The definition of "person" for purposes of Kentucky homicide laws includes "an unborn child from the moment of conception."
- Kentucky allows a parent or other relative to bring a wrongful death (civil) lawsuit when a viable unborn child is killed through a negligent or criminal act.
- Kentucky 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.
- Healthcare professionals must test newborns for prenatal drug exposure when there is suspicion of

maternal drug abuse. Healthcare providers are also required to report evidence of suspected prenatal drug exposure or fetal alcohol spectrum disorder to the state child protective services.

BIOETHICS LAWS

- Kentucky maintains no laws regarding human cloning or destructive embryo research, and it does not promote ethical alternatives to such unethical research.
- It prohibits the sale or use of a live or viable aborted child.
- Kentucky does not regulate assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In Kentucky, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician, nurse, hospital staff member, or hospital employee who objects in writing, on religious, moral, or professional grounds, is not required to participate in an abortion. Kentucky law also protects medical and nursing students.
- Private healthcare facilities and hospitals are not required to permit the performance of abortions if such performance violates the established policy of that facility or hospital.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Kentucky 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?

- Kentucky has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS FOR KENTUCKY

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Coercive Abuse Against Mothers Prevention Act
 - Parental Involvement Enhancement Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



Louisiana | RANKING 2

Louisiana maintains some of the nation's most comprehensive laws protecting the health and safety of women seeking abortions and providing legal recognition and protection to the unborn. It also is one of few states to effectively regulate emerging biotechnologies. Not only does the state prohibit destructive embryo research and the creation of chimeras (human-animal hybrids), but it has also established an umbilical cord-blood banking program and allows for embryo adoption. A resolution declared May 2020 was Louisiana Abortion Recovery Awareness Month, “so that women who have been harmed by abortion can come forth to receive the help and healing they need and others can be warned of the risks and pain of abortion.”

ABORTION

- Louisiana has declared that “the unborn child is a human being from the time of conception and is, therefore, a legal person for purposes of the unborn child’s right to life and is entitled to the right to life from conception under the laws and Constitution of this state.”
- Louisiana has enacted a measure prohibiting abortion once *Roe v. Wade* is overturned. The prohibition includes an exception for life endangerment.
- In 2020, Louisianans voted to add an amendment to the state constitution that “nothing in [the] constitution shall be construed to secure or protect a right to abortion or require the funding of abortion.”
- It prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain felt by unborn children.
- In 2019, Louisiana passed legislation requiring an ultrasound be performed in order to determine whether the unborn child has a detectable heartbeat. If one is detected, an abortion is prohibited. The law will only go into effect if the Fifth Circuit upholds Mississippi’s heartbeat law.
- Louisiana prohibits any person from intentionally performing an abortion on an unborn child at or after 5 months post-fertilization age, if the mother is seeking the abortion solely because of the unborn child’s genetic abnormality. The law is enjoined and in ongoing litigation.
- Louisiana prohibits partial-birth abortion throughout pregnancy except when necessary to save the life of the woman. The measure creates a civil cause of action for violations of the prohibition and includes more stringent criminal penalties than the related federal law, imposing a sentence of hard labor or imprisonment for one to ten years and/or a fine of \$10,000 to \$100,000.
- Louisiana prohibits dismemberment abortions. The law is in ongoing litigation and not in effect.
- A physician may not perform an abortion until at least 72 hours after a woman has been provided information about the proposed abortion procedure, the alternatives to abortion, the probable gestational age of the unborn child, the risks associated with abortion, and the risks associated with carrying the child to term. She must also be told about available medical assistance benefits, the father’s

legal responsibilities, and that her consent for an abortion may be withdrawn or withheld without any loss of government benefits. Women must also be provided information on psychological risks of abortion, human trafficking, and abuse. Informed consent requirements apply to both surgical and chemical abortions. The 72-hour reflection period requirement is in ongoing litigation.

- In 2019, Louisiana added a requirement that the woman also be given information on the physician who will perform the abortion, including whether he or she is currently board certified, has active admitting privileges as a hospital and the name of said hospital, has malpractice insurance, or whether he or she has ever been placed on probation or had his or her license suspended or revoked.
- The required informed consent must be provided to the woman individually and in a room that protects her privacy.
- Louisiana maintains a website providing the required informed consent information, as well as information on abortion alternatives. Abortion providers must give women the website's address following their first contact.
- Louisiana law requires that before an abortion is performed on an unborn child less than 5 months post-fertilization age, the woman must receive information about resources, programs, and services for women diagnosed with fetal genetic abnormality and for infants and children born with disabilities. The law is in ongoing litigation.
- Louisiana also provides a booklet describing the development of the unborn child; detailing abortion methods and their risks; providing a list of public and private agencies including adoption agencies that are available to provide assistance; providing information about state medical assistance benefits; and describing a physician's liability for failing to obtain a woman's informed consent prior to an abortion.
- In addition, a woman considering an abortion must receive information about fetal pain; specifically, she must be told about the availability of anesthesia or analgesics to prevent pain to the unborn child. Further, the mandatory informed consent materials state that by 5 months (i.e., 20 weeks) gestation, an unborn child can experience and respond to pain and that anesthesia is routinely administered to unborn children for prenatal surgery at 20 weeks' gestation or later.
- An ultrasound must be performed before an abortion. The ultrasound image must be displayed on the screen and the heartbeat, if present, must be made audible to the woman. This requirement does not prevent the woman from choosing to not view the image or listen to the heartbeat.
- Printed materials must include a comprehensive list of facilities that offer obstetric ultrasounds free of charge.
- Louisiana requires abortion providers to state in their printed materials that it is illegal for someone to coerce a woman into having an abortion. A coerced abortion occurs when a person engages in or threatens physical force to compel a pregnant woman to have an abortion against her will, "whether or not the abortion procedure has been attempted or completed."
- Abortion providers must post signs declaring that "it is unlawful for anyone to make you have an abortion against your will, even if you are a minor." Clinics must also post the phone number of the National Human Trafficking Resource Center hotline. In 2019, Louisiana strengthened its process for reporting human trafficking to law enforcement.

- A woman seeking an abortion following rape or incest and using state funds to pay for the abortion must be offered the same informed consent information (without the 24-hour reflection period) as is required for other abortions.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without notarized, written consent from one parent, unless there is a medical emergency or the minor obtains a court order. In 2017, Louisiana strengthened its parental consent law by requiring proof of identity for the person giving parental consent on behalf of the minor. Louisiana also added a counseling requirement for minors seeking judicial bypass of parental consent, in order to verify that the minor is not a victim of coerced abortion or sexual trafficking.
- Further, the definition of “child abuse” includes coerced abortion. Louisiana has authorized a state court to issue a temporary restraining order prohibiting activities associated with a coerced abortion.
- The pregnancy of a child under thirteen constitutes cause to suspect abuse.
- Louisiana requires the licensing of abortion facilities and imposes minimum health and safety standards in a variety of areas including clinic administration, professional qualifications, patient testing, physical plant, and post-operative care.
- Louisiana law allows state officials to close an abortion clinic for any violation of state or federal law that presents a risk to patients.
- Only physicians licensed to practice medicine in Louisiana may perform abortions. Louisiana requires that physicians performing abortions be board-certified or enrolled in obstetrics and gynecology or family medicine or, if enrolled in a residency program, they be under the direct supervision of a physician board-certified in obstetrics and gynecology or family medicine.
- Louisiana has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The measure requires abortion providers to report short-term complications and the name and address of the hospital or facility where treatment was provided for the complications. Drug-induced abortions and any complications arising from an abortion must be reported.
- In 2019, Louisiana passed legislation requiring physicians, medical directors, and the abortion facility to maintain the relevant records and reports for at least 7 years for adult patients and at least 10 years from the age of majority for minor patients.
- Louisiana requires the presence of a physician when abortion-inducing drugs are administered or dispensed and requires the scheduling of a follow-up appointment for the woman.
- Louisiana 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.
- Public funds may not be used “for, to assist in, or to provide facilities for an abortion, except when the abortion is medically necessary to prevent the death of the mother.” In 2018, Louisiana passed a law banning the Department of Health from entering into agreements for medical funding with any healthcare entity that performs or assists in the performance of abortions.
- No individual or organization that performs elective abortions (or an affiliate of that individual or organization) may provide instruction or materials in public schools.

- Louisiana prohibits insurance companies from offering abortion coverage within state insurance exchanges established pursuant to the federal healthcare law.
- Louisiana funds programs providing direct support for groups and organizations promoting abortion alternatives.
- Louisiana 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

- Louisiana has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Under Louisiana criminal law, the killing of an unborn child at any stage of gestation is defined as a form of homicide. In addition, an “unborn child” is a victim of a “feticide” if killed during the perpetration of certain crimes including robbery and cruelty to juveniles.
- Louisiana 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.
- Under the Louisiana Children’s Code, “neglect” includes instances when a newborn is identified by a healthcare provider as having been affected by prenatal drug use or exhibiting symptoms of drug withdrawal.
- Louisiana has also expanded the definition of “prenatal neglect” to include 1) “exposure to chronic or severe use of alcohol;” 2) the use of any controlled dangerous substance “in a manner not lawfully prescribed” that results in symptoms of withdrawal to the newborn; 3) the presence of a controlled substance or related metabolite in the newborn; or 4) observable and harmful effects in the newborn’s appearance or functioning.
- It also funds drug treatment programs for pregnant women and newborns.
- The Parental Rights for Disposition of Fetal Remains Act requires that, prior to the final disposition of a miscarried child, a health facility must notify the woman of her right to arrange for final disposition of the child and the availability of a chaplain or counseling services.
- Louisiana’s prohibits buying, selling, transferring, or acquiring the body parts of aborted babies for money. The law is in ongoing litigation.
- Louisiana requires burial or cremation of remains resulting from an abortion. The law is in ongoing litigation.

BIOETHICS LAWS

- Louisiana prohibits destructive embryo research and the funding of human cloning (although it does not explicitly prohibit human cloning).
- Louisiana prohibits experimentation on live-born human beings or fetuses in utero.
- Louisiana prohibits the creation of chimeras (human-animal hybrids).

- It has established the Umbilical Cord Blood Banking Program to promote public awareness of the potential benefits of cord blood banking, to encourage research into the uses of cord blood, to facilitate pre-delivery arrangements for cord blood donations, and to promote professional education programs.
- Louisiana regulates assisted reproductive technologies and allows for embryo adoption.
- Louisiana prohibits a “gestational carrier contract” from requiring abortion for any reason, including prenatal diagnosis or reduction of multiples.

PATIENT PROTECTION LAWS

- In Louisiana, suicide by physician is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Any person has the right not to participate in or be required to participate in any healthcare service that violates his or her conscience (including abortion and the provision of abortion-inducing drugs) to the extent that “access to health care is not compromised.” The person’s conscientious beliefs must be in writing, and patients must be notified. The law is not to be construed as relieving any healthcare provider from providing “emergency care.”
- A healthcare facility must ensure that it has sufficient staff to provide patient care in the event an employee declines to participate in any healthcare service that violates his or her conscience.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Any person has the right not to participate in or be required to participate in any healthcare service that violates his or her conscience (including human embryonic stem-cell research, human embryo cloning, euthanasia, or suicide by physician) to the extent that “access to health care is not compromised.” The person’s conscientious beliefs must be in writing, and patients must be notified. The law is not to be construed as relieving any healthcare provider from providing “emergency care.”
- A healthcare facility must ensure that it has sufficient staff to provide patient care in the event an employee declines to participate in any healthcare service that violates his or her conscience.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Louisiana has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS

FOR LOUISIANA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Prohibition on wrongful birth and wrongful life lawsuits
- Pregnant Woman's Protection Act

BIOETHICS

- Human Cloning Prohibition Act
- Assisted Reproductive Technologies Disclosure and Risk Reduction Act



Maine | RANKING 39

Maine provides only minimal protection for women seeking abortions. For example, its parental involvement law contains a major loophole, allowing abortion providers to veto a parent's right to grant or withhold consent. Further, Maine is in the minority of states, failing to provide meaningful legal recognition and protection to unborn victims of criminal violence.

ABORTION

- Maine has enacted a Freedom of Choice Act providing for a legal right to abortion even if *Roe v. Wade* is eventually overturned and stating that it is the state's public policy not to restrict access to abortion before viability.
- A physician may not perform an abortion on a woman until after advising her of the probable gestational age of her unborn child; the risks associated with continued pregnancy and the proposed abortion procedure; and, at the woman's request, alternatives to abortion and information about and a list of public and private agencies that will provide assistance if she chooses to carry her pregnancy to term.
- A physician may not perform an abortion on a minor under the age of 18 until after advising her about the alternatives to abortion, prenatal care, agencies providing assistance, and the possibility of involving her parents or other adult family members in her abortion decision. Moreover, the physician must have the written consent of one parent or an adult family member, unless he/she determines that the minor is "mentally and physically competent" to give consent or has secured a court order.
- Maine allows physicians licensed to practice medicine or osteopathy, physician assistants, and advanced practice registered nurses to perform abortions.
- Maine 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.
- Maine follows the federal standard for Medicaid funding for abortions, 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. There is ongoing litigation over whether the state must provide abortion funding under MaineCare.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Maine has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Maine does not currently recognize an unborn child as a potential victim of homicide or assault.
- Maine provides for an enhanced sentence for the homicide of a pregnant woman and has created a new crime of "elevated aggravated assault" on a pregnant woman.

- It requires healthcare providers to report all deaths of infants less than one year of age, deaths of women during pregnancy, and maternal deaths within 42 days of giving birth to the Maternal Infant Death Review Panel.
- Maine allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- Maine 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.
- Maine requires a healthcare provider involved in the delivery or care of an infant suspected to have been exposed to drugs in utero to report the suspected exposure to the state Department of Health and Human Services.
- Maine provides for the issuance of a Certificate of Birth Resulting in Stillbirth when requested by a parent.

BIOETHICS LAWS

- Maine does not maintain laws regarding human cloning, but its prohibition on fetal experimentation applies to live fetuses either intrauterine or extrauterine. Thus, its fetal experimentation statute can be read to prohibit harmful experimentation on human embryos.
- Maine does not promote ethical forms of research.
- Maine maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Suicide by physician is legal in Maine.
- Maine enacted a “right to try” measure to provide terminally ill patients with expanded opportunities to try investigational medications that have not yet received Food & Drug Administration (FDA) approval.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- The conscientious objection of a physician, nurse, or other healthcare worker to performing or assisting in the performance of an abortion may not be the basis for civil liability, discrimination in employment or education, or other retaliatory action. Medical and nursing students are also protected.
- The conscientious objection of a hospital or other healthcare facility to permitting an abortion on its premises may not be the basis for civil liability or retaliatory action.
- Private institutions, physicians, or their agents may refuse to provide family planning services based upon religious or conscientious objections.
- Maine provides some protection for the conscience rights of pharmacists and pharmacies.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. The provision includes an exemption so narrow that it excludes the ability of most employers and insurers with moral or religious objections from exercising the exemption.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Maine 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.

RECOMMENDATIONS FOR MAINE

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 Consent for Abortion Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act
-

PATIENT PROTECTION ACT PRIORITIES

- Joint Resolution Opposing Suicide by Physician
 - Charlie Gard Act (formerly the Life Sustaining Care Act)
 - Pain Management Education Act
 - Repeal 2019 law enacting suicide by physician
-

ADDITIONAL PRIORITIES

ABORTION

- Repeal State FOCA
- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL PROTECTION AND RECOGNITION 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



Maryland | RANKING 34

Maryland provides virtually no legal protection for women and unborn children. It does not have an informed consent law, its parental notice law contains a loophole that eviscerates the protection this requirement typically provides, and it does not provide meaningful legal recognition and protection to unborn victims of criminal violence. It is also one of a small number of states that permits and funds destructive embryo research.

ABORTION

- Maryland maintains a Freedom of Choice Act. The Act mandates a right to abortion even if *Roe v. Wade* is eventually overturned, specifically providing that the state may not “interfere with the decision of a woman to terminate a pregnancy... 1) before the fetus is viable, 2) if the procedure is necessary to protect the life or health of the woman, or 3) if the unborn child is afflicted by a genetic defect or serious deformity.”
- Under current Maryland law, an unmarried minor under the age of 18 who lives with a parent may not undergo an abortion unless one parent has been notified by the physician. However, the law contains a significant loophole: a minor may obtain an abortion without parental notification if, in the professional judgment of the physician, notice to the parent may lead to physical or emotional abuse of the minor, the minor is mature and capable of giving informed consent to an abortion, or notice would not be in the “best interests” of the minor.
- In 2012, the state Department of Health and Mental Hygiene announced that abortion facilities will have to be licensed and meet minimum health and safety standards modeled after existing standards for outpatient surgical centers.
- Only licensed physicians may perform abortions.
- Maryland taxpayers are required by statute to pay for “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.
- Maryland 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

- Maryland law does not affirmatively protect infants born alive during botched abortions.
- Maryland recognizes a “viable fetus” as a distinct victim of murder, manslaughter, or unlawful homicide. However, the law explicitly states that its enactment should not be construed as conferring “personhood” on the unborn child.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Maryland has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants up to ten days of age at designated places and ensuring that the infants receive appropriate care and protection.

- Maryland law provides that a child is not receiving proper care if he/she is born exposed to methamphetamine or if the mother tests positive for methamphetamine upon admission to the hospital for delivery of the infant. It funds drug treatment programs for pregnant women and newborns.
- A healthcare provider must report the delivery of an infant exposed to controlled substances to a local social services office. The report alone will not automatically trigger a child abuse or neglect investigation.

BIOETHICS LAWS

- Maryland prohibits cloning to produce children, but not cloning for biomedical research, making it a “clone-and-kill” state.
- Maryland maintains a Stem Cell Research Fund that allows and funds destructive embryonic research. However, funds may also be used for adult stem-cell research.
- Maryland does not prohibit fetal experimentation.
- Umbilical cord blood donation educational materials are to be distributed to all pregnant patients.
- Maryland does not regulate assisted reproductive technologies, but does maintain laws on the parentage of children conceived using such technologies.
- Maryland appears to prohibit the sale or transfer of human eggs for “valuable consideration.”
- It proscribes the use of sperm or eggs from a “known donor” if the donor receives any remuneration for the donation. The prohibition does not apply to anonymous donation to a tissue or sperm bank or to a fertility clinic.

PATIENT PROTECTION LAWS

- In Maryland, suicide by physician is considered a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Under Maryland law, no person may be required to participate in or refer to any source for medical procedures that result in an abortion.
- A hospital is not required to permit the performance of abortions within its facilities or to provide referrals for abortions.
- 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

- Maryland 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.

RECOMMENDATIONS

FOR MARYLAND

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
 - Meaningful parental involvement law
 - Child Protection Act
-

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)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- Repeal 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

- Crimes Against the Unborn Child Act (protecting the child from conception)
- 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



Massachusetts | RANKING 41

Massachusetts fails to protect women and unborn children from the harms inherent in abortion and recognizes a broader state constitutional right to abortion than that interpreted in the U.S. Constitution. It has also failed to limit and regulate emerging biotechnologies.

ABORTION

- The Massachusetts Constitution has been interpreted as providing a broader right to abortion than that interpreted in the U.S. Constitution.
- Massachusetts' informed consent law is permanently enjoined.
- A physician may not perform an abortion on an unmarried minor under the age of 18 without the written consent of one parent unless there is a medical emergency or the minor obtains a court order.
- Only physicians authorized to practice medicine in Massachusetts may perform abortions.
- Any person who provides prenatal care, postnatal care, or genetic counseling to parents with an unborn child diagnosed with Down syndrome must provide up-to-date information about the condition. Mandated information includes information about physical, developmental, educational, and psychosocial outcomes; life expectancy; intellectual and functional development; treatment options; and information on educational and support groups.
- Massachusetts 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 and requires abortion providers to report short-term complications.
- Massachusetts taxpayers are required by court order to pay for "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.
- State employee health insurance provides coverage of abortion only when a woman's life or health is endangered or in cases of rape, incest, or fetal abnormality. Further, it may not cover partial-birth abortions.
- Health maintenance organizations (HMOs) may not be required to provide payment or referrals for abortion unless necessary to preserve the woman's life.
- Massachusetts 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

- Massachusetts law does not affirmatively protect infants born alive during botched abortions.
- The Massachusetts Supreme Court has determined that the state's homicide law applies to the killing of an unborn child who has attained viability.
- Massachusetts allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.

- It requires healthcare professionals to report suspected prenatal drug exposure.

BIOETHICS LAWS

- While Massachusetts prohibits cloning to produce children, it expressly permits cloning for biomedical research and destructive embryo research, making it a “clone-and-kill” state.
- The Massachusetts Public Health Council has reversed a rule put in place during the gubernatorial administration of Mitt Romney that prohibited scientists from creating human embryos for the purpose of destroying them for research.
- Massachusetts funds destructive embryo research and allows tax credits for “life sciences” including “stem cell research.”
- Massachusetts prohibits experimentation on live fetuses and allows experimentation on dead fetuses with consent of the parents.
- Massachusetts has established an umbilical cord-blood bank for the purpose of collecting and storing umbilical cord blood and placental tissues. All licensed hospitals are required to inform pregnant patients of the opportunity to donate the umbilical cord and placental tissue following delivery.
- Massachusetts requires informed consent before a physician can harvest human eggs for purposes of assisted reproductive technologies and prohibits the purchase of human eggs for “valuable consideration.”

PATIENT PROTECTION LAWS

- In Massachusetts, suicide by physician remains a common law crime.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A physician or person associated with, employed by, or on the medical staff of a hospital or health facility who objects in writing and on religious or moral grounds is not required to participate in abortions. Medical and nursing students are also protected.
- A private hospital or health facility is not required to admit a woman for an abortion.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. The provision includes a conscience exemption so narrow it excludes the ability of most employers and insurers with moral or religious objections from exercising the exemption.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Massachusetts 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 MASSACHUSETTS

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 Involvement Enhancement Act
 - Child Protection Act
-

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)
-

PATIENT PROTECTION ACT PRIORITIES

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

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 (to protect an unborn child from conception)
- 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

END OF LIFE

- Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Michigan | RANKING 15

Michigan has a solid record of protecting women and the unborn from the harms inherent in abortion including imposing medically appropriate health and safety standards on abortion facilities, regulating the provision of chemical abortions, and limiting taxpayer funding of abortion and abortion providers. However, its record on emerging biotechnologies is disappointing. Michigan specifically allows destructive embryo research and the funding of such research.

ABORTION

- Michigan has an enforceable abortion prohibition should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified.
- Michigan prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until at least 24 hours after the woman receives information on the probable gestational age of her unborn child, along with state-prepared information or other material on prenatal care and parenting, the development of the unborn child, a description of abortion procedures and their inherent complications, and assistance and services available through public agencies.
- Women must be informed of the availability of ultrasounds and be given the opportunity to view the results of an ultrasound prior to abortion.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written consent of one parent unless there is a medical emergency or the minor obtains a court order.
- It is a criminal offense to coerce a woman to have an abortion against her will.
- A physician is required to screen patients for coercion before performing an abortion. The Department of Community Health has been instructed to develop a notice concerning coerced abortions which will be posted in abortion facilities.
- The Michigan Attorney General has issued opinions that the state's informed consent and parental consent statutes apply both to surgical abortions and to the use of mifepristone (RU-486).
- Under Michigan law, abortion clinics are regulated as "freestanding surgical outpatient facilities." The applicable regulations provide for minimum health and safety standards in such areas as clinic administration, staff qualifications, and physical plant. Following the Supreme Court's decision in *Whole Woman's Health v. Hellerstedt*, Planned Parenthood challenged these health and safety standards.
- Michigan limits the performance of abortions to licensed physicians.
- Michigan 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 and requires abortion providers to report short-term complications.

- Michigan requires that a woman be examined before a chemical abortion and specifically prohibits physicians from utilizing an internet web camera for such abortions. The physician must also be physically present when the drugs are dispensed.
- Michigan follows the federal standard for Medicaid funding for abortions, 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.
- Michigan prohibits organizations that receive state funds from using those funds to provide abortion counseling or to make referrals for abortion and only permits ultrasound grants if they will not be used for assisting in the performance of elective abortions.
- Family planning funds are prioritized for organizations which do not perform elective abortions within a facility owned or operated by the organization, make referrals for abortions, or have written policies which consider abortion a method of family planning.
- Insurance companies participating in the state insurance Exchanges established pursuant to the federal healthcare law cannot offer policies that provide abortion coverage.
- Michigan prohibits insurance plans from covering abortions except by optional rider.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Michigan has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Under Michigan law, the killing of an unborn child at any stage of gestation is defined as homicide.
- Michigan defines a criminal assault on a pregnant woman that results in miscarriage, stillbirth, or “damage to pregnancy” as an enhanced offense for sentencing purposes.
- Michigan defines a nonfatal assault on an unborn child as a crime.
- Michigan has applied the affirmative defense of “defense of others” to cases where a woman uses force (including deadly force) to protect her unborn child.
- It allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Michigan requires healthcare professionals to report suspected prenatal drug exposure.

BIOETHICS LAWS

- In November 2008, Michigan voters passed a Stem Cell Initiative, amending the state constitution to legalize destructive embryo research and to allow the funding of research on human embryos.
- Michigan prohibits experimentation on live fetuses, but allows research on dead fetuses with the consent of the mother.
- The Michigan Legislature has directed the establishment of a state-wide network of cord blood stem-cell banks and the promotion of public awareness and knowledge about the banks and banking options (as

funds are available).

- Michigan does not maintain any meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In Michigan, suicide by physician is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician, nurse, medical student, nursing student, or individual who is a member of, associated with, or employed by a hospital, institution, teaching institution, or healthcare facility who objects on religious, moral, ethical, or professional grounds is not required to participate in abortions.
- A hospital, institution, teaching institution, or healthcare facility is not required to participate in abortion, permit an abortion on its premises, or admit a woman for the purpose of performing an abortion.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Michigan currently provides no protection for the rights of healthcare providers who conscientiously object to participating 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?

- Michigan has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS

FOR MICHIGAN

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

BIOETHICS

- Repeal of constitutional amendment permitting and funding destructive embryo research
- Promotion of ethical forms of research
- Assisted Reproductive Technologies Disclosure and Risk Reduction Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Minnesota | RANKING 27

Although the Minnesota Constitution has been interpreted to permit abortion to a greater extent than that interpreted in the U.S. Constitution, Minnesota has made some meaningful progress toward protecting women and unborn children. For example, it requires informed consent before abortion that includes information on the abortion-breast cancer link, as well as information about perinatal hospice options for families facing life-limiting diagnoses.

ABORTION

- The Minnesota Constitution protects the “right to an abortion” as a fundamental right and to a greater extent than that interpreted in the U.S. Constitution.
- Minnesota’s informed consent law requires that a woman be given information on the risks of and alternatives to abortion at least 24 hours prior to undergoing an abortion.
- Minnesota requires a physician or his or her agent to advise a woman seeking an abortion after 5 months (i.e., 20 weeks) gestation of the possibility that anesthesia will alleviate fetal pain.
- It also explicitly requires a physician to inform a woman seeking abortion of the abortion-breast cancer link.
- Minnesota law provides that a physician may not perform an abortion on an unemancipated minor under the age of 18 until at least 48 hours after written notice has been delivered to both parents (except if one cannot be found after a reasonable effort) unless one of the following applies: the minor is the victim of rape, incest, or child abuse which must be reported; there is a medical emergency; or the minor obtains a court order.
- Minnesota requires that abortions after the first trimester be performed in a hospital or “abortion facility.”
- Only physicians licensed to practice medicine by the State of Minnesota or physicians-in-training supervised by licensed physicians may perform abortions.
- The state 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 and requires abortion providers to report short-term complications.
- Minnesota taxpayers are required by court order to fund “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.
- Minnesota prohibits the award of special grants to any non-profit corporation that performs abortions. Further, grantees may not provide state funds to any non-profit corporation that performs abortions.

- Pregnancy alternative grants may not be used to encourage or affirmatively counsel a woman to have an abortion that is not necessary to prevent her death, to provide her with an abortion, or to directly refer her to an abortion provider for an abortion.
- The Minnesota Care public insurance program prohibits public funds from being used to cover abortions except when the mother's life is in danger, she faces a serious health risk, or in cases of rape or incest.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- An infant born alive following an abortion attempt is “fully recognized as a human person, and accorded immediate protection under the law.” In addition, medical personnel must take “reasonable measures consistent with good medical practice” to preserve the life and health of the infant.
- Under Minnesota law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Minnesota has established a penalty for injuring an unborn child as a result of operating a motor vehicle in a grossly negligent manner or while under the influence of alcohol or drugs.
- Minnesota defines a nonfatal assault on an unborn child as a criminal offense.
- Minnesota allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- It has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Minnesota has a “Baby Moses” law allowing emergency service personnel to accept a relinquished infant who is seven days old or younger.
- A court may order a pregnant woman into an early intervention treatment program for substance abuse.
- Professionals, such as healthcare providers and law enforcement officers, must report suspected abuse of a controlled substance by pregnant women. In addition, healthcare professionals must test newborns for exposure when there is suspicion of prenatal drug use.
- Minnesota also funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Minnesota does not explicitly prohibit human cloning or destructive embryo research.
- In 2011, it allowed a former prohibition on the funding of human cloning to expire.
- Minnesota prohibits experimentation on a “living human conceptus,” meaning that experimentation on an aborted fetus is not prohibited.
- Minnesota does not promote ethical alternatives to destructive embryo research.
- It maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In Minnesota, suicide by physician is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Minnesota law provides that no person, hospital, or institution may be coerced, held liable for, or discriminated against in any way for refusing to perform, accommodate, or assist in an abortion. However, this provision has been held unconstitutional as applied to public hospitals and institutions.
- State employees may refuse to provide family planning services if contrary to their personal beliefs.
- Health plan companies and healthcare cooperatives are not required to provide abortions or coverage of abortions.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Minnesota 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 MINNESOTA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Health Protection Act (abortion clinic regulations, emergency transfer and admission provisions)
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Consent for Abortion Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

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

- 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



Mississippi | RANKING 4

Over the last several years, AUL has worked with Mississippi to enact numerous life-affirming laws including its ban on abortions at or after 20 weeks, its informed consent law, and comprehensive protection for Healthcare Freedom of Conscience. However, it lags behind some other states in regulating emerging biotechnologies and failing to prohibit human cloning, destructive embryo research, or fetal experimentation.

ABORTION

- In *Pro-Choice Mississippi v. Fordice*, the Mississippi Supreme Court found that the state constitution's right of privacy includes "an implicit right to have an abortion." However, the court still upheld the state's informed consent law, 24-hour reflection period before an abortion, and a two-parent consent requirement before a minor may obtain an abortion.
- Mississippi has enacted legislation prohibiting abortion except in cases of life endangerment should *Roe v. Wade* be overturned.
- Mississippi passed legislation that prohibits knowingly performing an abortion that would end the life of an unborn child whose fetal heartbeat was detected, except when necessary to prevent the death of the woman or prevent "substantial and irreversible impairment of a major bodily function." The law is enjoined and in ongoing litigation.
- Mississippi limits abortions at 5 months (i.e., 20 weeks), on the basis of the health risks to women caused by a later-term abortion and the pain to the unborn child.
- Abortion is prohibited after 15 weeks' gestation "except in medical emergency and in cases of severe fetal abnormality." The law is enjoined and in ongoing litigation.
- Mississippi prohibits partial-birth abortion.
- Mississippi prohibits the dismemberment abortion procedure.
- Mississippi prohibits abortions based solely on the baby's race, sex, or diagnosis or potential diagnosis of a genetic abnormality.
- A physician may not perform an abortion on a woman until at least 24 hours after the woman receives counseling on the medical risks of abortion including the link between abortion and breast cancer, the medical risks of carrying the pregnancy to term, the probable gestational age of the unborn child, medical assistance benefits, and the legal obligations of the child's father. Mississippi also provides written material describing the development of the unborn child, the medical risks of abortion, available state benefits, and public and private agencies offering alternatives to abortion.
- In addition, an abortion provider is required to perform an ultrasound on a woman seeking an abortion.

The woman must be offered the opportunity to view the ultrasound image, receive a copy of the image, and listen to the unborn child's heartbeat. Abortion facilities must purchase ultrasound equipment.

- An abortion provider must inform a woman seeking abortion at or after 5 months (i.e., 20 week) because of her unborn child's life-limiting diagnosis of certain supportive services available to her should she decide to carry the child to term. These services include counseling and care from maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers, and specialty nurses who focus on alleviating fear and ensuring that the woman and her family experience the life and death of their child in a comfortable and supportive environment.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written consent of both parents unless there is a medical emergency, the minor is the victim of incest by her father (in such circumstances, the consent of the minor's mother is sufficient), or the minor obtains a court order. The two-parent consent requirement has been upheld by both a federal appellate court and the Mississippi Supreme Court.
- Mississippi mandates minimum health and safety regulations for abortion clinics performing more than ten abortions per month and/or more than 100 abortions per year. The regulations prescribe minimum health and safety standards for the building or facility, clinic administration, staffing, and pre-procedure medical evaluations.
- Mississippi requires that second-trimester abortions be performed in hospitals, ambulatory surgical facilities, or a licensed Level I abortion facility (as defined by state statute).
- Abortion facilities are required to maintain emergency transfer agreements.
- Mississippi law requires physicians to be board certified in obstetrics and gynecology.
- The Abortion Complication Reporting Act requires abortion providers to report any incident in which a woman dies or needs further medical treatment as a result of an abortion. The measure applies to both surgical and nonsurgical abortions and requires hospitals to report the number of patients treated for complications resulting from abortions.
- Mississippi also requires that deaths resulting from criminal abortions, self-induced abortions, or abortions performed because of sexual abuse be reported to the medical examiner.
- Mississippi includes "reproductive healthcare facilities" in the definition of mandatory reporters for suspected child sexual abuse.
- It requires that a physician examine a woman before providing abortion-inducing drugs. Further, the physician must follow "the standard of care" and the provider or his/her agent must also schedule a follow-up appointment for the woman.
- Mississippi funds abortions for women eligible for public assistance when necessary to preserve the woman's life, the pregnancy is the result of rape or incest, or in cases involving fetal abnormalities.
- No money in the Mississippi Children's Trust Fund, established to assist child abuse and neglect programs, may be used for abortion counseling.
- Mississippi restricts the use of state facilities for the performance of abortions.

- Public school nurses are prohibited from providing abortion counseling or referring any student to abortion counseling or an abortion clinic.
- Insurance companies participating in the state insurance Exchanges, established pursuant to the federal healthcare law, cannot offer policies that provide abortion coverage within the Exchanges, except in cases of life endangerment, rape, or incest.
- Health insurance funds for state employees may not be used for insurance coverage of abortion unless an abortion is necessary to preserve the life or physical health of the mother.
- Mississippi offers “Choose Life” and “We Love Life” specialty license plates, the proceeds of which benefit organizations providing abortion alternatives.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- The killing of an unborn child at any stage of gestation is a form of homicide.
- Mississippi defines a nonfatal assault on an unborn child as a criminal offense.
- Further, Mississippi law also provides that an attack on a pregnant woman resulting in a stillbirth or miscarriage is a criminal assault.
- Mississippi authorizes a wrongful death (civil) action when an unborn child (after quickening) is killed through violence or negligence.
- It has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Mississippi law protects the anonymity of the parent relinquishing a newborn under the state’s infant abandonment statute.

BIOETHICS LAWS

- Mississippi maintains no laws regarding human cloning, destructive embryo research, fetal experimentation, assisted reproductive technologies, or human egg harvesting.
- It promotes ethical forms of research through an umbilical cord blood banking program.
- In each of the last four years, Mississippi has enacted appropriations measures prohibiting state funds from being used in research in which a human embryo is killed or destroyed.

PATIENT PROTECTION LAWS

- In Mississippi, suicide by physician is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- The Mississippi Healthcare Rights of Conscience Act, based on AUL model legislation, provides comprehensive freedom of conscience protection for healthcare providers, institutions, and insurance companies (including pharmacists and pharmacies) who conscientiously object to participating in any healthcare service including abortion.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Mississippi protects the civil rights of all healthcare providers who conscientiously object to participating in any healthcare services, including destructive embryo research and human cloning.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Mississippi has a law, conditioned on *Roe* being overturned, that makes abortion illegal which may be enforceable. If not, abortion will be legal up to 20 weeks of pregnancy.

RECOMMENDATIONS

FOR MISSISSIPPI

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Component of the Child Protection Act providing remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- State Constitutional Amendment (providing that there is no state constitutional right to abortion)

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



Missouri | RANKING 8

Missouri continues to be a leader in protecting women and their children from the harms inherent in abortion. It maintains comprehensive informed consent and parental involvement requirements, has some of the most stringent limits on abortion funding in the nation, and recently passed a law that would prohibit abortion should *Roe v. Wade* be overturned. However, the state provides little protection to human embryos outside the womb, having amended its state constitution to allow cloning for biomedical research.

ABORTION

- In 2019, Missouri passed a conditional law that would prohibit abortion should *Roe v. Wade* be overturned.
- The Missouri Legislature has found that “a new genetically distinct human being is formed” at conception.
- It has also declared that Missouri will “[d]efend the right to life of all humans, born and unborn” and it will “[r]egulate abortion to the full extent permitted.”
- Missouri has a post-viability abortion ban that allows an abortion only when the life of the mother is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. The law also requires a determination of gestational age according to specified standards, includes specific reporting requirements, and requires a second physician to concur that an abortion is “medically necessary.”
- Missouri also passed an 8-week, 14-week, 18-week, and 20-week ban, the last of which is based on the unborn child’s ability to feel pain.
- As applied to its abortion-related laws, Missouri maintains a narrow definition of “medical emergency.” A medical emergency is found to exist only in situations where a woman’s life or a “major bodily function” is at risk.
- Missouri prohibits partial-birth abortion.
- Missouri prohibits sex-selection abortions, abortions based on the race of the child, and abortions based on a diagnosis or potential diagnosis of Down syndrome.
- At least 72 hours prior to the abortion procedure, the woman must be given information about the physician who will perform the abortion, the description of the abortion method, the gestational age and anatomical and physiological characteristics of her unborn child, and information on resources available to assist her in bringing her child to term. The law also requires that she be informed that abortion ends the “life of a separate, unique, living human being.”

- Women must be informed of the short- and long-term medical risks that may result from the abortion procedure, including infection, hemorrhage, and uterine perforation, as well as potential psychological effects.
- Women must also be given printed materials that must include information on fetal pain at various stages of development.
- Abortion providers must offer an ultrasound to every woman seeking an abortion.
- An abortion facility must provide a woman with confidential access to a telephone and a list of protective resources if she indicates that she is being coerced by a third party into seeking an abortion.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the informed, written consent of one parent or guardian unless there is a court order. The consenting parent must notify any remaining custodial parents in writing. Further, only a parent or guardian can transport a minor across state lines for an abortion.
- Missouri requires abortion facilities to meet the same health and safety standards as facilities performing other surgeries in an ambulatory setting, including regulations prescribing the physical design and layout for facilities that perform surgical abortions and a requirement that abortion providers at ambulatory surgical centers have privileges to perform surgical procedures at a licensed hospital in the community. These two regulations are in ongoing litigation.
- Missouri requires annual, on-site and unannounced inspections of abortion clinics.
- Only physicians licensed by the state, practicing in Missouri, and having surgical privileges at a hospital within a 30-mile radius of the facility where the abortion is performed and that offers obstetrical or gynecological care may perform abortions. The Eighth Circuit has upheld this requirement.
- Missouri law provides that no person shall perform or induce a “medical abortion” unless such person has proof of medical malpractice insurance with coverage amounts of at least \$500,000.
- Missouri 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 and requires abortion providers to report short-term complications.
- Missouri requires that the initial dose in an abortion-inducing drug regimen be administered in the presence of a physician. The physician or an agent of the physician must also make all reasonable efforts to ensure that the woman comes back for a follow-up appointment.
- Missouri follows the federal standard for Medicaid funding for abortions, 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.
- Missouri law provides that it is unlawful for any public funds to be expended for the purpose of performing or assisting an abortion not necessary to save the life of the mother or for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.
- It has an extensive list of additional limitations on abortion funding including the following: public facilities may not be used for performing, assisting in, or counseling a woman on abortion unless it is necessary to preserve her life; a state employee may not participate in an abortion; no school district or charter school or personnel or agents of these schools may provide abortion services or permit

instruction by providers of abortion services; family planning services may not include abortions unless it is certified by a physician that the life of the mother is in danger; Missouri Alternatives to Abortions Services Program funding may not be granted to organizations or affiliates of organizations that perform or induce, assist in the performance or induction of, or refer for abortions; research grants may not be used in research projects that involve abortion services, human cloning, or prohibited human research and cannot share costs with another prohibited study; and no money from the legal expense fund may be used to defend abortion.

- Insurance companies participating in the state insurance Exchanges established pursuant to the federal healthcare law cannot offer policies that provide abortion coverage, except in cases of life endangerment.
- Private health insurance policies are prohibited from including coverage for abortion unless an abortion is necessary to preserve the life of the woman or an optional rider is purchased. Missouri also prohibits abortion coverage for state employees except in cases of life endangerment. Further, Missouri protects individual and group insurance consumers from paying for insurance coverage that violates their moral or religious beliefs.
- State health insurance for uninsured children cannot be used to encourage, counsel, or refer for abortions, with exceptions for life endangerment or in cases of rape or incest.
- Missouri provides direct taxpayer funding to pregnancy resource centers and prohibits organizations that receive this funding from using those funds to provide abortion counseling or to make referrals for abortion.
- Missouri also provides tax credits for donations to pregnancy resource centers that do not perform or refer women for abortions.
- Missouri has appropriated federal and state funds for women “at or below 200 percent of the Federal Poverty Level” to be used to encourage women to carry their pregnancies to term, to pay for adoption expenses, and/or to assist with caring for dependent children.
- Missouri 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

- Missouri has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Under Missouri law, the killing of an unborn child at any stage of development is defined as a form of homicide.
- Missouri has enacted AUL’s Pregnant Woman’s Protection Act, which provides an affirmative defense to women who use force to protect their unborn children from criminal assaults.
- It allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Missouri 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 funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- In November 2006, Missouri voters approved a ballot initiative amending the state constitution to allow cloning for biomedical research (while banning cloning to produce children) and destructive embryo research. This constitutional amendment may mean that the state's ban on public funding relates only to cloning-to-produce-children, making it a "clone-and-kill" state.
- Missouri's prohibition on fetal experimentation applies only to a fetus aborted alive.
- Missouri has created a program funding the establishment of umbilical cord blood banks. The state Department of Health and Senior Services is required to post resources regarding umbilical cord blood on its website including information on the potential value and uses of cord blood. State law authorizes a licensed physician giving care to a pregnant woman to provide information about this website.
- Missouri maintains no laws regarding assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In Missouri, suicide by physician constitutes manslaughter.
- Missouri has established a Missouri Palliative Care and Quality of Life Interdisciplinary Council, in order to improve quality and delivery of patient-centered and family-focused care. Missouri also established a "Palliative Care Consumer and Professional Information and Education Program" with a stated purpose of maximizing the effectiveness of palliative care and ensuring that comprehensive and accurate information about palliative care is available to the public, healthcare providers, and healthcare facilities.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician, nurse, midwife, or hospital is not required to admit or treat a woman for the purpose of abortion if such admission or treatment is contrary to religious, moral, or ethical beliefs or established policy. Protection is also provided to medical and nursing students.
- A law requiring insurance coverage for obstetrical and gynecological care provides: "Nothing in this chapter shall be construed to require a health carrier to perform, induce, pay for, reimburse, guarantee, arrange, provide any resources for, or refer a patient for an abortion."

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Missouri 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?

- Missouri has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS FOR MISSOURI

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Component of the Child Protection Act mandating evidence retention
-

INFANTS' PROTECTION ACT PRIORITIES

- Unborn Infants Dignity Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Law criminalizing nonfatal assaults on the unborn

BIOETHICS

- Assisted Reproductive Technologies Disclosure and Risk Reduction Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Montana | RANKING 43

Montana state courts have held that the state constitution provides a broader “right” to abortion than that interpreted in the federal constitution, making it difficult for the state to enact comprehensive, commonsense regulations that protect maternal health.

ABORTION

- State courts have held that the Montana Constitution provides a broader right to abortion than that interpreted in the U.S. Constitution. Under the auspices of these decisions, several state laws have been declared unconstitutional, including laws limiting taxpayer funding for abortions, requiring parental notice prior to a minor undergoing an abortion, requiring a 24-hour reflection period prior to an abortion, mandating that state-prepared informed consent information be offered to a woman prior to an abortion, and requiring that only a licensed physician perform an abortion.
- Montana prohibits partial-birth abortion performed after viability.
- Montana requires one parent be notified 48 hours in advance if the minor seeking the abortion is under 16. In 2013, the state passed a law requiring notarized written consent of a parent or legal guardian as well as proof of identification and relationship. The written consent requirement is permanently enjoined.
- A Montana law requires that licensed physicians or physician assistants perform abortions. The law is enjoined and in ongoing litigation.
- Montana 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.
- Montana taxpayers are required by court order to fund “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.
- Montana maintains a Freedom of Clinic Access (FACE) law, making it a crime to block access to an abortion facility and restricting how close sidewalk counselors and demonstrators can be to the facility.
- “Choose Life” license plates are expected to be available in the future.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Montana law does not affirmatively protect infants born alive during botched abortions.
- Under Montana law, a person commits an offense if he “purposefully, knowingly, or negligently causes the death of a premature infant born alive, if such infant is viable.”
- Montana permits the prosecution of a third party who intentionally kills an unborn child who has reached at least eight weeks development.

- Montana allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Montana has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- Specific professionals are required to report any infant affected by drug exposure.
- Montana maintains a measure allowing a woman who loses a child after 20 weeks’ gestation to obtain a Certificate of Birth Resulting in Stillbirth.

BIOETHICS LAWS

- Montana only prohibits cloning to produce children, making it a “clone-and-kill” state since it does not prohibit cloning-for-research.
- Montana’s prohibition on fetal experimentation applies only to children born alive (i.e., it does not apply to aborted fetuses).
- Montana does not prohibit destructive embryo research, promote ethical forms of research, and maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- The Montana Supreme Court has stated that it finds nothing in Montana Supreme Court precedent or state statutes indicating that suicide by physician is against public policy—thus potentially paving the way for suicide by physician in the state.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- On the basis of religious or moral beliefs, an individual, partnership, association, or corporation may refuse to participate in an abortion or to provide advice concerning abortion.
- A private hospital or healthcare facility is not required, contrary to religious or moral tenets, stated religious beliefs, or moral convictions, to admit a woman for an abortion or to permit the use of its facilities for an abortion.
- Montana has a “contraceptive equity” requirement, meaning that health insurance coverage must include coverage for contraception. There is no conscience exemption for employers or insurers with a religious or moral objection to contraception.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Montana 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 up to at least viability due to a state court decision.

RECOMMENDATIONS

FOR MONTANA

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 Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act
-

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 Management Education Act
-

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 (to protect a child from conception)
- 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

END-OF-LIFE

- Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Nebraska | RANKING 21

Nebraska maintains a number of laws and regulations protecting women and unborn children, including a limitation on abortion at 5 months (i.e., 20 weeks) development, a prohibition on “webcam abortions,” and a law defining the killing of an unborn child at any stage of gestation as homicide. Nebraska has also taken steps to prevent taxpayer funding of abortion.

ABORTION

- Nebraska prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- Nebraska prohibits the dilation and evacuation (dismemberment) abortion procedure.
- Under Nebraska law, a physician may not perform an abortion on a woman until at least 24 hours after counseling the woman on the risks of abortion, the risks of continued pregnancy, and the probable gestational age of the unborn child. Nebraska also provides materials describing the development of the unborn child, the medical and psychological risks of abortion, available state benefits, and public and private agencies offering alternatives to abortion. In 2019, Nebraska added a requirement that the woman be told of and given information on the possibility of reversing the effects of a chemical abortion.
- The provision of informed consent and state-prepared materials must include information on perinatal hospice. In 2017, Nebraska passed the Perinatal Hospice Information Act, based on AUL model legislation, which requires that provision of informed consent and state-prepared materials include information on perinatal hospice.
- An abortion provider who conducts an ultrasound prior to performing an abortion must display the ultrasound image of the unborn child so that the woman may see it.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written, notarized consent of one parent, unless there is a medical emergency or the minor obtains a court order. If the minor is a victim of rape, incest, or abuse by a parent, she may obtain the consent of a grandparent.
- Nebraska prohibits coercing a woman to have an abortion and provides that such coercion is a Class III misdemeanor.
- Nebraska mandates minimum health and safety standards for abortion facilities which, at any point during a calendar year, perform ten or more abortions during a single calendar week. The regulations prescribe medically appropriate standards for the building or facility, staffing, and medical testing of clinic employees.
- Only physicians licensed by the State of Nebraska may perform abortions.
- Nebraska 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 and requires abortion providers to report short-term complications.

- Nebraska prohibits so-called “webcam abortions” by requiring that a physician be present in the same room with a patient when he/she performs, induces, or attempts to perform or induce an abortion.
- Nebraska follows the federal standard for Medicaid funding for abortions, 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.
- State-funded prenatal services may not be used for abortion counseling, referral for abortion, or funding for abortion.
- No funds appropriated or distributed under the Nebraska Health Care Funding Act may be used for abortions, abortion counseling, or referrals for abortions.
- No funding from the Woman’s Health Initiative Fund may be used to pay for abortions.
- Nebraska prohibits organizations that receive public funds from using those funds to provide abortions, abortion counseling, or to make referrals for abortions.
- It prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment.
- Nebraska prohibits private insurance companies from covering abortion, except in cases of life endangerment. Further, group health insurance contracts or health maintenance agreements paid for with public funds may not include abortion coverage unless an abortion is necessary to preserve the life of a woman.
- Nebraska prohibits Federal Title X money to fund programs “where abortion is a method of family planning.” Programs cannot assist, provide counselling, or refer for abortion.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Nebraska law requires that “all reasonable steps, in accordance with the sound medical judgment of the attending physician, shall be employed to preserve the life of a child” who is born alive following an attempted abortion at any stage of development.
- Under Nebraska law, the killing of an unborn child at any stage of gestation is defined as a form of homicide. Nebraska law also provides penalties for the vehicular homicide of an unborn child.
- Nebraska criminalizes nonfatal assaults on an unborn child.
- State law maintains that any person who commits certain enumerated criminal offenses against a pregnant woman shall be punished by the imposition of the next higher penalty classification.
- Nebraska allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Nebraska has a “Baby Moses” law, prohibiting the criminal prosecution of someone who relinquishes a child to an on-duty hospital employee.
- It funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Nebraska does not prohibit human cloning or destructive embryo research, but it prohibits state facilities or funds from being used for human cloning or destructive embryo research.
- Nebraska prohibits experimentation only on infants aborted alive but does not prohibit experimentation on dead fetuses.
- Funds appropriated or distributed under the Nebraska Health Care Funding Act may not be used for research or activity using fetal tissue obtained from induced abortion or human embryonic stem cells or for the purpose of obtaining other funding for such use.
- Nebraska provides funding for ethical forms of stem-cell research.
- Nebraska does not regulate assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In Nebraska, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A person is not required to participate in an abortion.
- A hospital, institution, or other facility is not required to admit a woman for an abortion or to allow the performance of an abortion within its facility.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Nebraska 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal up to 20 weeks of pregnancy.

RECOMMENDATIONS

FOR NEBRASKA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Parental Involvement Enhancement Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Prohibition on wrongful birth and wrongful life lawsuits
- 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



Nevada | RANKING 35

Nevada enacted a Freedom of Choice Act in 1990, providing for a legal right to abortion in the state even if *Roe v. Wade* is eventually overturned. As a result, it continuously fails to enact commonsense, protective laws designed to protect women and unborn children from the harms inherent in abortion. Further, emerging and unethical biotechnologies are completely unregulated in Nevada.

ABORTION

- Nevada maintains a Freedom of Choice Act. It mandates a legal right to abortion even if *Roe v. Wade* is eventually overturned, specifically providing that abortions may be performed within 24 weeks after the commencement of a pregnancy. Because Nevada voters approved a ballot initiative providing this state “right” to abortion, the statute will remain in effect and cannot be amended, repealed, or otherwise changed except by a direct vote of the people.
- A physician may not perform an abortion on a woman until after the physician or other qualified person informs her of the probable gestational age of her unborn child, describes the abortion procedure to be used and its risks. The requirement the physician explain the physical and emotional consequences of abortion as well as the consequences of the particular procedure to be used was removed in 2019.
- Nevada’s parental notification law prohibits a physician from performing an abortion on an unemancipated minor under the age of 18 until notice had been given to one parent or a court order had been secured. The law was declared unconstitutional.
- Only physicians licensed by the State of Nevada or employed in the United States and using accepted medical practices and procedures may perform abortions. Chiropractic physicians and osteopathic medical professionals are explicitly prohibited from performing abortions.
- Nevada has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC).
- Nevada follows the federal standard for Medicaid funding for abortions, 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.
- Nebraska 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

- Under Nevada law, all reasonable steps must be taken to preserve the life and health of an infant “whenever an abortion results in the birth of an infant capable of sustained survival by natural or artificial supportive systems.”

- Nevada criminal law defines the killing of an unborn child after “quickening” (discernible movement in the womb) as a form of homicide.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Nevada defines substance abuse during pregnancy as “child abuse” under civil child welfare statutes.

BIOETHICS LAWS

- Nevada does not ban human cloning, destructive embryo research, or fetal experimentation, nor does it promote ethical forms of research.
- It does not regulate assisted reproductive technologies or human egg harvesting.
- In 2013, Nevada enacted a measure permitting gestational surrogacy.

PATIENT PROTECTION LAWS

- The legal status of suicide by physician in Nevada is undetermined. It has not enacted a specific statute prohibiting suicide by physician, and it does not recognize common law crimes (including suicide by physician). Further, there is no judicial decision stating whether suicide by physician is a form of homicide under Nevada’s general homicide laws.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Except in a medical emergency, an employer may not require a nurse, nursing assistant, or other employee to participate directly in the performance of an abortion if that person has previously signed and provided a written statement indicating a religious, moral, or ethical basis for conscientiously objecting to participation in abortions.
- Except in a medical emergency, a private hospital or licensed medical facility is not required to permit the use of its facilities for the performance of an abortion.
- Health plans providing prescription coverage must provide coverage for contraception. A conscience exemption applies to certain insurers affiliated with religious organizations.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Nevada 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal throughout pregnancy.

RECOMMENDATIONS

FOR NEVADA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Reflection period before abortion
 - 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
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

- Repeal 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

- Crimes Against the Unborn Child Act (protecting an unborn child from conception)
- 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

END OF LIFE

- Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



New Hampshire | RANKING 36

New Hampshire allows abortions to be performed after viability, does not protect children born alive during attempted abortions, and does not maintain any informed consent or parental notification requirements. Moreover, it is one of only four states that do not protect the conscience rights of healthcare professionals, and one of only three states that does not have an abortion reporting system.

ABORTION

- New Hampshire law allows abortions after viability, even in cases where the mother's life or health is not endangered.
- New Hampshire prohibits partial-birth abortion from viability.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until at least 48 hours after written notice has been delivered to one parent, except when there is a medical emergency or when the minor obtains a court order.
- New Hampshire follows the federal standard for Medicaid funding for abortions, 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.
- New Hampshire enacted a measure creating a "buffer zone" around abortion clinics, hampering the First Amendment speech rights of sidewalk counselors seeking to offer assistance to women entering or leaving abortion facilities. However, following litigation, the law is not being enforced.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- New Hampshire law does not affirmatively protect infants born alive during botched abortions.
- New Hampshire criminalizes the killing of an unborn child outside the context of abortion, when the child has attained 20 weeks or more gestation. It also provides that an attack on a pregnant woman which results in a stillbirth or miscarriage is a criminal assault.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- New Hampshire has a "Baby Moses" law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- New Hampshire has approved stillbirth certificates from 20 weeks' gestation.

BIOETHICS LAWS

- New Hampshire does not ban human cloning, destructive embryo research, or fetal experimentation.
- It does not promote ethical forms of research.

- New Hampshire has enacted regulations applicable to practitioners and participants in assisted reproductive technologies.

PATIENT PROTECTION LAWS

- In New Hampshire, assisting suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- New Hampshire currently provides no protection for the freedom of conscience of healthcare providers.
- New Hampshire law requires group or blanket health insurance policies issued or renewed by insurers, health service corporations, and health maintenance organizations to provide coverage for contraceptives if they otherwise provide coverage for outpatient services or other prescription drugs. The law contains no conscience exemptions for religious or other employers with ethical or moral objections to contraception.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- New Hampshire 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal throughout pregnancy.

RECOMMENDATIONS

FOR NEW HAMPSHIRE

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 Consent for Abortion Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

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)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

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



New Jersey | RANKING 49

New Jersey is one of the most dangerous states for women and their unborn children. It provides no meaningful protection for women considering abortion or for unborn victims of violence. Further, it directly supports the destruction of human life by permitting destructive embryo research, cloning for biomedical research, and funding for unethical forms of research.

ABORTION

- The New Jersey Supreme Court has ruled that the state constitution provides a broader right to abortion than that interpreted in the U.S. Constitution. Pursuant to this ruling, the New Jersey Supreme Court has struck down the state's parental notification requirement and restrictions on the use of taxpayer funds to pay for abortions.
- New Jersey does not have an informed consent law or an enforceable parental involvement law.
- New Jersey requires that abortions after the first trimester be performed in licensed ambulatory care facilities or hospitals.
- Only physicians licensed to practice medicine and surgery in New Jersey may perform abortions.
- New Jersey 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.
- Under the State Health Benefits plan, any contracts entered into by the State Health Benefits Commission must include coverage of abortion.
- New Jersey 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

- New Jersey law does not affirmatively protect infants born alive during attempted abortions.
- New Jersey law does not recognize an unborn child as a potential victim of homicide or assault.
- It allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- New Jersey 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.

BIOETHICS LAWS

- New Jersey prohibits cloning to produce children, but not cloning for biomedical research, making it a “clone-and-kill” state.

- It allows and funds destructive embryo research and does not prohibit fetal experimentation.
- General hospitals are to advise every pregnant patient of the option to donate umbilical cord blood or placental tissue. Healthcare professionals are to provide pregnant women with state-prepared materials on umbilical cord blood donation and storage “as early as practicable” and preferably in the first trimester of pregnancy.
- State funding earmarked for “stem cell research” may be available for adult stem-cell research.
- While New Jersey does not maintain any meaningful regulation of assisted reproductive technologies, state law requires that informed consent materials include information on embryo donation.

PATIENT PROTECTION LAWS

- In 2019, New Jersey passed legislation legalizing suicide by physician.
- It has enacted a “bill of rights” for patients/residents of healthcare facilities including the right for competent patients/residents to refuse treatment.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A person is not required to perform or assist in the performance of an abortion.
- A hospital or healthcare facility is not required to provide abortions. The New Jersey Supreme Court has determined that the law does not apply to nonsectarian or nonprofit hospitals.
- New Jersey requires individual, group, and small-employer health insurance policies, medical or hospital service agreements, health maintenance organizations, and prepaid prescription service organizations to provide coverage for contraceptives if they also provide coverage for other prescription drugs. The provision includes a conscience exemption so narrow it precludes the ability of most employers and insurers with moral or religious objections from exercising it.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- New Jersey 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

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

RECOMMENDATIONS

FOR NEW JERSEY

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
 - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

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
-

PATIENT PROTECTION ACT PRIORITIES

- Joint Resolution Opposing Suicide by Physician
 - Charlie Gard Act (formerly the Life Sustaining Care Act)
 - Pain Management Education Act
 - Repeal the 2019 law enacting suicide by physician
-

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



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.
- 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion may be limited throughout pregnancy based on existing law with some exceptions that was enacted in 1969.

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
-

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)
-

PATIENT PROTECTION ACT PRIORITIES

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

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



New York | RANKING 45

New York recently eviscerated its laws concerning abortion. It also fails to limit or effectively regulate destructive embryo research and similar technologies.

ABORTION

- The due process provision of the New York Constitution was interpreted as protecting a woman's right to an abortion.
- In 2019, New York passed the Reproductive Health Act which states that “[e]very individual who becomes pregnant has the fundamental right to choose to carry the pregnancy to term, to give birth to a child, or to have an abortion.” It also prevents New York from “interfer[ing] with the exercise of [this right].”
- New York expanded the scope of individuals allowed to perform abortions to licensed health care practitioners “acting within his or her lawful scope of practice.”
- It is no longer manslaughter if an abortion procedure is performed on a woman which causes her death.
- It 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 York taxpayers are required by statute to fund “medically necessary” abortions for women receiving public assistance. This 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.
- New York provides funding to pregnancy resource centers and other abortion alternatives.
- New York maintains the crime of “aggravated interference with health care services” in the first and second degrees. The statute provides, in pertinent part, that “a person is guilty of the crime of aggravated interference with health care services... when he or she... causes physical injury to such other person who was obtaining or providing, or was assisting another person to obtain or provide reproductive health services.”

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- New York law states that the “opportunity to obtain medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant born spontaneously.”
- New York has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- It funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- New York does not prohibit human cloning, destructive embryo research, or fetal experimentation.
- New York maintains a state board that disburses state monies for destructive embryo research. The monies may not fund cloning to produce children.
- New York does not regulate assisted reproductive technologies.
- New York is the first state to fund the dangerous procedure of human egg harvesting.

PATIENT PROTECTION LAWS

- New York expressly prohibits suicide by physician, which is defined as a form of manslaughter. This prohibition has been upheld by the U.S. Supreme Court and the state's highest appeals court.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A person who objects in writing and on the basis of religious beliefs or conscience is not required to perform or assist in an abortion.
- Staff members of the state Department of Social Services may refuse to provide family planning services if it conflicts with their cultural values, conscience, or religious convictions.
- Health plans that provide prescription coverage must provide coverage for contraception. The provision includes a conscience exemption so narrow it precludes the ability of most employers and insurers with moral or religious objections from exercising it.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- New York 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal throughout pregnancy.

RECOMMENDATIONS

FOR NEW YORK

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
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act
-

PATIENT PROTECTION ACT PRIORITIES

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

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
- Repeal the 2019 law that forces insurance providers to cover abortifacients



North Carolina | RANKING 28

North Carolina has taken steps to protect the health and welfare of women and unborn children including the enactment of a prohibition on sex-selection abortions and an informed consent law. It protects unborn victims of violence from conception until birth. However, North Carolina maintains no laws regarding human cloning or destructive embryo research and the status of suicide by physician is unclear. A lawsuit was filed in 2020 targeting several regulations, including the 72-hour waiting period, physicians-only requirement, and the ban on telehealth for medication abortions.

ABORTION

- North Carolina prohibits abortions at 5 months (i.e., 20 weeks) gestation. The law is enjoined and in ongoing litigation.
- North Carolina prohibits sex-selection abortions.
- A physician may not perform an abortion on a woman until at least 72 hours after the woman has been informed of particular medical risks associated with the proposed abortion procedure to be employed (including psychological risks), the probable gestational age of her unborn child, medical risks associated with carrying her child to term, whether the physician who is to perform the abortion has liability insurance for malpractice, the location of the hospital that offers obstetrical or gynecological care located within 30 miles of the location where the abortion is performed or induced and at which the physician performing or inducing the abortion has clinical privileges, and if the physician performing the abortion does not have local hospital admitting privileges. Additional information about medical assistance benefits, alternatives to abortion, and the father's liability for child support must also be provided.
- An abortion provider must perform an ultrasound at least four hours before a woman has an abortion. Portions of the law requiring the display and explanation of the ultrasound image were challenged and invalidated, but the provision mandating the ultrasound itself has not been challenged.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written consent of one parent or a grandparent with whom the minor has lived for at least six months, unless there is a medical emergency or the minor obtains a court order.
- North Carolina has enacted comprehensive regulations establishing minimum health and safety standards for abortion clinics. Among the areas regulated are clinic administration, staffing, patient medical evaluations, and post-operative care.
- In 2013, the state Department of Health was given discretion to apply ambulatory surgical center standards to abortion facilities.
- Only physicians licensed to practice medicine in North Carolina may perform abortions. The physician must be present during the performance of the entire (surgical) abortion procedure.
- A physician must be present during the administration of the first drug in an abortion-inducing drug regimen.

- North Carolina 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.
- North Carolina follows the federal standard for Medicaid funding for abortions, 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.
- North Carolina prohibits abortion coverage for public employees except in cases of life endangerment, rape, or incest.
- It has limited funding for abortion through the health insurance plans offered through the health insurance Exchanges required by the federal healthcare law or offered through local governments.
- North Carolina offers “Choose Life” license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- North Carolina law does not affirmatively protect infants born alive during botched abortions.
- North Carolina protects unborn victims of violence from conception until birth. Lily’s Law provides that the crime of homicide also includes situations where a child is born and dies from injuries received in utero.
- North Carolina defines a criminal assault on a pregnant woman that results in miscarriage, stillbirth, or “damage to pregnancy” as an enhanced offense for sentencing purposes.
- It allows for a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- North Carolina has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- It funds drug treatment programs for pregnant women and newborns.
- North Carolina prohibits the sale of the remains of an unborn child resulting from an abortion or miscarriage. The law defines “sell” to mean the transfer of any consideration, but does not include payment for incineration, burial, or cremation services.
- North Carolina requires the mother’s informed written consent for the donation of the remains of an unborn child after a spontaneous abortion or miscarriage. Her consent must be obtained prior to the donation and must be separate from any other prior consent.

BIOETHICS LAWS

- North Carolina maintains no laws regarding human cloning, destructive embryo research, fetal experimentation, assisted reproductive technologies, or human egg harvesting.
- North Carolina requires the state Department of Health and Human Services to make publicly available publications on umbilical cord stem cells and umbilical cord-blood banking. The Department also encourages healthcare professionals to provide the publications to their pregnant patients.

PATIENT PROTECTION LAWS

- North Carolina's treatment of suicide by physician is unclear. While the state has statutorily adopted the common law of crimes, it has also abolished the common law crime of suicide. Suicide by physician may still be a common law crime.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- An individual healthcare provider who objects on religious, moral, or ethical grounds is not required to participate in abortions.
- A hospital or other healthcare institution is not required to provide abortions.
- North Carolina provides some protection for the conscience rights of pharmacists and pharmacies.
- Health insurance plans that provide prescription coverage must also provide coverage for contraception. The provision includes a conscience 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

- North Carolina 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 up to 20 weeks of pregnancy.

RECOMMENDATIONS

FOR NORTH CAROLINA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

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)
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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

END OF LIFE

- Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



North Dakota | RANKING 12

North Dakota maintains strong legal protections for women considering abortion including a prohibition on abortions at or after 5 months (i.e., 20 weeks) development, comprehensive informed consent requirements, an admitting privileges requirement for abortion providers, and funding for organizations that promote abortion alternatives. In addition, North Dakota is one of only a handful of states that effectively prohibits human cloning for all purposes.

ABORTION

- North Dakota has enacted a measure prohibiting abortion should *Roe v. Wade* be overturned.
- North Dakota prohibits abortion at 5 months (i.e., 20 weeks) gestation.
- North Dakota prohibits sex-selection abortions or because the child has been diagnosed with a genetic abnormality.
- North Dakota prohibits partial-birth abortion.
- North Dakota has a dismemberment ban whose effective date is conditioned on the right to regulate abortion being returned to the states.
- North Dakota passed a law prohibiting an abortion when the unborn child has a detectable heartbeat, as early as 6 weeks gestation. The law is permanently enjoined.
- A physician may not perform an abortion on a woman until at least 24 hours after the woman has been informed of the medical risks associated with abortion, the medical risks of carrying the pregnancy to term, the probable gestational age of the unborn child, state assistance benefits, the father's legal obligations, the availability of state-prepared information on the development of the unborn child, and a list of agencies that offer alternatives to abortion. A woman must also be informed that "the abortion will terminate the life of a whole, separate, unique, living human being" and be provided information about the abortion-breast cancer link.
- In 2019, North Dakota added a requirement that the woman be informed of the possibility of reversing the effects of a chemical abortion.
- Abortion providers must offer a woman the opportunity to view an ultrasound image of her unborn child.
- A physician may not perform an abortion on an unmarried minor under the age of 18 without the written consent of both parents (or the surviving parent, custodial parent, or guardian), unless there is a medical emergency or the minor obtains a court order.
- North Dakota prohibits anyone from coercing a woman into an abortion. Further, abortion facilities must post a notice stating that no one can force a woman to have an abortion. In addition, North Dakota has enhanced the penalties for sex traffickers who coerce or force their victims to undergo abortions.
- Only physicians licensed to practice medicine or osteopathy in North Dakota or employed in the United States may perform abortions.

- North Dakota also requires abortion providers to have admitting privileges at a local hospital and to be board certified in obstetrics/gynecology, and abortion facilities must also obtain and maintain a transfer agreement with a local hospital to assist in the treatment of abortion-related complications. Further, clinics must have at least one staff member trained in cardiopulmonary resuscitation.
- North Dakota has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). A physician performing an abortion must report the post-fertilization age of the aborted child. The measure applies to both surgical and nonsurgical abortions.
- North Dakota regulates the provision of abortion-inducing drugs by requiring that the administration satisfy protocols approved by the U.S. Food & Drug Administration (FDA) and that the drugs be administered by or in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient (thereby prohibiting “webcam abortions”). An abortion provider’s challenge to the law failed in the North Dakota Supreme Court.
- North Dakota follows the federal standard for Medicaid funding for abortions, 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.
- North Dakota law also provides that no state funds or funds from any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used to pay for the performance of an abortion or for promoting the performance of an abortion unless it is necessary to prevent the death of the woman.
- State and federal funds for treatment and support services for victims of human trafficking may be used to refer for or counsel for family planning services, but may not be used to perform, refer for, or encourage abortion.
- No funds, grants, gifts, or services of an organization receiving funds distributed by the Children’s Services Coordinating Committee may be used for the purposes of direct provision of contraception services, abortion, or abortion referrals to minors.
- An abortion may not be performed in a hospital owned or operated by the state, unless the abortion is necessary to preserve the life of the woman.
- State health insurance contracts, policies, and plans must exclude coverage for abortion unless the abortion is necessary to preserve the woman’s life.
- Private insurance companies are also prohibited from covering abortions except in cases of life endangerment.
- North Dakota offers “Choose Life” license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- North Dakota has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive after viability.
- Under North Dakota criminal law, the killing of an unborn child at any stage of gestation is defined as homicide.

- North Dakota defines a nonfatal assault on an unborn child as a criminal offense.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- North Dakota requires healthcare professionals to report suspected prenatal drug exposure. In addition, healthcare professionals must test newborns for drug exposure when there is adequate suspicion of prenatal use by the mother.

BIOETHICS LAWS

- North Dakota prohibits both human cloning and fetal experimentation; however, it does not prohibit destructive embryo research.
- North Dakota allows healthcare professionals to inform pregnant patients of options relating to umbilical cord blood, and hospitals are to allow pregnant patients to arrange for such donations.
- The Uniform Parentage Act includes “donation of embryos” in its definition of “assisted reproduction.” However, North Dakota does not maintain meaningful regulations of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- In North Dakota, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A hospital, physician, nurse, hospital employee, or any other person is not under a legal duty or contractual obligation to participate in abortion.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- North Dakota 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- North Dakota has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS

FOR NORTH DAKOTA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act (for a pre-viable child)
 - Unborn Infants Wrongful Death Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Pregnant Woman's Protection Act

BIOETHICS

- Promotion of ethical forms of medical research

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Ohio | RANKING 19

Ohio maintains fairly comprehensive protections for women considering abortions and their unborn children, and it was the first state to regulate the provision of abortion-inducing drugs. However, it maintains no protective laws regarding human cloning or destructive embryo research.

ABORTION

- Ohio prohibits abortion at 5 months (i.e., 20 weeks) gestation.
- A post-viability abortion is only permitted when necessary to avoid the death of the pregnant woman or there is a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman. Two physicians must verify the medical necessity.
- In 2019, Ohio passed legislation prohibiting abortion when a fetal heartbeat has been detected except when a medical procedure is necessary to prevent the death of the woman or prevent the serious risk of “substantial and irreversible impairment of a major bodily function.” The law is enjoined and in ongoing litigation.
- Ohio prohibits the performance of an abortion if the woman is seeking it because the child is diagnosed with or may have Down syndrome. The law is enjoined and in ongoing litigation.
- Ohio prohibits partial-birth abortion.
- Ohio prohibits the dismemberment abortion procedure. Portions of the law are enjoined and in ongoing litigation.
- A physician may not perform an abortion on a woman until at least 24 hours after the physician informs her of the nature of the proposed abortion procedure and its risks, the probable gestational age of the unborn child, and the medical risks of carrying the pregnancy to term. The physician must also provide state-prepared materials describing the development of the unborn child, public and private agencies providing assistance, state medical assistance benefits, and the father’s legal obligations.
- Ohio requires an abortion provider to first determine whether there is a fetal heartbeat. If one is detected, the abortion provider must wait 24 hours to perform the abortion and inform the woman in writing about the existence of the heartbeat and the statistical probability of bringing the baby to term based on the child’s developmental stage. The woman must be offered the opportunity to view the ultrasound or hear the heartbeat.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until receiving the consent of one parent or guardian unless there is a medical emergency or the minor obtains a court order. This does not apply if the minor is a member of the armed services or has “become independent from the care and control of her parent, guardian, or custodian.”
- Abortion facilities must post signs informing a woman that no one can force her to have an abortion.

The law increases the penalty for domestic violence if the offender knew the woman was pregnant, while also permitting the recovery of compensatory and exemplary damages when mandatory reporters fail to report suspected coercive abuse.

- Ohio licenses and regulates abortion facilities as a subset of ambulatory surgical centers. They are required to maintain emergency transfer agreements with a local hospital.
- Ohio limits the performance of abortions to licensed physicians.
- Ohio 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 and requires abortion providers to report information such as the woman's age, the gestational age of the unborn child, and complications.
- Ohio has a law regulating the provision of RU-486 and creating criminal penalties for those providing the drug without following Food & Drug Administration (FDA) guidelines. The law also requires abortion providers to inform the state medical board whenever RU-486 leads to "serious complications."
- Ohio follows the federal standard for Medicaid funding for abortions, 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.
- Ohio maintains a "tiering system" for the allocation of family planning funding including funding for which abortion providers might be eligible. Under the system, first priority for funding is given to public entities that are operated by state or local government entities. Most abortion providers fall into the lowest priority category of this system.
- Ohio law also provides that state or local public funds shall not be used to subsidize abortions, except in cases of life endangerment, rape, or incest.
- Several state funding sources include abortion-related limitations. For example, women's health services grants may not be used to provide abortion services and may not be used for counseling or referrals for abortions, except in cases of medical emergency. Services using these grants must be physically and financially separate from abortion-providing and abortion-promoting activities. In addition, generic services funds may not be used to counsel or refer for abortions, except in cases of medical emergency, and the Breast Cancer Fund of Ohio may not use money for abortion information, counseling, or services, or for any abortion-related activities.
- State employee health insurance may not provide coverage for abortion unless the abortion is necessary to preserve the woman's life, the pregnancy is the result of rape or incest, or an additional premium is paid for an optional rider.
- Ohio 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

- Ohio law states that "[n]o person shall purposely take the life of a child born by attempted abortion who is alive when removed from the uterus of the pregnant woman." The failure to provide medical care or the active taking of life is a first-degree felony.

- Under Ohio criminal law, the killing of an unborn child at any stage of gestation is homicide, and it defines a nonfatal assault on an unborn child as a crime.
- Ohio allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act. In 2019, Ohio expanded the instances in which a woman could file an action for the wrongful death of her unborn child.
- Ohio has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- It funds drug treatment programs for pregnant women and newborns.
- Under the Grieving Parents Act, the state permits a fetal death certificate and burial after the death of an unborn child.

BIOETHICS LAWS

- Ohio maintains no laws regarding human cloning or destructive embryo research.
- Ohio prohibits experimentation on or the selling of aborted fetuses.
- The Ohio Department of Health has been directed to place printable information about umbilical cord blood banking and donation on its website. It also encourages healthcare professionals to provide this information to pregnant women.
- Ohio maintains no comprehensive regulations of assisted reproductive technologies or human egg harvesting but has enacted laws regarding the parentage of donated embryos.

PATIENT PROTECTION LAWS

- Assisting a suicide constitutes a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- No person is required to participate in medical procedures that result in an abortion.
- A hospital is not required to permit its facilities to be used for abortions.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Ohio 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 up to 20 weeks of pregnancy.

RECOMMENDATIONS

FOR OHIO

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

- Defunding the Abortion Industry and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



Oklahoma | RANKING 3

Protecting women and their unborn children remains a primary focus of Oklahoma legislators. Even in the face of threatened litigation by abortion advocates, Oklahoma continues to enact comprehensive and protective laws and regulations, counting it more important to protect women from a predatory abortion industry that values profits over women's lives and health.

ABORTION

- Oklahoma possesses an enforceable abortion prohibition should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified.
- Oklahoma prohibits abortions at or after 5 months of pregnancy (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- Oklahoma prohibits sex-selection abortions.
- Oklahoma prohibits partial-birth abortion.
- It also prohibits the dismemberment abortion procedure.
- Oklahoma requires that, 72 hours before an abortion, a woman receive counseling on the medical risks of abortion and pregnancy, the name of the physician performing the abortion, and the gestational age of the unborn child. The woman must also receive information on anatomical and physiological characteristics of fetuses at different stages of development and her right to receive state-prepared materials on potential government benefits, child support, and a list of support agencies and their services. A woman must also be informed that “[a]bortion shall terminate the life of a whole, separate, unique, living human being.” The reflection period is in ongoing litigation.
- Oklahoma has supplemented its informed consent requirements, mandating that women seeking abortions at 5 months gestation or later receive information about fetal pain.
- Oklahoma requires an ultrasound evaluation 72 hours prior to abortion for all patients who elect to have abortions. A woman at 6 weeks of gestation or later must be given an opportunity to hear the heartbeat of her unborn child.
- A woman considering abortion after a life-limiting diagnosis for her unborn child must receive information on perinatal hospice services at least 72 hours prior to the performance of the abortion.
- In 2019, Oklahoma passed legislation strengthening its informed consent requirements on chemical abortions. All clinics or facilities that provide mifepristone must put up a sign containing information on the possibility of reversing the effects of the drug. In addition, a woman who undergoes the chemical abortion must be informed at least 72 hours in advance, either over the telephone or in person, of the possibility of reversing the effects of the abortion. She must also be provided a written statement on reversing the effects of mifepristone after receiving the first dose.

- A physician may not perform an abortion on an unemancipated minor without the written, notarized consent of a parent or guardian. A parent or guardian must provide government-issued proof of identification, and the abortion provider must also sign a document attesting to the quality of the identification provided. Judicial bypass proceedings must be initiated in the county where the minor resides, and judges must consider certain enumerated factors in assessing the maturity of the minor and the specific circumstances of the case. In a medical emergency, abortion providers must notify a parent or guardian of the minor's abortion no less than 24 hours after the procedure, unless the minor obtains a judicial waiver. Oklahoma provides a civil cause of action for a minor (or her parent/guardian) if an abortion provider fails to comply.
- Oklahoma maintains a separate parental notice provision that does not include a judicial bypass procedure.
- Abortion facilities must post signs indicating that a woman cannot be coerced into an abortion.
- Oklahoma has amended its definition of "abortion" to include the use of abortion-inducing drugs. It has also amended the definition of "medical emergency" as applied to all of its abortion laws, narrowing the exception to exclude "mental health" and applying it only to cases where a physical condition could cause the major impairment of a bodily function or death.
- Oklahoma law mandates that abortion facilities comply with comprehensive health and safety standards, based in substantial part on AUL's Women's Health Defense Act. An additional requirement that abortions after the first trimester be performed in a hospital has been ruled unconstitutional.
- Only physicians licensed to practice medicine in Oklahoma may perform abortions.
- Oklahoma passed a law requiring that abortion providers must have admitting privileges at a general medicine surgical hospital within 30 miles of the abortion facility and must remain on the premises in order to facilitate the transfer of emergency cases until all abortion patients are stable and ready to leave the recovery room, but it is permanently enjoined.
- Abortion providers must report specific and detailed information about each abortion and abortion patient including aggregate information on the number of women receiving state abortion counseling materials and the number of abortions exempted from the counseling requirement because of a "medical emergency."
- In addition, abortion providers must report specific and detailed information regarding minors' abortions, including whether they obtained the mandatory parental consent, whether the minors sought judicial bypass of the consent requirement, and whether or not such bypass was granted. The requirements apply to both surgical and nonsurgical abortions, but do not require that any of this information be reported to the Centers for Disease Control (CDC).
- In 2013, Oklahoma amended its abortion reporting statute to require the provision of additional information including a screenshot of the ultrasound image. In 2014, it added a requirement that any incidents of injury or death must be reported to the state Board of Health.
- Oklahoma comprehensively regulates drug-induced abortions, which includes a requirement that physicians physically examine a woman before administering the drugs, as well as a requirement that the drugs be administered as restricted by the U.S. Food & Drug Administration (FDA). Abortion providers have challenged the law in state court.

- Telemedicine is not permitted to initiate a drug-induced abortion.
- Oklahoma enacted a law permitting a woman (or parent or legal guardian of a minor) to commence a civil action if an abortion provider violates the state's informed consent law, ultrasound requirement, fetal pain counseling requirement, parental involvement law, or any other law regulating a minor's abortion.
- Oklahoma follows the federal standard for Medicaid funding for abortions, 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.
- Under Oklahoma law, no public funds can be used to encourage a woman to have an abortion (except to the extent required by federal Medicaid rules).
- Oklahoma prohibits taxpayer funding of any entity associated with another entity that provides, counsels, or refers for abortion.
- The state prohibits the use of research grants provided through the Oklahoma Health Research Act for abortion.
- Oklahoma law restricts the use of state facilities for the performance of abortions and provides that no state actor may perform an abortion except in cases of life endangerment, incest, or rape. Healthcare providers who are state employees may not provide abortions, abortion referrals, or abortion counseling.
- It prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment.
- Oklahoma also prohibits private health insurance coverage for abortions, except in cases of life endangerment.
- Oklahoma has directed the state Department of Health to "facilitate funding to nongovernmental entities that provide alternatives to abortion services." It has also allocated direct taxpayer funding to abortion alternatives.
- Oklahoma 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

- Under Oklahoma law, "the rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born."
- Oklahoma criminalizes the unlawful killing of an unborn child from "the moment of conception."
- Oklahoma also criminalizes a nonfatal assault on an unborn child.
- The Pregnant Woman's Protection Act provides an affirmative defense to a woman who uses force to protect her unborn child from a criminal assault.
- Oklahoma allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Wrongful death suits were expanded to include lawsuits against a doctor for performing a fraudulent abortion, which includes abortions performed without the woman's consent, abortions performed

without the required informed consent, abortions performed on minor girls without parental consent or judicial authorization, or abortions that result in mental or physical harm.

- It prohibits civil causes of action for both “wrongful birth” and “wrongful life.”
- Oklahoma 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.
- Oklahoma requires healthcare professionals to report suspected prenatal drug exposure and mandates that the state Department of Human Services investigate when a newborn tests positive for controlled substances.
- Oklahoma created The Humanity of the Unborn Child Act and Fund, requiring the state Department of Health to develop, update, and maintain information on agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is in development (including adoption agencies). The comprehensive list of public and private agencies must include a description of services offered and information on how to contact each listed agency. In addition to promoting alternatives to abortion, the law also requires the Department of Health to develop and make available materials on fetal development.

BIOETHICS LAWS

- Oklahoma prohibits human cloning, destructive embryo research, and fetal experimentation.
- The state Department of Health has been directed to establish, operate, and maintain a public umbilical cord blood bank or cord blood collection operation. The Department has also been directed to establish a related education program, and each physician is to inform pregnant patients of the opportunity to donate to the bank following delivery.
- Oklahoma regulates the donation and transfer of human embryos used in assisted reproductive technologies and has recognized that donors of embryos relinquish all parental rights with respect to any resulting children.
- Oklahoma regulates assisted reproductive technologies.

PATIENT PROTECTION LAWS

- In Oklahoma, assisting a suicide is a felony.
- The Nondiscrimination in Health Care Coverage Act prohibits state agencies from relying on discriminatory measures—including “quality adjusted life years,” age, or disability—when determining health care recommendations.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Oklahoma’s Freedom of Conscience Act provides broad conscience protections for individuals and institutions. No person is required to participate in medical procedures that result in or are in preparation for an abortion except when necessary to preserve a woman’s life. A private hospital is not required to permit abortions within its facilities.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- The Freedom of Conscience Act provides broad conscience protections for individuals and institutions.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will not be legal except to save the life of the mother based on existing law enacted before *Roe*.

RECOMMENDATIONS

FOR OKLAHOMA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

BIOETHICS

- Egg Provider Protection Act
- Assisted Reproductive Technologies Disclosure and Risk Reduction Act



Oregon | RANKING 48

Oregon has an abysmal record on life, failing to protect women, the unborn, the sick, and the dying. Oregon was the first state in the nation to legalize suicide by physician, does not mandate informed consent or parental involvement before abortion, does not recognize an unborn child as a potential victim of homicide or assault, and does not limit destructive embryo research or human cloning.

ABORTION

- Oregon does not have an informed consent law, an ultrasound requirement, a parental involvement law for minors seeking abortion, abortion facility regulations, or a prohibition on anyone other than a licensed physician performing an abortion.
- The state 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 and requires abortion providers to report known complications.
- Oregon taxpayers fund “medically necessary” abortions for women eligible for state medical assistance for general care. 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

- Oregon law does not affirmatively protect infants born alive during attempted abortions.
- Oregon law does not recognize an unborn child as a potential victim of homicide or assault.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Oregon 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 funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Oregon maintains no laws regarding human cloning, destructive embryo research, or fetal experimentation; nor does it promote ethical forms of research.
- Further, it does not regulate assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Oregon permits suicide by physician under statutorily specified circumstances but prohibits the sale of “suicide kits.”
- In 2019, Oregon passed legislation that created an exception to the waiting period for patients who had less than two days to live.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A physician is not required to participate in or give advice about abortion if he or she discloses this election to the patient. A hospital employee or medical staff member is not required to participate in abortions if he or she has notified the hospital of this election.
- A private hospital is not required to admit women for an abortion procedure and will not be liable for refusal if the hospital has adopted such a policy and notifies the woman of it. A private hospital that has not adopted a policy against admitting women for abortion procedures has to admit women “subject to the same conditions” as any other patient seeking hospital admission.
- Health plans that provide prescription coverage must also cover prescription contraceptives. Religious employers may refuse coverage if their primary purpose is the inculcation of religious values, if they primarily employ and serve people with the same values, and if they are nonprofit entities under federal law.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Oregon 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.

RECOMMENDATIONS FOR OREGON

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
-

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)
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

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

END OF LIFE

- Repeal of law permitting suicide by physician

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Pennsylvania | RANKING 23

Pennsylvania is one of a small number of states that prohibits destructive embryo research. Pennsylvania was an early adopter of informed and parental consent laws but has faced significant challenges in recent years.

ABORTION

- Pennsylvania prohibits abortions based on the sex of the unborn child.
- Pennsylvania law requires a mandatory 24-hour reflection period prior to all abortions.
- Pennsylvania requires abortion providers to state in their printed materials that it is illegal for anyone to coerce a woman into having an abortion.
- The state's parental consent law requires one-parent consent unless there is a medical emergency or a minor obtains a court order. The law permits substitute consent by any adult standing in loco parentis if neither parent is available.
- Pennsylvania requires that abortion facilities meet the same patient care standards as facilities performing other outpatient surgeries.
- Only physicians or doctors of osteopathy licensed to practice medicine in Pennsylvania may perform abortions. Abortion providers must also maintain transfer agreements with local hospitals to facilitate the treatment of abortion-related complications.
- Pennsylvania 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 and requires abortion providers to report short-term complications.
- Pennsylvania follows the federal standard for Medicaid funding for abortions, 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.
- Pennsylvania does not provide public funding or public facilities for an abortion unless the abortion is necessary to preserve the woman's life, or the pregnancy is the result of rape or incest.
- No public funds for legal services or IOLTA (Interest on Lawyer Trust Account) funds may be used to advocate for or oppose abortion.
- Programs receiving funds through the state Department of Public Welfare Women's Services programs may not use such funds to promote, refer for, or perform abortions, or engage in any counseling to encourage abortion. Physical and financial separation of recipients of these funding programs from entities providing abortion services is required.
- Pennsylvania prohibits the use of family planning funds for abortion-related activities and requires family planning services providers and subcontractors to keep a state-funded family planning project physically and financially separate from abortion-related activities, with exceptions for abortions in cases of life endangerment, rape, or incest.

- Pennsylvania prohibits abortion coverage in its state health insurance Exchanges required under the federal healthcare law.
- Health plans funded by the state may not include coverage for abortion unless the abortion is necessary to preserve a woman's life, or the pregnancy is the result of rape or incest.
- Pennsylvania also requires any insurance providers offering healthcare or disability insurance within the state to offer policies that do not cover abortion except when necessary to preserve a woman's life or when the pregnancy is the result of rape or incest.
- Pennsylvania has allocated money to pregnancy resource centers and other abortion alternative programs. Entities receiving the funds cannot perform abortions or provide abortion counseling.
- Pennsylvania 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

- Pennsylvania has created a specific affirmative duty for physicians to provide medical care and treatment to infants born alive at any stage of development.
- The killing of an unborn child at any stage of gestation is defined as homicide.
- Pennsylvania defines a nonfatal assault on an unborn child as a criminal offense.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Pennsylvania funds drug treatment programs for pregnant women and newborns. It also ensures adequate care for babies determined to have been prenatally exposed to alcohol or illegal substances.
- Pennsylvania law provides for "fetal death registrations."

BIOETHICS LAWS

- Pennsylvania does not prohibit human cloning, but it does prohibit destructive embryo research.
- Pennsylvania prohibits experimentation on a live human fetus, but allows experimentation on a dead fetus with the consent of the mother.
- A healthcare professional providing services to a pregnant woman must advise her of the option to donate umbilical cord blood following delivery, and all healthcare facilities and providers must permit the woman to arrange for an umbilical cord donation.
- Pennsylvania requires quarterly reports of assisted reproductive technologies data, including the number of women implanted and the number of eggs fertilized, destroyed, or discarded.

PATIENT PROTECTION LAWS

- In Pennsylvania, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- If an objection is made in writing and is based on religious, moral, or professional grounds, a physician, nurse, staff member, or other employee of a hospital or healthcare facility is not required to participate in abortions and cannot be held liable for refusing to participate. Medical and nursing students are also protected.
- Except for facilities that perform abortions exclusively, each facility that performs abortions must prominently post a notice of the right not to participate in abortions.
- A private hospital or other healthcare facility is not required to perform abortions and may not be held liable for this refusal.
- Pennsylvania also specifically protects healthcare providers who object to providing abortion-inducing drugs.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Pennsylvania 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 up to at least 24 weeks of pregnancy.

RECOMMENDATIONS

FOR PENNSYLVANIA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

BIOETHICS

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

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Rhode Island | RANKING 38

Rhode Island provides very basic protections for women and girls considering abortion; however, it has failed to respond appropriately to the growing use of abortion-inducing drugs, increasing evidence of substandard abortion facilities, and increasing evidence of abortion's harm to women. It also fails to provide adequate legal protections for unborn children in contexts outside of abortion.

ABORTION

- Rhode Island passed legislation maximally limiting the state's ability to regulate abortion.
- Rhode Island's informed consent law requires that a woman seeking an abortion be informed of the probable gestational age of her unborn child and the nature and risks of the proposed abortion procedure. The woman must also sign a statement indicating she was informed that, if she decides to carry her child to term, she may be able to place the child with either a relative or with another family through foster care or adoption.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the consent of one parent unless there is a medical emergency or the minor obtains a court order. The physician will have engaged in "unprofessional conduct" if he or she fails to follow this requirement.
- Rhode Island has a system of abortion clinic regulations under which different standards apply at different stages of pregnancy and different facilities may be used to perform abortions at different stages of gestation.
- A licensed physician or "other licensed healthcare practitioner acting within his/her scope of practice" may perform non-surgical abortions. The performance of surgical abortions is limited to physicians.
- Rhode Island 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.
- Rhode Island follows the federal standard for Medicaid funding for abortions, 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.
- Rhode Island allows abortion coverage for public employees (including city and town employees).

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Any physician, nurse, or other licensed medical provider who knowingly and intentionally fails to provide reasonable medical care and treatment to an infant born alive in the course of an abortion, and as a result the infant dies, is guilty of the crime of manslaughter.
- Assault or battery against a pregnant woman that results in the termination of her pregnancy is a felony assault.

- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Rhode Island defines substance abuse during pregnancy as “child abuse” under civil child-welfare statutes. It also requires healthcare professionals to report suspected prenatal drug exposure.
- Rhode Island maintains a measure allowing a woman who loses a child after 20 weeks of pregnancy to obtain a Certificate of Birth Resulting in Still Birth.

BIOETHICS LAWS

- Rhode Island allows cloning to produce children, as well as for biomedical research, making it a “clone-and-kill” state.
- Rhode Island prohibits harmful experimentation on a live human fetus but allows experimentation on a dead fetus if consent of the mother is obtained.
- Every obstetrical professional or facility is to inform a pregnant woman of the options relating to stem cells that are contained in the umbilical cord blood, and each hospital or other obstetrical facility must cooperate with the collection staff of a cord blood bank designated by the woman and facilitate the donation of the cord blood.
- Rhode Island maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Under Rhode Island law, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A physician or other person associated with, employed by, or on the staff of a healthcare facility who objects in writing and on religious or moral grounds is not required to participate in abortions. Refusal to participate cannot be the basis for disciplinary or recriminatory action against the physician or staff member.
- Health insurance plans that provide prescription coverage are also required to provide coverage for contraception. The provision includes a conscience exemption so narrow it precludes the ability of most employers and insurers with moral or religious objections from exercising it.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Rhode Island 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal throughout pregnancy.

RECOMMENDATIONS

FOR RHODE ISLAND

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Reflection period for abortion
 - 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 Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act
 - Reinstate the Partial-birth Abortion Ban Act
 - Reinstate the fetal homicide law
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

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 (providing protection from conception)
- 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



South Carolina | RANKING 22

South Carolina maintains a number of life-affirming laws protecting women and unborn children from the harms inherent in abortion. These laws include comprehensive informed consent requirements and health and safety standards for abortion facilities. However, like many other states, South Carolina does not effectively regulate emerging biotechnologies, failing to prohibit human cloning, destructive embryo research, or fetal experimentation.

ABORTION

- In 2018, Governor Henry McMaster signed an executive order stating, “the preservation of life is the ultimate right to be protected and necessarily includes the life of unborn children” and declaring abortion clinics and affiliated physicians as “unqualified to provide family planning services.”
- South Carolina limits abortions when the probable post-fertilization age of the unborn child is 20 or more weeks. Abortions are also limited after 24 weeks gestation unless the attending physician and another independent physician certify in writing that the abortion is necessary to preserve the woman’s life or health. If both physicians certify the abortion is necessary to preserve the woman’s mental health, an independent psychiatrist must also certify that the abortion is necessary.
- South Carolina prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until 24 hours after she is informed of the probable gestational age of her unborn child, the abortion procedure to be used, and the availability of state-prepared written materials describing fetal development, listing agencies offering alternatives to abortion, and describing available medical assistance benefits.
- South Carolina requires that a woman be offered an ultrasound and the opportunity to view the image prior to an abortion.
- A physician may not perform an abortion on an unemancipated minor under the age of 17 without the informed written consent of one parent, a grandparent, or any other person who has standing in loco parentis, unless there is a medical emergency, the minor is a victim of incest, or the minor obtains a court order.
- South Carolina has enacted comprehensive health and safety regulations for abortion facilities. These regulations are based on national abortion industry standards and cover such areas as clinic administration, physical plant, sanitation standards, patient care, post-operative recovery, and proper maintenance of patient records.
- Only a physician licensed to practice medicine in South Carolina may perform an abortion.
- South Carolina has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The law applies to both surgical and nonsurgical abortions. In 2014, South Carolina added reporting requirements mandating that abortion providers

report whether they have hospital admitting privileges and report abortion complications.

- South Carolina follows the federal standard for Medicaid funding for abortions, 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. In 2018, the governor of South Carolina signed an executive order terminating abortion providers as qualified providers under its state Medicaid program. The order is enjoined.
- State law provides that no state funds may be expended to perform abortions, except those authorized by Medicaid under federal law. Further, South Carolina maintains the following funding restrictions: money appropriated to the Adolescent Pregnancy Prevention Initiative may not be used for transportation to or from abortion services; state funds appropriated for family planning may not be used to pay for an abortion; the South Carolina Department of Health and Environmental Control and its employees may not provide referral services or counseling for abortion; and funds appropriated under the South Carolina Birth Defects Program may not be used to counsel or refer women for abortions.
- South Carolina prohibits health plans offered through the state's health insurance Exchanges required under the federal healthcare law from including abortion coverage.
- State taxpayer funds appropriated to the State Health Insurance Plan may not be used to pay for an abortion except in cases of rape or incest, or to preserve a woman's life. In addition, \$100 must be used to create printed materials that let the reader know an unborn child at twenty weeks or more is capable of feeling pain.
- South Carolina offers "Choose Life" license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- South Carolina provides protection for infants who are born alive after an abortion attempt.
- The Unborn Victims of Violence Act provides that the killing of an unborn child at any stage of gestation may be prosecuted as homicide. It also criminalizes a nonfatal assault on an unborn child.
- South Carolina allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- South Carolina 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 defines substance abuse during pregnancy as "child abuse" under civil child-welfare statutes.

BIOETHICS LAWS

- South Carolina does not prohibit human cloning, destructive embryo research, or fetal experimentation, nor does it promote ethical forms of research.
- South Carolina does not regulate the provision of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Under South Carolina law, suicide by physician is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician, nurse, technician, or other employee of a hospital, clinic, or physician who objects in writing is not required to recommend, perform, or assist in the performance of an abortion.
- A healthcare provider's conscientious objection to performing or assisting in abortions may not be the basis for liability or discrimination. A person discriminated against in employment may bring a civil action for damages and reinstatement.
- Except in an emergency, a private or nongovernmental hospital or clinic is not required to permit the use of its facilities for the performance of an abortion or to admit a woman for an abortion.
- A hospital's refusal to perform or to permit the performance of abortions within its facility may not be the basis for civil liability.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- South Carolina 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.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will be legal up to 20 weeks of pregnancy.

RECOMMENDATIONS

FOR SOUTH CAROLINA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Coercive Abuse Against Mothers Prevention Act
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

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)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



South Dakota | RANKING 9

South Dakota maintains some of the most comprehensive and protective abortion-related laws in the nation, protecting women and unborn children through health and safety standards and comprehensive informed consent requirements. Moreover, South Dakota is one of only a small number of states that prohibit destructive embryo research, human cloning, and fetal experimentation. In 2020, South Dakota passed a resolution denouncing the National Education Association's policy to support a "fundamental right to abortion" stating, "South Dakota recognizes that abortion ends the life of a whole, separate, unique, living human being."

ABORTION

- South Dakota maintains a law that would "on the date that the states are given the exclusive authority to regulate abortion" ban abortion throughout pregnancy except if necessary to preserve a woman's life. It specifically applies both to surgical and chemical abortions and applies at all stages of pregnancy.
- South Dakota provides that it is a misdemeanor to intentionally perform an abortion of an unborn child capable of feeling pain (defined as occurring at 20 weeks after fertilization), unless the abortion is necessary to prevent a serious health risk to the mother. In 2017, South Dakota increased the penalties on abortion providers who violate this prohibition.
- It also prohibits sex-selection abortions.
- South Dakota prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until at least 72 hours (excluding weekends and holidays) after she has been informed of the probable gestational age of her unborn child, the medical risks of abortion, the medical risks of carrying the pregnancy to term, and the name of the physician who will perform the abortion. She must also be informed about available medical assistance benefits, the father's legal responsibilities, and her right to review additional information prepared by state health department officials.
- South Dakota requires that women be informed that "the abortion will terminate the life of a whole, separate, unique, living human being;" that the woman "has an existing relationship with the unborn human being and that the relationship enjoys protection under the United States Constitution and under the laws of South Dakota;" and that "by having an abortion her existing relationship and her existing constitutional rights with regards to that relationship will be terminated."
- South Dakota requires that a woman be informed of the risk of suicide and suicide ideation following abortion.
- South Dakota requires that a woman be offered to view an ultrasound and hear the heartbeat of the unborn child. The woman must be offered the opportunity to hear a description of the ultrasound image as well.
- South Dakota requires informed consent to include information on the possibility of reversing the effects

of a chemical abortion and requires the Department of Health to include such information on its website.

- A physician must perform an assessment of a woman's medical and personal circumstances prior to an abortion. Moreover, a woman exhibiting certain risk factors must receive counseling about mental health risks associated with abortion.
- South Dakota requires a woman consult with a state-registered pregnancy help center before undergoing an abortion. Registered pregnancy help centers are required to have licensed medical and mental health professionals on staff or available through a collaborative agreement. The state Department of Health must maintain a registry of state "pregnancy help centers." A center seeking to be listed on the registry must certify that it has a licensed medical director and that the center does not perform abortions, has no affiliation with any organization or physician that performs abortion, and that it does not refer women for abortions. The law excludes agencies that place children for adoption from the registry. This law is in ongoing litigation.
- Abortion providers must also screen women for coercion and give them information regarding help to escape sex trafficking. Providers must also inform them that they cannot be forced to have an abortion because of the child's gender, and must post signs informing a woman that she cannot be coerced into undergoing a sex-selection abortion. State-prepared, written informed consent materials must include information that sex-selection abortions are illegal. Kidnapping the pregnant woman or kidnapping another person in the mother's presence with the intent to cause her to undergo an abortion is a felony.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until at least 48 hours after providing written notice to one parent or after obtaining a court order. South Dakota also requires parental notification within 24 hours after the performance of an "emergency abortion" on a minor; however, an exception to the requirement is permitted if a minor indicates that she will seek a judicial bypass.
- South Dakota requires that all abortion facilities meet minimum health and safety standards. Further, beginning at the 12th week of pregnancy and through the 22nd week of pregnancy, abortions must be performed in a hospital, or if one is not available, "in a licensed physician's medical clinic or office of practice subject to the [state's blood supply requirements]." Further, an abortion after 22 weeks of pregnancy may only be performed by a physician, in a hospital, and only in the case of a medical emergency.
- The State Department of Health includes information on an abortion clinic's inspection on its public website, including the date of the inspection, the results, and details of any required corrective action.
- Only a physician licensed by the state or a physician practicing medicine or osteopathy and employed in the state or the United States may perform an abortion. The state medical board prohibits physician assistants and nurses from entering into practice agreements under which they may perform abortions.
- No surgical or chemical abortion may be scheduled except by a licensed physician and only after the physician physically and personally meets with the pregnant woman, consults with her, and performs an assessment of her medical and personal circumstances.
- There is an enforceable abortion reporting law, but it does not require the reporting of information to the Centers for Disease Control (CDC). The measure applies to both surgical and nonsurgical abortions and requires abortion providers to report abortion method, deaths that occur, as well as short- and long-term complications.

- South Dakota prohibits public funding for abortion unless the procedure is necessary to preserve the woman's life.
- South Dakota prohibits health plans offered through the state's health insurance Exchanges required under the federal healthcare law from including abortion coverage.
- Abortion providers are required to disseminate information on how to fight sex trafficking.
- South Dakota 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

- Infants born alive after an abortion attempt have the right to "medical treatment and other necessary health care."
- Under South Dakota law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- South Dakota defines a nonfatal assault on an unborn child as a crime.
- It allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- It defines substance abuse during pregnancy as "child abuse" under civil child-welfare statutes.
- South Dakota maintains a measure allowing a woman who loses a child after 20 weeks' gestation to obtain a Certificate of Birth Resulting in a Stillbirth.
- South Dakota prohibits the sale of fetal body parts.

BIOETHICS LAWS

- South Dakota prohibits human cloning for any purpose, destructive embryo research, and fetal experimentation.
- However, it does not promote ethical forms of research.
- South Dakota maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Suicide by physician is a felony in South Dakota.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- South Dakota law protects the rights of physicians, nurses, counselors, social workers, and other persons to refuse to perform, assist in, provide referrals for, or counsel for abortions.
- A healthcare provider's conscientious objection to performing or assisting in an abortion may not be a basis for liability, dismissal, or other prejudicial actions by a hospital or medical facility with which the person is affiliated or employed.

- A counselor, social worker, or other person in a position to address “the abortion question . . . as part of [the] workday routine” who objects to providing abortion advice or assistance may not be held liable to any person or subject to retaliation by an institution with which the person is affiliated or employed.
- No hospital is required to admit a woman for the purpose of abortion. The refusal of a hospital to participate in abortions may not be a basis for liability.
- A pharmacist is not required to dispense medication if there is reason to believe the medication would be used to cause an abortion.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- South Dakota currently provides no specific 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?

- South Dakota has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS

FOR SOUTH DAKOTA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Coercive Abuse Against Mothers Prevention Act
 - Drug-Induced Abortion Information and Reporting Act
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

BIOETHICS

- Assisted Reproductive Technologies Disclosure and Risk Reduction Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Tennessee | RANKING 13

In response to a state Supreme Court decision that manufactured a state constitutional right to abortion in the Tennessee constitution, Tennesseans passed a constitutional amendment declaring “[n]othing in this Constitution secures or protects a right to abortion or requires the funding of an abortion.” The amendment enabled legislators to immediately consider and enact legislation that would have been invalidated under the former Supreme Court decision.

ABORTION

- The Tennessee Constitution has been amended to include the following: “Nothing in this Constitution secures or protects a right to abortion or requires the funding of an abortion. The people retain the right through their elected state representatives and state senators to enact, amend, or repeal statutes regarding abortion, including, but not limited to, circumstances of pregnancy resulting from rape or incest or when necessary to save the life of the mother.”
- In 2019, Tennessee passed a conditional law that would criminalize the performance of an abortion except when necessary to protect the life of the mother or prevent “serious risk of substantial and irreversible impairment of a major bodily function.”
- Tennessee passed a limitation on abortion once a fetal heartbeat is detected. There are also a 6-, 8-, 10-, 12-, 15-, 18-, 20-, 21-, 22-, 23-, and 24-week limitations. The law is enjoined and in ongoing litigation.
- No abortion may be performed after viability except in a medical emergency. If an abortion is performed, it must be in a hospital.
- Tennessee prohibits partial-birth abortion.
- Tennessee prohibits abortions based on the sex, race, or diagnosis or potential of Down syndrome. The law is enjoined and in ongoing litigation.
- Tennessee’s informed consent law requires the woman receive oral, in-person counseling at least 48 hours before the procedure on: (a) the probable gestational age of her unborn child at the time the abortion is to be performed, (b) that if 24 or more weeks have elapsed since the first day of her last menstrual period, her unborn child may be viable, (c) the availability of services to assist with pregnancy and post-natal care, and (d) the risks associated with abortion and continuing the pregnancy to term. The 48-hour reflection period is enjoined and in ongoing litigation.
- A sign explaining the possibility of reversing the effects of a chemical abortion must be posted in an office or facility where more than fifty elective abortions are performed. The physician must also let the woman know at least 48 hours prior to the abortion that it may be possible to reverse the effects of a chemical abortion and information is available on the department of health website. The law is enjoined and in ongoing litigation.
- Tennessee’s informed consent law also states that if an ultrasound is performed prior to the abortion procedure, it must be reported whether or not the person performing the ultrasound detected a

heartbeat, and that the woman shall be offered “the opportunity to learn the results of the ultrasound.”

- A separate requirement states that an ultrasound must be performed. If a heartbeat is detected, it must be audible. The person performing the ultrasound must provide a simultaneous explanation of what is being depicted and display the image so the woman may view it. The requirement states nothing prevents the woman from averting or eyes or requesting the sound to be turned off.
- Abortion facilities must post signs notifying a woman that it is against the law for anyone to coerce her into having an abortion.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written consent of one parent unless there is a medical emergency, the minor is the victim of incest, or the minor obtains a court order.
- A federal district court has declared Tennessee’s abortion clinic regulations unconstitutional (as applied to the particular abortion provider who challenged the law). A 2015 provision defining “ambulatory surgical treatment centers” to include facilities where 50 or more surgical abortions are performed in a calendar year is no longer enforced. The state permanently stopped enforcing the law “in light of the Supreme Court’s current case law and to avoid the expense and utilization of resources on continued litigation.”
- Only a physician licensed or certified by the state may perform an abortion. Tennessee law provides that a nurse practitioner or physician assistant may not write or sign a prescription, dispense any drug or medication, or perform any procedure involving a drug or medication whose sole purpose is to cause an abortion.
- Tennessee also requires abortion providers to have admitting privileges at a hospital located in the same county as the abortion facility or in an adjacent county. The state permanently stopped enforcement “in light of the Supreme Court’s current case law and to avoid the expense and utilization of resources on continued litigation.”
- It has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The annual report issued by the state Department of Health must report whether the ultrasound performed prior to the abortion detected a heartbeat, what abortion method was used—differentiating between chemical and surgical abortions—if a surgical abortion was performed, what procedure was used, and If any complications occurred during or after the abortion.
- No licensed physician may perform or attempt to perform any abortion, including a chemical abortion, or prescribe any drug or device intended to cause a chemical abortion, except in the physical presence of the pregnant woman. This requirement effectively prohibits “webcam abortions.”
- Tennessee follows the federal standard for Medicaid funding for abortions, 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.
- Tennessee prohibits the use of funds for abortion or abortion research within the state Genetic Testing Program.
- Tennessee law provides that all federal money provided to the state for family planning services will be used fully by government-run health agencies, and none will be paid to third-party providers or private organizations or entities. This law prevents abortion providers from receiving family planning funds.

- A 2018 law declared it is “the policy of the state to favor childbirth” so that “family planning services that do not include elective abortions” or promote elective abortions are favored when distributing state funds. In accordance with this, the law required that Tennessee seek a Medicaid waiver to exclude elective abortion providers from the TennCare program.
- It prohibits insurance companies from offering abortion coverage within state insurance exchanges established pursuant to the federal healthcare law.
- Tennessee implemented a “tiering system” for the allocation of family planning funding including funding for which abortion providers might be eligible. Under the system, first priority for funding is given to public entities that are operated by state or local government entities. Most abortion providers fall into the lowest priority category of this system.
- Tennessee 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

- Tennessee has created a specific affirmative duty for physicians to provide medical care and treatment to an infant born alive at any stage of development.
- Tennessee law includes an unborn child at any point in gestation as a potential victim of homicide.
- Tennessee law provides for enhanced penalties for murdering a pregnant woman.
- It allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- Tennessee 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.
- Tennessee law provides for the prosecution of women for alcohol or drug abuse while pregnant.
- Tennessee requires publicly funded substance abuse facilities to give preference to pregnant women and requires any facility capable of accommodating a pregnant woman to provide such treatment. The law also prohibits state officials from filing for protective services for the child if the mother is less than 5 months (i.e., 20 weeks) into her pregnancy and seeks substance abuse treatment as part of her prenatal care.
- Tennessee law provides for a Certificate of Birth Resulting in Stillbirth.
- Tennessee requires that physicians report on the final disposition of aborted children (with exceptions for those aborted through the use of abortion-inducing drugs and where the expulsion of the aborted baby does not occur at the clinic). The law also prohibits the transfer of the remains for anything of value including “any reimbursements” for incurred costs.
- Tennessee requires written consent of the mother for any medical experiments on, research on, or photography of an aborted fetus. The law includes an exception for the purpose of capturing images that are reasonably believed to depict evidence of a violation of state or federal law.

BIOETHICS LAWS

- Tennessee does not prohibit human cloning or destructive embryo research. Further, it allows fetal

experimentation with the consent of the mother.

- The state Department of Health encourages healthcare professionals to provide pregnant women with a publication containing information on cord blood banking.
- Tennessee maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting, however, it provides for the relinquishment of rights to an embryo (i.e., embryo adoption).

PATIENT PROTECTION LAWS

- Suicide by physician is a felony in Tennessee.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician is not required to perform an abortion, and no person may be required to participate in the performance of an abortion.
- A hospital is not required to permit the performance of an abortion within its facilities.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Tennessee 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?

- Tennessee has a law, conditioned on *Roe* being overturned, that makes abortion illegal, which may be enforceable.

RECOMMENDATIONS

FOR TENNESSEE

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Components of the Child Protection Act related to mandatory reporting of suspected child abuse and providing remedies for interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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



Texas | RANKING 20

Texas continues to promote life-affirming legislative action, making it one of the most protective states in the nation and a prominent target of abortion activists. Texas also recognizes the humanity of unborn children and provides funding for adult stem-cell research projects, but it does not prohibit human cloning or fetal experimentation.

ABORTION

- Texas possesses an enforceable abortion prohibition should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified.
- Texas limits abortion at 5 months (i.e., 20 weeks) based on medical evidence that an unborn child at that stage of development can feel pain.
- A third-trimester abortion may not be performed on a viable fetus unless necessary to preserve the woman's life or prevent a "substantial risk of serious impairment" to her physical or mental health or when the fetus has a severe and irreversible abnormality. An additional law provides that a third-trimester abortion may not be performed on a viable fetus unless necessary to prevent "severe, irreversible brain damage" to the woman, paralysis, or if the fetus has a severe and irreversible "brain impairment."
- Texas prohibits partial-birth abortion.
- Texas prohibits the dismemberment abortion procedure. The law is enjoined and in ongoing litigation.
- A physician may not perform an abortion on a woman until at least 24 hours after obtaining her informed consent and after informing her of the nature and risks of the proposed abortion procedure, including the gestational development of the unborn child and available assistance from both public and private agencies. The counseling must be in-person if a woman lives within 100 miles of the abortion facility. The physician must hand the woman a copy of the materials the day of the counseling or at least two hours before the abortion procedure if the woman lives over 100 miles from the abortion facility.
- Texas also requires a physician to inform a woman seeking abortion of the abortion-breast cancer link.
- Texas requires the performance of an ultrasound before an abortion. The abortion provider must display the ultrasound image, make audible the heart auscultation, and provide a medical description of the images depicted in the ultrasound image.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written, notarized consent of one parent or a guardian, unless there is a medical emergency or the minor obtains a court order. Further, Texas has created a presumption that an abortion patient is a minor unless valid government identification is shown. Texas also limits the venue options for requesting a judicial

bypass order, stipulates that a minor must be present in court for the required hearing, requires the judge to find by “clear and convincing evidence” that the minor should be granted the court order, and prescribes the factors the judge will consider in making his/her determination.

- Texas prohibits insurance companies from coercing a woman’s abortion decision through force or by threatening adverse alteration to an insurance plan.
- A Texas law requiring that abortion facilities meet the same health and safety standards as other facilities performing outpatient surgeries was struck down by the U.S. Supreme Court in *Whole Woman’s Health v. Hellerstedt*.
- Texas’ requirement that abortion providers maintain hospital admitting privileges was also struck down in *Whole Women’s Health v. Hellerstedt*.
- Texas 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 and requires abortion providers to report deaths that occur in their facilities, as well as short-term complications.
- Texas requires that physicians providing “medical abortions” be able to do the following: accurately date a pregnancy, determine that the pregnancy is not ectopic, and provide surgical intervention or provide for the patient to receive a surgical abortion. The patient must be examined by a physician and informed of the risks and benefits of the procedure and the possibility that a surgical abortion may be required. A law requiring a physician to examine a woman before dispensing abortion-inducing drugs has been upheld by the Fifth Circuit.
- Texas follows the federal standard for Medicaid funding for abortions, 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.
- The Texas Supreme Court has upheld a law limiting taxpayer assistance for abortion to cases where the abortion is necessary to preserve a woman’s life or when the pregnancy is the result of rape or incest.
- Funds administered under the Maternal and Infant Health Improvement Program for Women and Children cannot be used for abortions, except in cases of life endangerment.
- Texas has enacted laws prohibiting state agencies from contracting with entities that perform or promote elective abortions or are affiliates of entities that perform or promote elective abortions. The restrictions have been challenged in state court but remain in force while the lawsuit proceeds.
- Texas continues to allocate millions of dollars to the mission of pregnancy resource centers and other entities providing abortion alternatives.
- Texas 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

- Under Texas law, a “living human child born alive after an abortion or premature birth is entitled to the same rights, powers and privileges as are granted by the laws of [Texas] to any other child born alive after the normal gestational period.”

- In 2019, Texas expanded on this by passing legislation that created a physician-patient relationship between the physician who performed the abortion and the infant born alive after the abortion attempt. The physician is required to “exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child” as a physician would provide to any other child born at the same gestational age. This includes transferring the infant to a hospital.
- Under Texas law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Texas defines a nonfatal assault on an unborn child as a criminal offense.
- Texas allows parents and other relatives to bring a wrongful death (civil) lawsuit when an unborn child at any stage of development is killed through the negligence or criminal act of another.
- Texas defines substance abuse during pregnancy as “child abuse” under civil child-welfare statutes. It has also created a task force charged, in part, with advising on potential criminal liability for a woman who exposes her unborn child to controlled substances.
- It also requires that health care facilities must properly bury or cremate fetal and embryonic remains. This law is in ongoing litigation.

BIOETHICS LAWS

- Texas does not prohibit human cloning or destructive embryo research. Further, it does not prohibit fetal experimentation outright, but includes “fetal tissue” in its ban on the sale or transfer of “human organs.”
- However, it specifically allows the use of adult stem cells in hospitals under certain circumstances, and it has created a funding mechanism for funding of adult stem-cell research projects.
- The state Department of State Health Services publishes a brochure related to umbilical cord-blood donation, and physicians are to provide the brochure to their pregnant patients.
- Texas law provides that blood obtained by a blood bank may be used for the collection of adult stem cells if the donor consents.
- Texas maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting, but the Uniform Parentage Act includes the “donation of embryos” in its definition of “assisted reproduction.”

PATIENT PROTECTION LAWS

- Suicide by physician is a felony in Texas.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A physician, nurse, staff member, or employee of a hospital who objects to participating directly or indirectly in an abortion may not be required to participate in an abortion.
- A healthcare provider’s conscientious objection to participating in abortions may not be a basis for discrimination in employment or education. A person whose rights are violated may bring an action for relief, including back pay and reinstatement.

- A private hospital or healthcare facility is not required to make its facilities available for the performance of an abortion unless a physician determines that the woman's life is immediately endangered.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Texas 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 not be legal except to save the life of the mother based on existing law enacted before *Roe*.

RECOMMENDATIONS

FOR TEXAS

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Health Protection Act (emergency transfer and admission provisions)
 - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

- Federal Abortion-Mandate Opt-Out 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



Utah | RANKING 16

In recent years, Utah has enacted several commonsense measures designed to protect women and unborn children from the harms inherent in abortion, fulfilling the public policy of the state “to encourage all persons to respect the right to life.” Much work remains to be done, especially in the field of biotechnologies. Utah does not prohibit human cloning, destructive embryo research, or fetal experimentation, nor does it promote ethical alternatives to destructive research.

ABORTION

- The Utah legislature has resolved that “it is the finding and policy of the Legislature...that unborn children have inherent and inalienable rights that are entitled to protection by the state of Utah pursuant to the provisions of the Utah Constitution...The state of Utah has a compelling interest in the protection of the lives of unborn children... It is the intent of the Legislature to protect and guarantee to unborn children their inherent and inalienable right to life...”
- Moreover, the legislature has found and declared that “it is the public policy of this state to encourage all persons to respect the right to life of all other persons, regardless of age, development, condition or dependency, including all...unborn persons.”
- Utah passed a conditional law that would prohibit the performance of an abortion except in limited circumstances should the ability to regulate abortion be returned to the state.
- In 2019, Utah passed legislation prohibiting abortion after 18 weeks’ gestation.
- Utah prohibits post-viability abortions except in cases of life endangerment, “serious risk of substantial and irreversible impairment of a major bodily function,” severe fetal abnormality as certified by two physicians, or rape or incest reported to the police.
- In 2019, Utah passed legislation that would require the woman be given information about resources and education programs for Down syndrome.
- It includes a conditional law that would prohibit a woman from seeking an abortion solely because the unborn child has or may have Down syndrome contingent on a “court of binding authority” allowing states to enforce such a ban.
- Utah prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until at least 72 hours after first presenting her with an information module. The module will present information such as the state “prefers childbirth over abortion;” adoption is “a preferred and positive choice and alternative to abortion;” services are available to assist during pregnancy and after birth, such as medical assistance benefits for prenatal care, childbirth, and neonatal care; and medical evidence showing unborn children 20 weeks gestational age and older “may be capable of experiencing pain during an abortion procedure.”

- The physician must also inform her, in a face-to-face consultation, of the probable gestational age of her unborn child; fetal development; the nature of, risks of, and alternatives to the proposed abortion procedure; how the abortion procedure will affect the fetus; and the medical risks of carrying the pregnancy to term.
- Informed consent provisions are waived if there is a medical emergency or if two physicians who practice maternal-fetal medicine concur, in writing in the patient's medical record, that the unborn child has a defect that is uniformly diagnosable and lethal.
- Utah also requires that women seeking abortions be informed of the unique risks associated with chemical abortions, and that it may be possible to reverse the chemical abortion process.
- If an ultrasound is performed before an abortion, the abortion provider must offer to show it to the woman. The ultrasound provision is waived if there is a medical emergency or if two physicians who practice maternal-fetal medicine concur, in writing in the patient's medical record, that the unborn child has a defect that is uniformly diagnosable and lethal.
- Prior to the abortion procedure, a woman must be informed she has the right to control the final disposition of the fetal remains.
- A physician may not perform an abortion on a minor until the physician obtains the consent of one parent or guardian, unless there is a medical emergency or a minor obtains a court order.
- Utah requires that an anesthetic or analgesic be administered to an unborn child in an abortion performed after 20 weeks' gestation.
- Utah prohibits and criminalizes acts intended to coerce a woman into undergoing an abortion. It also requires abortion providers to affirmatively state in printed materials that it is illegal for someone to coerce a woman into having an abortion.
- Utah mandates comprehensive health and safety regulations and an annual licensing requirement for facilities that provide abortions during the first and second trimesters of pregnancy.
- Only a physician or osteopathic physician licensed by the state may perform an abortion. Further, abortion providers must maintain hospital admitting privileges or a transfer agreement with a third-party physician who maintains such privileges.
- Abortions can only be performed in an abortion clinic or hospital unless there is a medical emergency.
- Utah 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.
- Utah funds abortions for women eligible for public assistance when necessary to preserve the woman's life, the woman's physical health is threatened by a continued pregnancy, or the pregnancy is the result of rape or incest.
- No agency of the state or its political subdivisions may approve any application for state funds to directly or indirectly support any organization or healthcare provider that provides abortion services to unmarried minors without written consent of a minor's parent or guardian.
- Utah prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment, serious risk of substantial and irreversible impairment of major bodily function, lethal defect of the unborn baby, rape, or incest.

- Utah also prohibits private insurance companies from covering abortion, except in cases of life endangerment, serious risk of substantial and irreversible impairment of major bodily function, lethal defect of the unborn baby, rape, or incest.
- “Choose Life” license plates are expected to be available in the future.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Utah law does not affirmatively protect infants born alive during attempted abortions.
- Under Utah law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Utah allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal action and dies thereafter.
- Healthcare facilities are required to provide for the humane disposition of aborted or miscarried fetuses through cremation or interment.
- Utah has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- Utah requires substance abuse treatment programs receiving public funds to give priority admission to pregnant women and teenagers. It also requires healthcare professionals to report evidence of adverse effects of the mother’s substance abuse, suspected prenatal drug exposure or fetal alcohol spectrum disorder, drug or alcohol withdrawal symptoms in the newborn child, or whether the parent demonstrates an inability to care for the child as a result of substance abuse.
- Utah regulations include exposure to alcohol or other “harmful” substances in utero in the state’s definitions of “abuse,” “neglect,” and “dependency.”
- Utah has removed prohibitions (in certain cases) on the prosecution of a woman for killing her unborn child.

BIOETHICS LAWS

- Utah does not prohibit human cloning, destructive embryo research, or fetal experimentation.
- It does not promote ethical alternatives to destructive embryo research.
- Utah does not provide any meaningful regulation of assisted reproductive technologies or human egg harvesting. Further, state law authorizes gestational agreements.
- The Uniform Parentage Act includes “donation of embryos” in its definition of “assisted reproduction.”

PATIENT PROTECTION LAWS

- In Utah, assisting a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- A healthcare provider who objects on religious or moral grounds is not required to participate in abortions.

- A healthcare facility is not required to admit a woman for the performance of an abortion.
- A healthcare provider or healthcare facility's conscientious objection to participating in abortion may not be a basis for civil liability or other recriminatory action.
- Moral or religious objections to abortion may not be a basis for discrimination including dismissal, demotion, suspension, discipline, harassment, retaliation, adverse change in status, termination of, adverse alteration of, or refusal to renew an association or agreement; or refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status that the healthcare provider would have otherwise received. Importantly, Utah provides a private right of action for discrimination, providing equitable relief including reinstatement and damages.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Utah 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 up to 18 weeks of pregnancy.

RECOMMENDATIONS

FOR UTAH

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Drug-Induced Abortion Information and Reporting Act (add reporting requirements)
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
 - Unborn Infants Wrongful Death Act
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

- Defunding the Abortion Industry and Advancing Women's Health 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



Vermont | RANKING 50

Vermont has an abysmal record on life, lacking the most basic legal protections for women considering abortion and for unborn victims of criminal violence. Further, Vermont has legalized suicide by physician and is one of only four states that does not protect healthcare freedom of conscience. In 2019, Vermont passed Proposal 5 which declares “personal reproductive autonomy” as “central” to the ability to “determine one’s own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means. The Proposal has to pass the legislature in 2020 and be approved by voters in 2022 before it is added to the State Constitution.

ABORTION

- The Vermont Constitution has been construed to provide a broader right to abortion than interpreted in the U.S. Constitution.
- In 2019, Vermont passed the Freedom of Choice Act in which the legislature stated Vermont “recognizes the fundamental right of every individual who becomes pregnant to choose to carry a pregnancy to term, to give birth to a child, or to have an abortion.”
- The Freedom of Choice Act also prohibits any public entity from “interfer[ing] with” or restricting an individual’s right to obtain an abortion. This includes the “provision of benefits, facilities, services, or information.”
- Vermont allows abortions after viability, even in cases where the mother’s life or health is not endangered.
- It has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The requirement applies to both surgical and nonsurgical abortions.
- Vermont taxpayers fund “medically necessary” abortions for women receiving 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

- Vermont law does not affirmatively protect infants born alive during botched abortions.
- Vermont law does not recognize an unborn child as a potential homicide or assault victim.
- It allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Vermont’s Baby Safe Haven Law allows mothers to legally leave their infants at designated places and ensures the infants receive appropriate care and protection. It permits a person or facility receiving an infant to not reveal the identity of the person relinquishing the child unless there is suspected abuse.

BIOETHICS LAWS

- Vermont does not prohibit or limit human cloning, destructive embryo research, or fetal experimentation.
- It does not promote ethical alternatives to destructive embryo research.
- Vermont does not regulate assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Suicide by physician is legal in Vermont. Importantly, the law fails to include some of the most basic legal protections for those considering suicide by physician. A physician who has only examined a patient once is permitted to prescribe life-ending drugs to the patient. The physician is not required to refer the patient for an evaluation by a psychiatrist to determine if the patient is depressed or being coerced to end his/her life. Further, the law does not require witnesses to be present when the patient takes a life-ending medication, increasing the possibility that persons who may wish to hasten a patient's death might be with the patient and pressure the patient to end his/her life or even administer the lethal drugs instead of the patient.
- Vermont requires the state Department of Health to provide an annual report on end-of-life care and pain management. It also has a Patient's Bill of Rights for Palliative Care and Pain Management, ensuring that healthcare providers inform patients of all of their treatment options. A lawsuit alleging that this provision violates the rights of conscientious providers resulted in a representation by the state that the Patient's Bill of Rights would not be interpreted to infringe conscience rights.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Vermont currently provides no protection for the rights of conscience of healthcare providers who conscientiously object to participating or assisting in abortions or any other healthcare procedure.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Vermont 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.

RECOMMENDATIONS

FOR VERMONT

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
-

INFANTS' PROTECTION PROJECT

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
 - Unborn Infants Wrongful Death Act
-

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 Management Education Act
-

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

END OF LIFE

- Repeal Suicide by physician Law and Enact Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Virginia | RANKING 32

In 2020, Virginia repealed its 24-hour reflection law and informed consent requirements. It also expanded abortion providers to include nurse practitioners. However, it is one of only a small number of states that has enacted meaningful, protective regulations for emerging biotechnologies.

ABORTION

- A third-trimester abortion may be performed if the attending physician and two other physicians certify in writing that continuation of the pregnancy is likely to result in the woman's death or would "substantially and irretrievably impair" the woman's physical or mental health. Measures for life support for the unborn child "must be available and utilized if there is any clearly visible evidence of viability."
- Virginia prohibits "partial-birth infanticide" (i.e., partial-birth abortion).
- In 2020, Virginia repealed its 24-hour reflection period. Informed written consent is still required but all information previously included in the informed consent law have been repealed.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until he or she secures written consent from one parent or "authorized person" who has care and control of the minor, unless the minor is the victim of rape, incest, or child abuse, there is a medical emergency, or the minor secures a court order.
- Virginia requires that second-trimester abortions be performed in a hospital or ambulatory surgical center. The U.S. Supreme Court has upheld the constitutionality of this requirement.
- Physicians licensed by the state to practice medicine and surgery and nurse practitioners licensed by the Boards of Medicine and Nursing may perform abortions.
- Virginia 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.
- It provides abortion funding for women eligible for public assistance only in cases of rape, incest, fetal abnormality, or when the life of the mother is in jeopardy.
- No abortion-related expenditures from general or non-general fund sources may be made out of any appropriations by the General Assembly, except as otherwise required by federal law or state statute.
- No post-partum family planning funds provided to women under the state's Medicaid program may be used to make direct referrals for abortion.
- Virginia prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment, rape, or incest.
- Benefits provided to state employees through the Commonwealth of Virginia Health Benefits Plan may not provide coverage for abortion unless the procedure is necessary to preserve the woman's life or health, the pregnancy is the result of rape or incest that has been reported to a law enforcement or public health agency,

or a physician certifies that the fetus is believed to have an incapacitating physical deformity or mental deficiency.

- Virginia offers “Choose Life” license plates, the proceeds of which benefit pregnancy resource centers. Unfortunately, it also offers a pro-abortion license plate, “Trust Women/Respect Choice.” However, while Planned Parenthood and other abortion providers are eligible to receive the proceeds from the plates, they are specifically prohibited from using the earned revenue for “abortion services.”

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Virginia protects infants born alive at any stage of development from “deliberate acts” undertaken by a physician that result in the death of the infant.
- Under Virginia law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- For purposes of “homicide” and “child abuse,” a “human infant who has been born alive and is fully brought forth from the mother has achieved an independent and separate existence, regardless of whether the umbilical cord has been cut or the placenta detached.”
- Virginia permits recovery for the death of an unborn child at any stage of development in a wrongful death (civil) action.
- Virginia has enacted a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- Virginia requires emergency personnel to report child abuse including cases of in utero exposure to controlled substances, and healthcare providers are required to report to the state Department of Social Services any diagnosis of fetal alcohol spectrum disorders or other medical condition caused by exposure to controlled substances during pregnancy.
- It also funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Virginia prohibits human cloning for any purpose, but it does not prohibit destructive embryo research or fetal experimentation.
- Virginia prohibits tax credits for research on human cells, on tissue derived from induced abortions, and on stem cells obtained from human embryos. This prohibition is an annual rider.
- Virginia maintains the Virginia Cord Blood Bank Initiative as a public resource for advancing basic and clinical research and for the treatment of patients with life-threatening diseases or debilitating conditions. All women admitted to a hospital or birthing facility may be offered the opportunity to donate umbilical cord blood to the initiative. Likewise, every licensed practitioner who renders prenatal care is to provide information to pregnant patients regarding the option of umbilical cord blood banking.
- It has also created a special fund in the state treasury entitled the Christopher Reeve Stem Cell Research Fund. No monies from the fund may be provided to entities that conduct research with stem cells obtained from human embryos.
- Virginia maintains some regulation of assisted reproductive technologies but does not regulate human egg harvesting.

PATIENT PROTECTION LAWS

- Virginia criminalizes suicide by physician.
- In 2018, Virginia passed legislation that requires hospitals to develop a process for the patient to obtain a second opinion regarding the medical and ethical appropriateness of proposed medical care, review by an interdisciplinary medical review committee, and a written explanation of the decision.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Any person who objects in writing and on personal, ethical, moral, and/or religious grounds is not required to participate in abortions.
- A physician, hospital, or medical facility is not required to admit a woman for the purposes of performing an abortion.
- The conscientious objection of an individual healthcare provider, hospital, or medical facility to participating in an abortion may not be a basis for a claim for damages, denial of employment, disciplinary action, or any other recriminatory action.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Virginia 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.

RECOMMENDATIONS

FOR VIRGINIA

WOMEN'S PROTECTION PROJECT PRIORITIES

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

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Born-alive Infant Protection Act
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Pregnant Woman's Protection Act

BIOETHICS

- Destructive Embryo Research Act

END OF LIFE

- Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Washington | RANKING 44

Washington does not maintain adequate protections against the harms of abortion, nor does it protect unborn children from criminal violence. Washington has failed to enact commonsense, publicly supported laws pertaining to informed consent, parental involvement, abortion provider regulations, or fetal homicide, and it does not regulate emerging biotechnologies. Moreover, Washington explicitly permits suicide by physician.

ABORTION

- Washington maintains a Freedom of Choice Act. The Act mandates a right to abortion even if *Roe v. Wade* is eventually overturned, specifically providing “that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.”
- In addition, the “state may not deny or interfere with a woman’s right to choose to have an abortion prior to viability of the fetus, or to protect her life or health.” Any regulations must be medically necessary to protect the life or health of the woman, “consistent with established medical practice,” and impose the “least restrictions” on the right to abortion.
- No abortion may be performed after viability unless necessary to protect the woman’s life or health.
- Washington does not have an informed consent law for abortion, parental involvement law for minors seeking abortion, or abortion facility regulations.
- Only a physician licensed in Washington may perform an abortion.
- Washington 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 and requires abortion providers to report short-term complications.
- Washington taxpayers are required by statute to fund “medically necessary” abortions for women receiving state public assistance, requiring funding of abortion-on-demand in light of the U.S. Supreme Court’s broad definition of “health” in the context of abortion. It must also provide benefits, services, or information to permit women to obtain abortions if it provides comparable maternity care benefits, services, or information.
- Washington protects physical access to abortion clinics and curtails the First Amendment rights of pro-life sidewalk counselors and demonstrators.
- Health plans issued or renewed starting in 2019, if they cover maternity care, must also provide “substantially equivalent coverage” for abortion procedures.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Under Washington law, “the right of medical treatment of an infant born alive in the course of an abortion procedure shall be the same as the right of an infant born prematurely of equal gestational age.”

- Under Washington criminal law, the killing of an unborn child after “quickening” is defined as a form of homicide.
- It allows a wrongful death (civil) action when a viable unborn child is killed through negligence or a criminal act.
- Washington has enacted a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- It is a misdemeanor to conceal the birth of a child by disposing of the dead body regardless of whether the child died before or after birth.
- It funds drug treatment programs for pregnant women and newborns.

BIOETHICS LAWS

- Washington law does not prohibit human cloning, destructive embryo research, or fetal experimentation.
- All persons licensed to provide prenatal care or practice medicine must provide information to all pregnant women regarding the differences between public and private umbilical cord blood banking and the opportunity to donate the blood and tissue extracted from the placenta and umbilical cord following delivery.
- Washington maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.
- The Uniform Parentage Act includes “donation of embryos” in its definition of “assisted reproduction.”

PATIENT PROTECTION LAWS

- Washington has legalized suicide by physician by voter initiative. The law creates financial incentives for healthcare insurance companies to deny coverage for life-saving treatment and to pressure vulnerable patients to choose suicide—a practice already occurring in Oregon. Moreover, the law does not provide safeguards for those suffering from mental illness or depression and requires physicians participating in patient suicides to falsify death certificates.
- The initiative superseded a prior law which made suicide by physician a felony. That law had been upheld in the landmark case of *Washington v. Glucksberg*, in which the U.S. Supreme Court refused to recognize a federal constitutional right to suicide by physician

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- An individual healthcare worker or private medical facility cannot be required by law or contract to participate in the performance of abortions.
- No person may be discriminated against in employment or professional privileges because of participating or refusing to participate in abortions.
- Washington protects individual healthcare providers, as well as private hospitals and medical facilities, who conscientiously object to participating in any healthcare procedure. However, this protection does not extend to public hospitals and medical facilities.

- Washington has a “contraceptive equity” law, requiring health insurance coverage for contraception. No exemption is provided for employers or insurers with a moral or religious objection to contraception.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Washington 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.

RECOMMENDATIONS

FOR WASHINGTON

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
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

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

- Crimes Against the Unborn Child Act (protecting a child from conception)
- 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

END OF LIFE

- Limits on the provision of suicide by physician such as family member notification and mental health evaluations

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



West Virginia | RANKING 26

West Virginia maintains some protections for women considering abortion. For example, written materials required under an informed consent law include information about the abortion-breast cancer link, and the risky process of prescribing drug-induced abortions online is prohibited.

ABORTION

- West Virginia voters approved a constitutional amendment stating that “Nothing in this Constitution secures or protects a right to abortion or requires the funding of abortion.”
- West Virginia prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- West Virginia prohibits dismemberment abortions.
- A physician may not perform an abortion on a woman until at least 24 hours after obtaining her informed consent and after informing her of the nature and risks of the proposed abortion procedure, the risks of carrying the pregnancy to term, and the probable gestational age of her unborn child.
- At least 24 hours prior to an abortion, a woman must also receive information about medical assistance benefits that may be available for prenatal care, childbirth, and neonatal care; the father’s liability for child support; and her right to review state-prepared materials describing the development of her unborn child, outlining common methods of abortion, discussing the medical risks of abortion, and listing agencies that offer alternatives to abortion. She may review this information either in print or on the state’s website.
- West Virginia prohibits the dangerous practice of using telemedicine to administer abortion-inducing drugs.
- West Virginia includes information about the abortion-breast cancer link in the educational materials that a woman must receive prior to abortion.
- If an ultrasound is performed before an abortion, the abortion provider must offer to show it to the woman. The woman must also be given the opportunity of having the image explained to her.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until at least 48 hours after actual notice has been provided to one parent, unless there is a medical emergency or the minor secures a court order. The law also allows an abortion to be performed without parental notice if a physician who is not performing the abortion determines that the minor is “mature enough to make the abortion decision independently or that parental notice is not in the minor’s best interest.”
- West Virginia 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.
- West Virginia’s Medicaid program only covers abortion in cases of medical emergency, if the unborn child has a congenital defect or terminal disease, or if the woman is the victim of rape or incest.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- West Virginia protects infants born alive during botched abortions by requiring the physician who performed the abortion to exercise the same degree of reasonable medical judgment he or she would give to preserve the life and health of any other child born alive. The physician must then ensure the child is immediately admitted to a hospital.
- West Virginia law recognizes an unborn child at any stage of gestation as a potential victim of homicide.
- It also criminalizes nonfatal assaults on the unborn.
- West Virginia allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- West Virginia has enacted 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.

BIOETHICS LAWS

- West Virginia does not prohibit human cloning, destructive embryonic research, or fetal experimentation.
- It does not promote ethical alternatives to destructive embryo research.
- West Virginia does not regulate assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- West Virginia does not have a specific statute criminalizing suicide by physician. However, suicide by physician remains a common law crime.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- West Virginia protects the civil rights of healthcare providers, including individuals, hospitals, and other medical facilities possessing conscientious objections to participating in abortions.
- West Virginia has a “contraceptive equity” law, requiring health insurance coverage for contraception. The law provides an exemption to employers or insurers with a conscientious objection to contraceptives.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- West Virginia 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 not be legal except to save the life of the mother based on existing law enacted before *Roe*.

RECOMMENDATIONS

FOR WEST VIRGINIA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - 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 Consent for Abortion Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
-

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 Management Education Act
-

ADDITIONAL PRIORITIES

ABORTION

- Defunding Abortion Providers and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out Act

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- 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

END OF LIFE

- Suicide by Physician Ban Act

HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act



Wisconsin | RANKING 25

Wisconsin has continued to prioritize maternal health over abortion industry influence and profits, prohibiting late-term abortions and requiring comprehensive informed consent for abortions. Wisconsin is also one of a small number of states that maintain a broad, enforceable abortion prohibition should the U.S. Constitution be amended to protect unborn life or the U.S. Supreme Court overturn *Roe v. Wade*.

ABORTION

- Wisconsin possesses an enforceable abortion prohibition should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified.
- Wisconsin prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- No abortion may be performed after viability unless necessary to preserve the woman's life or health. Moreover, a physician must use the abortion method most likely to preserve the life and health of the unborn child unless that method would increase the risk to the woman.
- Wisconsin prohibits partial-birth abortion, but the state's Attorney General issued a statement declaring the law unenforceable and finding it possibly restrictive of other abortion procedures.
- A physician may not perform an abortion on a woman until at least 24 hours after the woman is informed of the probable gestational age of her unborn child, the details of the proposed abortion procedure and its inherent risks, the particular medical risks of her pregnancy, her right to view an ultrasound prior to an abortion, available medical assistance benefits, the father's legal responsibilities, and alternatives to abortion. Women must also be provided information on the post-fertilization age of the unborn child.
- Wisconsin requires the performance of an ultrasound before an abortion. An oral explanation of the ultrasound must be provided, and the image must be available for the woman to view. She must be provided with the opportunity to view and hear an explanation of the heartbeat if one is detectable. The woman cannot be forced to view the ultrasound or heartbeat if she refuses.
- The provision of informed consent and state-prepared materials must include information on perinatal hospice.
- Wisconsin requires abortion providers to state in their printed materials that it is illegal for anyone to coerce a woman into having an abortion.
- A physician may not perform an abortion on an unemancipated minor without the informed, written consent of one parent, grandparent, aunt, uncle, or sibling who is at least 25 years of age, unless the minor is the victim of rape, incest, or child abuse; there is a medical emergency; or the minor obtains a court order. Further, the law gives discretion to a psychiatrist or psychologist to waive consent based on a belief that the minor will commit suicide rather than obtain consent or seek a court order.

- Wisconsin imposes minimal health and safety requirements on abortion facilities. Further, physicians may only perform first-trimester abortions within 30 minutes of a hospital.
- Only a licensed physician may perform an abortion. A law requiring that individual abortion providers maintain hospital admitting privileges was invalidated by the Seventh Circuit Court of Appeals.
- Wisconsin 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 and requires abortion providers to report short-term complications.
- Wisconsin prohibits the use of telemedicine to administer abortion-inducing drugs and requires that such drugs be provided only by physicians, but the law has been challenged in state court.
- Wisconsin provides state funding for abortions for women eligible for public assistance that are directly and medically necessary to preserve the woman's life, to prevent grave, long-lasting physical health damage to the woman, or when the pregnancy is the result of sexual assault or incest reported to law enforcement authorities.
- Generally, no state, local, or federal funds passing through the state's pregnancy programs, projects, or services may be used to perform, promote, refer for, or counsel for abortion. However, referrals may be made if the abortion is necessary to preserve the woman's life. Further, the law only applies to the extent it does not compromise federal funding.
- Wisconsin's Private Employer Health Care Purchasing Alliance, a voluntary program for private employers, may not include coverage for abortion unless the abortion is needed to preserve the woman's life. Further, coverage for abortions that are "medically necessary" may be obtained only by an optional rider or supplemental coverage provision that is offered and provided on an individual basis and for which an additional premium is paid. Under no circumstances is an employer required to provide coverage for abortion.
- Wisconsin prohibits abortion coverage in the state health insurance Exchange required under the federal healthcare law except in cases of life endangerment, rape, incest, or possible "grave, long-lasting physical health damage."
- Wisconsin offers "Choose Life" license plates, the proceeds of which benefit pregnancy resource centers.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Wisconsin grants children born alive after an abortion attempt the same legal status and rights as any other child.
- Under Wisconsin law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Wisconsin defines a nonfatal assault on an unborn child as a crime.
- It allows wrongful death (civil) actions when a viable unborn child is killed through a negligent or criminal act.
- Wisconsin has enacted a "Baby Moses" law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- It defines substance abuse during pregnancy as "child abuse" under civil child-welfare statutes.

BIOETHICS LAWS

- Wisconsin does not ban human cloning, destructive embryo research, or fetal experimentation.
- Wisconsin provides funding for destructive embryo research.
- It requires that healthcare providers offer pregnant women information on options to donate umbilical cord blood following delivery.
- Wisconsin maintains no comprehensive measures regulating assisted reproductive technologies or human egg harvesting.

PATIENT PROTECTION LAWS

- Under Wisconsin law, assisting in a suicide is a felony.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- A physician or other person associated with, employed by, or on staff with a hospital who objects in writing and on moral or religious grounds is not required to participate in abortions.
- A healthcare provider's conscientious objection to participating in abortion may not be a basis for damages, discrimination in employment or education, disciplinary action, or other retaliatory action.
- An individual or entity is not required, because of the receipt of any grant, contract, or loan under state or federal law, to participate in or make its facilities available for the performance of an abortion if such action is contrary to stated religious or moral beliefs.
- A hospital's conscientious, moral, or religious objection to permitting or performing an abortion may not be a basis for civil damages.
- Wisconsin has a "contraceptive equity" requirement, meaning health insurance coverage must include coverage for contraception. No exemption is provided for employers or insurers with moral or religious objections to contraception.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Wisconsin 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 not be legal except to save the life of the mother based on existing law enacted before *Roe*.

RECOMMENDATIONS

FOR WISCONSIN

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Health Protection Act (abortion facility regulations)
 - Drug-Induced Abortion Information and Reporting Act
 - Parental Involvement Enhancement Act
 - Child Protection Act
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act (for a pre-viable child)
-

PATIENT PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

ABORTION

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

LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN


- 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



Wyoming | RANKING 29

Wyoming lacks many basic legal protections for life. For example, Wyoming does not require informed consent for abortion, mandate minimum health and safety standards for abortion facilities, or protect unborn victims of violence. It also fails to regulate or proscribe emerging biotechnologies, and it does not statutorily prohibit suicide by physician. A budget measure passed in 2020 ensures public funding of the University of Wyoming is not used to fund abortions.

ABORTION

- Wyoming prohibits abortions after viability unless necessary to protect the woman from “imminent peril that substantially endangers her life or health.” Wyoming provides a criminal penalty for violation of this law.
- Wyoming does not have an informed consent law for abortion. However, it did pass legislation in 2017 requiring women be informed at least 24 hours prior to an abortion of their right to view an ultrasound of their unborn child and to hear their child’s heartbeat.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the consent of one parent at least 48 hours before the abortion unless there is a medical emergency or the minor obtains a court order. This does not apply to a minor in active military service or who has lived apart and been financially independent from her parents for at least six months before the abortion.
- Only a physician licensed to practice medicine in the state and using accepted medical procedures may perform an abortion.
- Wyoming has an enforceable abortion reporting law and requires the reporting of information to the Centers for Disease Control (CDC). The measure applies to both surgical and nonsurgical abortions and requires abortion providers to report information such as the age of the woman, the length and weight of the unborn child, and any complications.
- Wyoming follows the federal standard for Medicaid funding for abortions, 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.
- A budget measure passed in 2020 ensures public funding of the University of Wyoming cannot be used to fund abortions.

LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

- Wyoming law requires “commonly accepted means of care . . . be employed in the treatment of any viable infant aborted alive with any chance of survival.” Wyoming provides a penalty for violation of this law.
- Wyoming law does not recognize an unborn child as a potential victim of homicide or assault.
- Wyoming law defines an attack on a pregnant woman resulting in a miscarriage or stillbirth as a criminal assault. It also provides enhanced penalties for murdering a pregnant woman.

- Wyoming allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal act and dies thereafter.
- Wyoming has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.

BIOETHICS LAWS

- Wyoming does not ban human cloning or destructive embryo research.
- It does not promote ethical alternatives to destructive embryo research.
- Wyoming maintains no comprehensive measures regulating assisted reproductive technologies or human egg harvesting, but it includes “donation of embryos” in the definition of “assisted reproduction.”
- Wyoming prohibits the sale of fetal tissue and maintains a penalty for violations. However, it excludes fetal tissue from a miscarriage or a medical procedure following a miscarriage from the law.

PATIENT PROTECTION LAWS

- Wyoming has not enacted a statutory prohibition against suicide by physician. Moreover, since it does not recognize common law crimes (including assisting in suicide), the legal status of suicide by physician in Wyoming is unclear.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- No person is required to participate in an abortion or in any act that assists in the performance of an abortion. An objection to participation in an abortion may not be the basis for civil liability, discrimination in employment, or the imposition of other sanctions by a hospital, person, firm, association, or group. Moreover, any person injured because of a violation of his or her right of conscience may bring a civil action for damages or injunctive relief.
- A private hospital, clinic, or facility is not required to perform an abortion nor required to admit a woman for the purposes of performing an abortion. The objection to permitting an abortion within the facility or admitting a patient for an abortion cannot be a basis for civil liability.
- Wyoming voters approved a state constitutional amendment providing that no one can be compelled to participate in any healthcare system. By doing so, they voted to protect the freedom of conscience of individuals, employers, and healthcare providers who object to providing or paying for certain services, such as abortion and drugs with life-ending mechanisms of action.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Wyoming 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 up to viability and possibly throughout pregnancy.

RECOMMENDATIONS

FOR WYOMING

WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
 - Women's Right to Know Act
 - 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 Involvement Enhancement Act
 - Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
-

INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death Act
-

PATIENTS' PROTECTION ACT PRIORITIES

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

ADDITIONAL PRIORITIES

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



INFANTS' PROTECTION PROJECT

Abortion is a story that is often told without discussing who is involved. Pro-abortion feminists talk about “empowerment” or “choice.” Abortion industry lobbyists seek to compel taxpayer funding for a Supreme Court-conferred “right.” Carefully crafted language is routinely used to obscure the reality that a human life hangs in the balance.

Acknowledging the humanity and promise of every child including those yet unborn, Americans United for Life launched the *Infants' Protection Project* in December 2015.

A complement to AUL's hugely successful Women's Protection Project, the Infants' Protection Project showcases AUL's uniquely effective “mother-child strategy” and exposes the lie propagated by the abortion industry that a woman's interests are often at odds with those of her unborn child.

The Infants' Protection Project is also a natural extension of AUL's decades-long leadership in advocating for

the legal protection of unborn children both within and outside the context of abortion. Such protection is possible, even in the face of the Supreme Court's evolving abortion jurisprudence. For example, writing on the constitutionality of laws limiting abortion, former Supreme Court Justice Anthony Kennedy acknowledged "that medical procedures must be governed by moral principles having their foundation in the intrinsic value of human life, including life of the unborn."

Model legislation featured in the *Infants' Protection Project* provides legal recognition and protection to unborn children and affirms their humanity:

- The "**Missouri Preamble**" provides that each life begins at conception; that unborn children have protectable interests in life, health, and well-being; and that parents have protectable interests in the life, health, and well-being of their unborn children. The Act further provides that all state laws shall be interpreted to extend every protection to unborn children consistent with the U.S. Constitution and Supreme Court jurisprudence. It is based on a 1986 Missouri law that was upheld by the Supreme Court.
- The **Unborn Infants Dignity Act** ensures that every mother of a deceased unborn infant is given the opportunity to ensure that her child is treated with dignity and respect and that the bodies of aborted infants are not exploited for scientific or pecuniary gain.

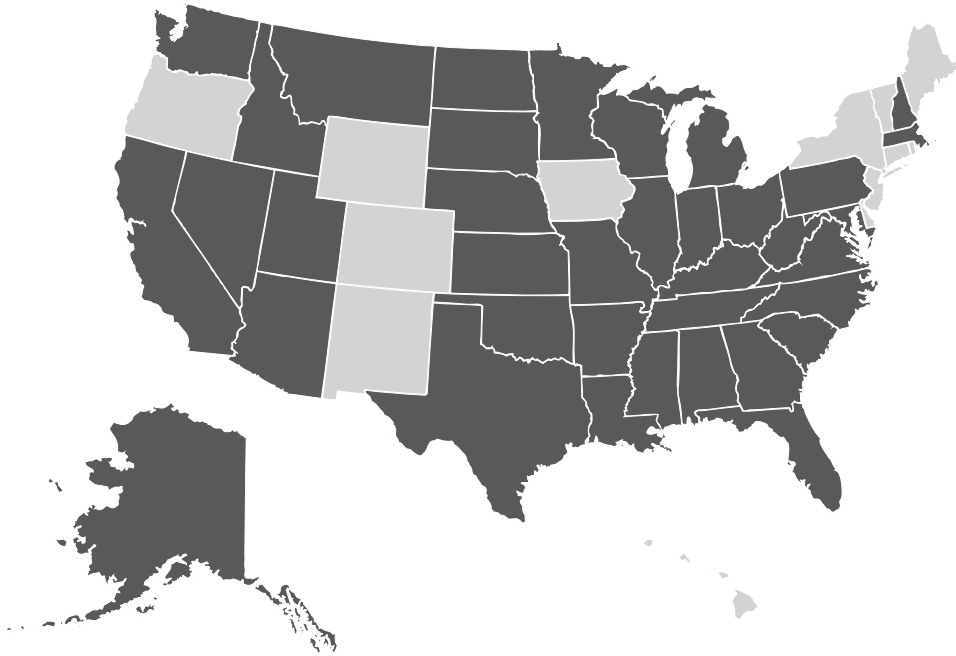
Deceased unborn infants deserve the same respect as other human beings. Tragically, many states do not ensure that miscarried, stillborn, or aborted infants are treated with dignity such as receiving proper burials. Many states also fail to require fetal death reporting and the issuance of fetal death certificates for unborn infants lost early in pregnancy, and do not offer grieving parents "Certificates of Birth Resulting in Stillbirth" or similar legal documents. The Unborn Infants Dignity Act remedies these deficiencies.

- The **Custody of Embryonic Children Act** establishes that legal custody of embryos frozen after assisted reproductive technology (ART) efforts shall be determined by the "best interests of the child" standard and not by property law.
- The **Prenatal Nondiscrimination Act** bans abortions performed solely for reasons of sex-selection or genetic abnormalities such as Down syndrome.
- The **Partial-Birth Abortion Ban Act** bans the unnecessary and barbaric partial-birth abortion procedure and is modeled after the federal Partial-Birth Abortion Ban Act, which was upheld by the Supreme Court in *Gonzales v. Carhart*.
- The **Born-Alive Infant Protection Act** protects all infants born alive during abortions or attempted abortions and includes appropriate enforcement mechanisms and penalties.
- The **Unborn Infants Wrongful Death Act** permits a wrongful death claim for the death of an unborn child, at any stage of development or gestation, remedying both the lack of wrongful death laws in some states and the lack of comprehensive protection provided by most existing state laws.
- The **Perinatal Hospice Information Act** ensures that every woman considering an abortion after receiving a life-limiting fetal diagnosis is aware of the availability of perinatal hospice.

Decades ago, AUL's legal experts laid the intellectual groundwork necessary to implement fetal homicide laws nationwide. At the time of the *Roe* decision in 1973, only three states maintained these protective laws. Today, 37 states have enacted fetal homicide laws, and 29 of these states protect the unborn child beginning at conception. The Infants' Protection Project continues this formidable legacy.

STATE OF THE STATES: WHERE ARE WE NOW?

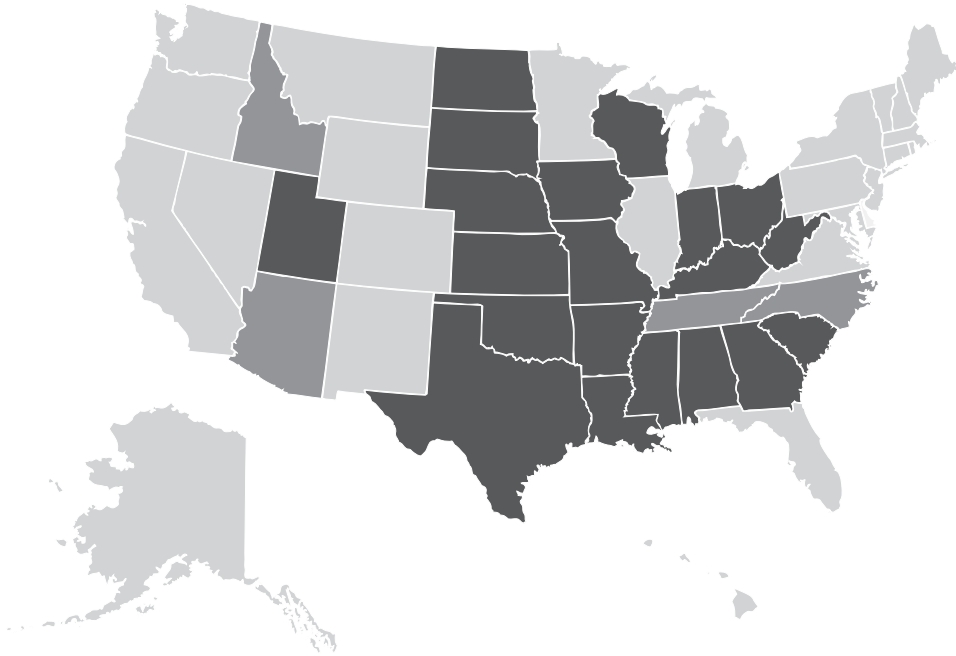
FETAL HOMICIDE



Thirty-seven (37) states have laws recognizing an unborn child as a separate and distinct victim of violence committed against the mother resulting in the child's death: AL, AK, AZ, AR, CA, FL, GA, ID, IL, IN, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, and WI.

STATE OF THE STATES: WHERE ARE WE NOW?

PAIN-CAPABLE UNBORN CHILD ACT



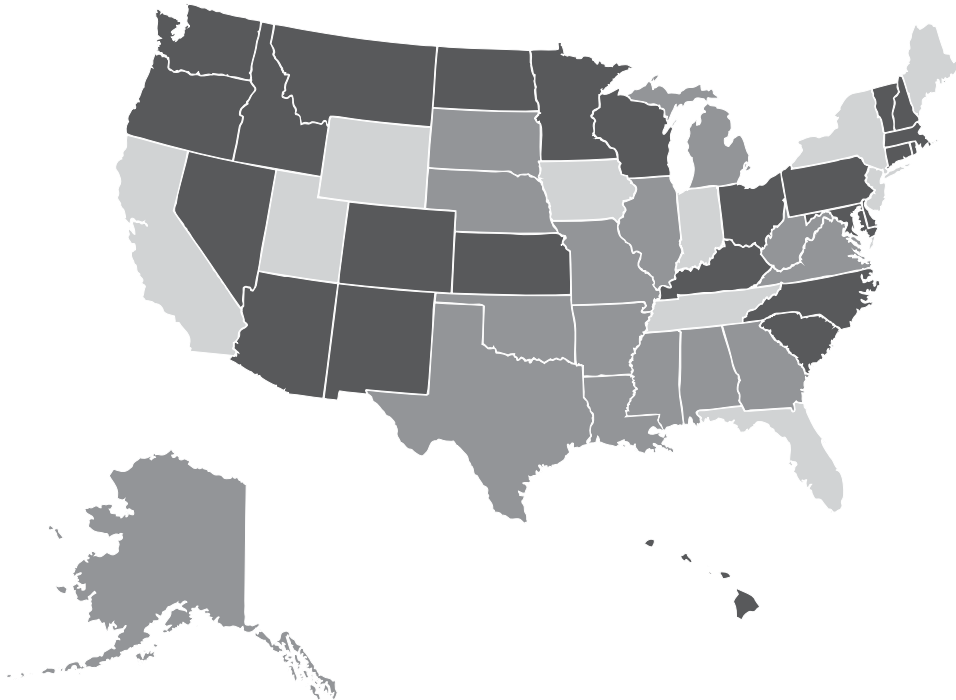
Twenty (20) states restrict abortion after 20 weeks on the basis of the unborn child feeling pain: AL, AR, GA, IN, IA, KS, KY, LA, MS, MO, NE, ND, OH, OK, SC, SD, TX, UT, WV, and WI.



Four (4) states have passed a 20-week restriction, but the law is enjoined: AZ, ID, NC, and TN.

STATE OF THE STATES: WHERE ARE WE NOW?

WRONGFUL DEATH (CIVIL ACTION)



Twenty-five states and the District of Columbia permit a wrongful death action if an unborn child was viable at the time of his/her death: AZ, CO, CT, DE, DC, HI, ID, KS, KY, MD, MA, MN, MT, NV, NH, NM, NC, ND, OH, OR, PA, RI, SC, VT, WA, and WI.



Fifteen states allow suits for a pre-viable unborn child: AL, AK, AR, GA (limited to quickening), IL, LA, MI, MS (limited to quickening), MO, NE, OK, SD, TX, VA, and WV.



Ten states still require live birth (and bar a cause of action for the death of the unborn child unless the child is born alive and dies thereafter): CA, FL, IA, IN, ME, NJ, NY, TN, UT, and WY.



WOMEN'S PROTECTION PROJECT

The pro-life movement will never abandon women to the whims of an under-regulated, predatory abortion industry. As we make gains in state legislatures and the courts, pro-life Americans are committed to protecting women and their unborn children from abortion industry profiteers and the well-documented physical and psychological harms of abortion.

In 2020, the Supreme Court handed down a decision in *June Medical Services v. Russo*. Although the split decision struck down Louisiana's admitting privileges law, it opened the door to other health and safety laws being

upheld by reverting back to the more permissive *Casey* test. The Court once again recognized the legitimate purpose and value of various state abortion regulations..

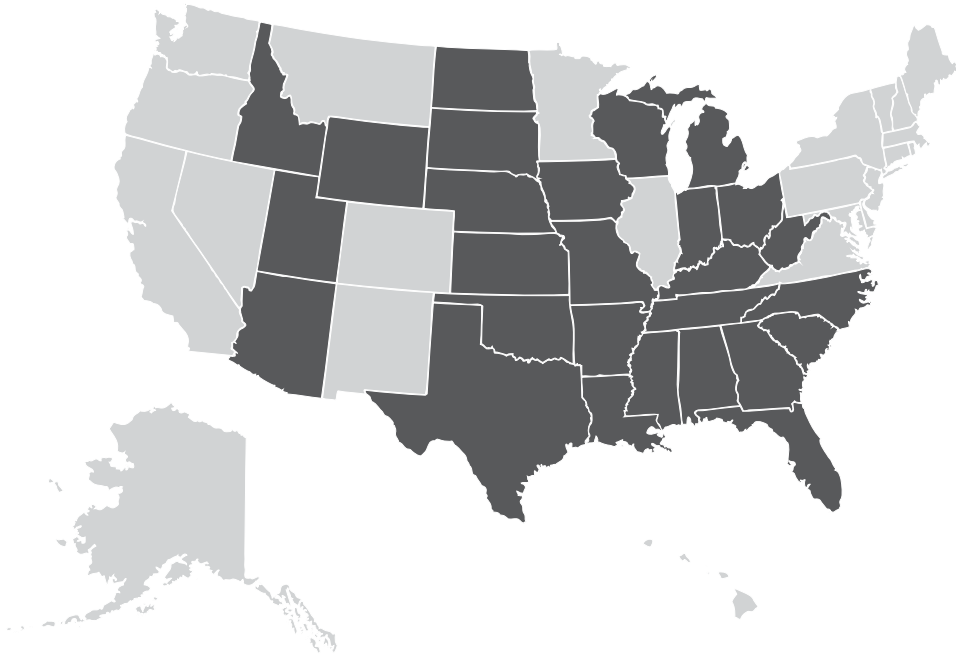
Whether it involves regulating abortion providers or establishing the medical standard of care under which abortions must be done, laws predicated on the state's interest in safeguarding maternal health still maintain the strongest potential both to protect women and withstand potential judicial review. Recognizing this, the *Women's Protection Project* is composed of:

- **The Women's Late-Term Pregnancy Health Act**, which prohibits abortions at or after 20 weeks based on concerns for women's health and the pain experienced by unborn children.
- **The Women's Health Protection Act**, which requires abortion facilities to meet medically appropriate health and safety standards designed specifically for such facilities and based on the abortion industry's own treatment protocols.
- **The Enforcement Module**, which provides options for the criminal, civil, and administrative enforcement of all abortion-related statutes and details enhanced inspection requirements for abortion facilities.
- **The Abortion Reporting Act**, which requires abortion providers to report demographic information about women undergoing abortions and mandates that any medical provider treating abortion-related complications report information about those complications to state officials.
- **The Women's Right to Know Act**, which provides a woman at least twenty-four (24) hours before an abortion with detailed information regarding her medical and psychological risks; her child's gestational age, development, and pain capability; and the abortion procedure itself.
- **The Abortion-Inducing Drugs Information and Reporting Act**, which requires abortion providers to inform women about the efficacy and dangers of abortion-inducing drugs and mandates that women be told that drug-induced abortions can be reversed. The Act also requires the reporting of complications related to drug-induced abortions.
- **The Coercive Abuse Against Mothers Prevention Act**, which prohibits coercing a woman to undergo an abortion and requires abortion facilities to post signs concerning coercion and to report suspected cases of coercive abuse.
- **The Child Protection Act**, which strengthens requirements that abortion facilities report all cases of suspected statutory rape and sexual abuse, mandates the collection of forensic evidence for certain abortions done on minors, and prohibits a third-party from aiding or abetting a minor in circumventing her state's parental involvement law.
- **The Parental Involvement Enhancement Act**, which strengthens state parental involvement laws with requirements for notarized consent forms and for identification and proof of relationship for a parent or guardian providing the requisite consent, as well as more stringent standards for judicial bypass proceedings.

AUL's *Women's Protection Project* is the legal blueprint for protecting women and their children from an increasingly under-regulated and rapacious abortion industry. American women deserve more than the abortion industry's false promises that "mere access" to abortion guarantees their health and well-being.

STATE OF THE STATES: WHERE ARE WE NOW?

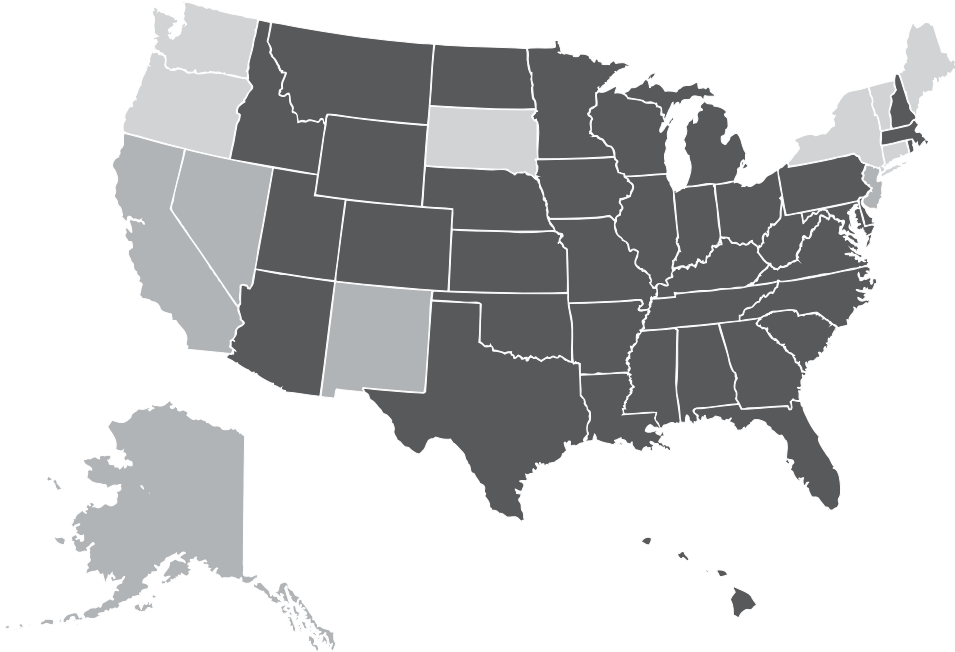
ULTRASOUND REQUIREMENT



Twenty-eight (28) states have some form of ultrasound requirement (either performance or notice): AL, AZ, AR, FL, GA, ID, IN, IA, KS, KY, LA, MI, MS, MO, NE, NC, ND, OH, OK, SC, SD, TN, TX, UT, WV, WI, and WY.

STATE OF THE STATES: WHERE ARE WE NOW?

PARENTAL INVOLVEMENT LAWS



Thirty-eight (38) states have passed a parental notice or consent requirement for minors seeking abortion:

AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, MS, MT, NE, NC, ND, NH, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WV, WI, and WY.



Five (5) states have passed a parental notice or consent law, but it is enjoined:

AK, CA, NV, NJ, and NM.



PATIENTS' PROTECTION PROJECT

There is a growing disregard for human dignity that has been eroding patients' rights over the past several decades. Advocates of suicide by physician have taken their case to the states, passing laws in ten states and the District of Columbia over the protestations of disability rights and elder care groups. This year COVID-19 threatened to overwhelm American hospitals and there was talk of denying care to the elderly, a tragedy that occurred in other parts of the world. Americans United for Life opposes any policy suggesting that suicide or death are the answer to illness, disease, disability, or suffering. Recognizing this, the *Patients' Protection Project* consists of:

- The **Suicide by Physician Ban Act** prohibits legalized suicide by a physician's prescription.
- The **Joint Resolution Opposing Suicide by Physician** reaffirms the state's opposition to assisted suicide and provides information to counter any momentum achieved by those asserting that suicide and death are America's answers to illness, disease, disability, or suffering.
- The **Life Sustaining Care Act** protects a patient from having life-sustaining care withdrawn or withheld against his or her will.
- The **Pain Medication Education Act** establishes an educational curriculum for pain management and provides guidelines for evaluating, monitoring, and treating pain.

DEFENDING LIFE 2021

Evaluation Criteria



States receive credit for an enforceable law only, not for laws enacted but later enjoined by a court or otherwise deemed unenforceable. The 2021 state ranking reflects all legislative and litigation activity through November 1, 2020.

I. WOMEN'S PROTECTION PROJECT

26
PTS

A. Enforcement of Abortion-Related Laws

1. Provides for criminal penalties for violations of one or more abortion laws
2. Provides for civil penalties for violations of one or more abortion laws
3. Provides for professional sanctions for violations of one or more abortion laws

B. Laws Ensuring Fully Informed Consent

1. Provides for basic informed consent requirements (e.g., mandatory counseling as to risks of procedure and gestational age of unborn child)
2. Requires offering the opportunity to view ultrasound and/or hear baby's heartbeat
3. Maintains a reflection period
4. Requires the woman be informed about the efficacy of and risks associated with chemical abortions
5. Requires the woman be told that a chemical abortion can be reversed

C. Coercive Abuse Prevention

1. Maintains a law criminalizing coercive abuse in the context of a woman's abortion decision, requiring the posting of signs on coercive abuse, requiring that a woman be informed that no one may coerce her into undergoing an abortion, or imposing similar requirements

D. Health and Safety Requirements for Abortion Facilities

1. Requires facilities performing abortions to meet specified health and safety standards
2. Requires facilities performing abortions after the first trimester to meet specified health and safety standards
3. Limits the performance of abortions to physicians only
4. Requires admitting privileges and/or emergency transfer agreement
5. Provides women with information on whether the physician has had their license revoked and/or suspended

E. Abortion Reporting

1. Collects general reporting
 - a. Demographic information, information about gestational age of the unborn child, abortion method used, etc.
 - b. Complications
2. Requires information on surgical abortions
3. Requires information on non-surgical abortions
4. Sends reports to the Centers for Disease Control (CDC)

F. Parental Involvement for Minors

1. Maintains enforceable parental involvement law
 - a. Parental consent law
 - b. Parental notice law
2. Includes legal enhancements
 - a. Proof of identification
 - b. Written consent
 - c. Notarized written consent

G. Child Protection Act

1. Designates abortion facility personnel as mandatory reporters of abuse
2. Requires retention of forensic evidence from minor's abortion
3. Penalizes efforts to circumvent parental involvement laws

II. INFANTS' PROTECTION PROJECT

9
PTS

A. "Missouri Preamble" or Similar Legislative Declaration

1. Has adopted a law or legislative declaration that each life begins at conception or that unborn children have protectable interests in life
2. Constitutional amendment or conditional law

B. Ban on Partial-Birth Abortion

1. Bans the use of the partial-birth abortion procedure
 - a. From viability
 - b. At any point

C. Ban on Dismemberment Abortion Procedure

D. Prenatal Nondiscrimination Act

1. Bans abortions performed for sex-selection
2. Bans abortions performed for reason of genetic abnormality
3. Bans abortions based on any other categories

E. Perinatal Hospice Information Act

1. Requires that families be informed about the availability of perinatal hospice care following limiting fetal diagnosis

III. DEFUNDING ABORTION PROVIDERS (STATE FUNDING LIMITATIONS)

9
PTS

A. Public/taxpayer funding of abortion

1. Consistent with federal Hyde Amendment
2. Limits to cases of rape, incest, fetal abnormalities, and/or threats to woman's life or grave bodily injury
3. Permits public funding in most cases (for "medical necessity")

B. Enacted a law or otherwise took action to defund (or partially defund) abortion providers (including Planned Parenthood)

C. Enacted a law opting out of federal abortion mandate

D. Prohibits use of state funds for abortion counseling and/or referrals

E. Prohibits use of state facilities for abortions

F. Prohibits abortion under insurance coverage for state employees

IV. OTHER ABORTION-RELATED LAWS

7
PTS

A. State Constitutional Right to Abortion or Freedom of Choice Act (FOCA)

1. Has state FOCA
2. Recognizes state constitutional right to abortion

B. Other Abortion Bans/Limitations

1. Enforceable pre-*Roe* ban
2. Ban on abortion at 20 weeks' gestation
3. Ban on post-viability abortions

C. Support for Pregnancy Resource Centers (PRCs)

1. Provides direct funding to PRCs and/or offers "Choose Life" license plates (with proceeds going to PRCs or alternatives)
2. Enacted pro-PRC statute, regulation, or resolution in 2020
3. Enacted anti-PRC statute, regulation, or resolution in 2020

V. LEGAL RECOGNITION OF UNBORN CHILDREN AND NEWLY BORN INFANTS

17
PTS

A. Born-Alive Infant Protection Act

1. Provides protection after viability or only protects child from "deliberate acts" by physician
2. Provides protection at any stage of development
3. Includes criminal and/or civil penalties

B. Unborn Victims of Violence/Fetal Homicide

1. Recognizes unborn child after viability as potential homicide victim
2. Recognizes unborn child later in gestation (but before viability) as potential homicide victim
3. Recognizes unborn child at any stage of gestation as potential homicide victim

C. Protection for Unborn Children from Nonfatal Criminal Assaults

D. Unborn Infants' Dignity Act

1. Treats the bodily remains of unborn infants with dignity and respect
 - a. Mandates the dignified disposition of bodily remains of aborted infants and prohibits treatment as medical waste
 - b. Prohibits the sale, purchase, or transfer of bodily remains of aborted infants

2. Authorizes a fetal death certificate, certificate of stillbirth, or similar document
 - a. Applies at any stage of development
 - b. Applies only after a specific stage of development
3. Bans experimentation on bodily remains of aborted unborn children

E. Unborn Wrongful Death Act

1. Allows wrongful death lawsuits when an unborn child is killed at any stage of development
2. Allows wrongful death lawsuits only when a viable unborn child is killed

F. Prohibition of Wrongful Life/Wrongful Birth Lawsuits

1. Prohibits wrongful life or wrongful birth lawsuits
2. Allows wrongful life or wrongful birth lawsuits

G. “Baby Moses” Law

VI. BIOETHICS

6
PTS

A. Human Cloning

1. Bans all forms of human cloning
2. Affirmatively permits any type of human cloning

B. Embryo/Stem Cell Research

1. Destructive embryo research (DER)
 - a. Bans at least some forms/methods of DER
 - b. Expressly allows any form of DER
2. Encourages, promotes, or funds ethical alternatives to DER

C. State Funding of Destructive Embryo Research and/or Human Cloning

1. Prohibits or restricts state funding of DER and/or human cloning
2. Funds DER and/or human cloning

D. Assisted Reproductive Technologies (ART)

1. Requires informed consent for IVF procedure and/or for storage/disposition of embryos that are not implanted
2. Regulates human egg harvesting

VII. SUICIDE BY PHYSICIAN AND PATIENT CARE

6
PTS

A. Suicide by Physician

1. Statutory prohibition on suicide by physician
2. Common law prohibition on suicide by physician
3. Law or judicial decision permitting suicide by physician

B. Patient Protection

1. Passage of a patient autonomy law ("Charlie Gard Act")
2. Passage of pain medication education law

VIII. HEALTHCARE FREEDOM OF CONSCIENCE

10
PTS

A. Participation in Abortion

1. Provides protections for the individual
2. Provides protections for public, private, and/or religious healthcare institutions
3. Provides protections as it relates to emergency contraceptives

B. Participation in Research Harmful to Human Life

1. Provides protections for the individual
2. Provides protections for public, private, and/or religious healthcare institutions

C. Participation in Suicide by Physician

1. Provides protections for the individual
2. Provides protections for public, private, and/or religious healthcare institutions

IX. OTHER

10
PTS

- A. Momentum (frequency of legislative and executive branch effectuating pro-life laws and policies)
- B. Landscape (state constitution and judiciary, political outlook, etc.)

ADDITIONAL MODEL LEGISLATION

Americans United for Life, the legal architects of the pro-life movement, maintains the nation's most comprehensive catalogue of model legislation protecting human life from conception until natural death. AUL legal experts have carefully crafted each piece of model legislation to advance legal protection for life and to withstand judicial scrutiny.

AUL's model legislation covers the full spectrum of life issues: abortion, protection for unborn children in contexts other than abortion, emerging biotechnologies, the end-of-life, and healthcare freedom of conscience. Copies of AUL's model legislation, legislative policy guides, and additional information are available at AUL's website, <https://aul.org/what-we-do/legislation/>.

THE INFANTS' PROTECTION PROJECT:

Unborn Infants Dignity Act ensures that every mother of a deceased unborn infant is given the opportunity to ensure that her child is treated with dignity and respect and that the bodies of aborted infants are not exploited for scientific or pecuniary gain.

"Missouri Preamble" provides that each life begins at conception; that unborn children have protectable interests in life, health, and well-being; and that parents have protectable interests in the life, health, and well-being of their unborn children. Further, the Act provides that all state laws shall be interpreted to extend every protection to unborn children not prohibited by the U.S. Constitution and Supreme Court jurisprudence. It is based on a 1986 Missouri law.

Partial-Birth Abortion Ban Act bans the unnecessary and barbaric partial-birth abortion procedure and is modeled after the federal Partial-Birth Abortion Ban Act, which was upheld by the Supreme Court in *Gonzales v. Carhart* (2007).

Custody of Embryonic Children Act establishes that legal custody of embryos frozen after assisted reproductive technology (ART) efforts shall be determined by the "best interests of the child" standard and not by property law.

Prenatal Nondiscrimination Act bans abortions performed solely for reasons of sex-selection or genetic abnormalities such as Down syndrome.

Perinatal Hospice Information Act ensures that every woman considering an abortion after receiving a life-limiting fetal diagnosis is aware of the availability of perinatal hospice.

Born-Alive Infant Protection Act protects all infants born alive during abortions or attempted abortions and includes appropriate enforcement mechanisms and penalties.

Unborn Infants Wrongful Death Act permits a wrongful death claim in the death of an unborn child, at any stage of development or gestation, remedying both the lack of wrongful death laws in some states and the lack of comprehensive protection provided by most state laws.

THE WOMEN'S PROTECTION PROJECT:

Women's Late-Term Pregnancy Health Act prohibits abortions at or after 20 weeks and is based on concerns both for women's health and the pain experienced by unborn children.

Women's Right to Know Act provides a woman, at least twenty-four (24) hours before an abortion, with detailed information regarding her medical and psychological risks; her child's gestational age, development, and pain capability; and the abortion procedure itself.

Coercive Abuse Against Mothers Prevention Act prohibits coercing a woman to undergo an abortion, as well as requires abortion facilities to post signs concerning coercion and to report suspected cases of coercive abuse.

Women's Health Protection Act requires abortion facilities to meet medically appropriate health and safety standards designed specifically for such facilities and based on the abortion industry's own treatment protocols. State laws based on and similar to the Women's Health Protection Act have been upheld by federal courts.

Abortion Reporting Act requires abortion providers to report demographic information about women undergoing abortions and mandates that any medical provider treating abortion-related complications report information about those complications to state officials.

Abortion-Inducing Drugs Information and Reporting Act requires abortion providers to inform women about the efficacy and dangers of abortion-inducing drugs and mandates that women be told that drug-induced abortions can be reversed. It also requires the reporting of complications related to drug-induced abortions.

Parental Involvement Enhancement Act strengthens state parental involvement laws with, among other elements, requirements for notarized consent forms and for identification and proof of relationship for a parent or guardian providing the requisite consent, as well as more stringent standards for judicial bypass proceedings.

Child Protection Act strengthens requirements that abortion facilities report all cases of suspected statutory rape and sexual abuse, mandates the collection of forensic evidence for certain abortions performed on minors, and prohibits a third-party from aiding or abetting a minor in circumventing her state's parental involvement law.

THE PATIENTS' PROTECTION PROJECT:

Suicide by Physician Ban Act prohibits legalized suicide by a physician's prescription.

Joint Resolution Opposing Suicide by Physician reaffirms the state's opposition to assisted suicide and provides information to counter any momentum achieved by those asserting that suicide and death are America's answers to illness, disease, disability, or suffering.

Life Sustaining Care Act protects a patient from having life-sustaining care withdrawn or withheld against his or her will.

Pain Medication Education Act establishes an educational curriculum for pain management and provides guidelines for evaluating, monitoring, and treating pain.

DEFUNDING ABORTION PROVIDERS

Defunding the Abortion Industry and Advancing Women's Health Act prohibits the use of public funds, facilities, and personnel for the performance of abortions or the provision of abortion counselling and/or referrals.

Federal Abortion-Mandate Opt-Out Act prohibits insurance providers operating within the state health insurance Exchanges (required under the federal healthcare law) from offering coverage for abortion.

Abortion Coverage Prohibition Act prohibits health insurance coverage for abortion.

Employee Coverage Prohibition Act prohibits the use of state taxpayer funds to pay for health insurance coverage of abortions for state employees.

Exchange & Private Insurance Coverage Prohibition Act prohibits insurance providers operating within the state health insurance Exchanges (required under the federal healthcare law) from offering coverage for abortion and prohibits other health insurance coverage for abortion.

Abortion Subsidy Prohibition Act prohibits the use of public funds, facilities, and personnel for the performance of abortions or the provision of abortion counseling or referrals for abortion and avoids the funding of abortion and abortion providers through state and federal family planning programs.

Joint Resolution Calling for Investigation and De-funding of Planned Parenthood and Other Abortion Providers calls on state authorities to look into the practices of abortion providers and to freeze any state funding allocated for abortion providers, as well as voicing the state legislature's support for similar efforts at the federal level.

OTHER ABORTION LEGISLATION

State Constitutional Amendment enunciates a state policy to protect the life of an unborn child from conception until birth that will guide the interpretation of existing and future state laws; prevents any branch of state government from manufacturing a "right" to abortion under the state constitution; and prohibits state funding of abortion to the extent permitted by federal law.

Joint Resolution Proposing Constitutional Amendment Returning Determinations on Abortion Law and Policy to the American People enables the American people and their elected representatives to express their continuing conviction that, more than 40 years after *Roe v. Wade*, the U.S. Supreme Court's abortion decisions are erroneous and should be overturned, restoring self-government on this issue to the American people.

Women's Ultrasound Right to Know Act requires abortion providers to offer a woman the opportunity to view an ultrasound of her unborn child prior to any decision to undergo an abortion.

Parental Consent for Abortion Act mandates parental consent prior to a minor's abortion.

Parental Notification for Abortion Act requires parental notice before a minor's abortion.

Joint Resolution Honoring Pregnancy Resource Centers honors pregnancy resource centers for their life-affirming work.

LEGAL RECOGNITION AND PROTECTION OF THE UNBORN

Crimes Against the Unborn Child Act criminalizes fatal and nonfatal assaults against an unborn child and specifically recognizes an unborn child as a potential crime victim.

Pregnant Woman's Protection Act extends state law allowing the use of force to defend another to women who use force to protect their unborn children from third-party violence.

BIOETHICS AND BIOTECHNOLOGIES

Human Cloning Prohibition Act prohibits all forms of human cloning.

Destructive Human Embryo Research Act prohibits destructive embryo research.

Prohibition on Public Funding of Human Cloning and Destructive Embryo Research prohibits state funding for any form of human cloning or destructive embryo research.

Real Hope for Patients Act provides options for states to encourage ethical stem cell research.

Assisted Reproductive Technologies Disclosure and Risk Reduction Act regulates assisted reproductive technologies – the “gateway” to unethical embryo research – by requiring detailed informed consent requirements, imposing data collection and reporting requirements, and placing limits on the creation and transfer of embryos in a single reproductive cycle

Egg Provider Protection Act protects women from the health risks and exploitation associated with human egg harvesting.

Embryo Adoption Act provides a legal adoption procedure for human embryos.

HEALTHCARE FREEDOM OF CONSCIENCE:

Healthcare Freedom of Conscience Act provides comprehensive protection for the freedom of conscience of individual healthcare providers, institutions, and payers.

Pharmacist Freedom of Conscience Act provides comprehensive protection for pharmacists' freedom of conscience.

Ensuring Compliance with Healthcare Freedom of Conscience Act requires healthcare institutions receiving taxpayer funding to certify that they are knowledgeable of state and federal laws protecting freedom of conscience and have policies in place to abide by those laws, providing an incentive to protect – not coerce or discriminate against – healthcare professionals' conscience rights.

ABOUT AMERICANS UNITED FOR LIFE

Americans United for Life is the legal arm of the pro-life movement. As the nation's premier pro-life legal team, we work through the law and legislative process to one end: Achieving comprehensive legal protection for human life from conception to natural death. We hold the unique distinction of being the first national pro-life organization in America, incorporated in 1971, two years before the infamous *Roe v. Wade* decision.

AUL's legal team has been involved in every abortion-related case before the U.S. Supreme Court since *Roe v. Wade*, including AUL's successful defense of the Hyde Amendment before the High Court. AUL's legal expertise and acumen set the bar in the pro-life community for the creation of effective and defensible pro-life laws. At the state, federal, and international levels, AUL works to advance life issues through the law and does so through measures that can withstand judicial obstacles and ultimately be enforced. AUL knows that reversing *Roe v. Wade* can be accomplished through deliberate, legal strategies that accumulate victories, build momentum, and restore a culture of life.

A LEADER IN THE STATES:

AUL works at the state level to craft tailored strategies and legislative tools that will assist state and local officials as they defend and protect life. In all 50 states, AUL's team has worked with governors, legislators, and pro-life leaders to ensure that everyone is welcomed in life and protected in law. AUL drafts legislation and provides in-depth legal analysis and expert testimony on critical life issues being debated in the states.

A LEADER IN PRINT:

Comprehensive analysis and state-by-state insight are extraordinary resources that AUL makes available to pro-life leaders, attorneys, and officeholders nationwide. *Defending Life*, an annual guide which details the life initiatives underway in all 50 states, analyzes important issues, provides model legislation, and compares the 50 states in the well-publicized "Life List," which ranks the states based on their progress on the full spectrum of life issues.

Defending Life has been unparalleled in pointing the way to protecting women now, to limiting the abortion license created by the Supreme Court, and to preparing the ground to overturn *Roe*.

A LEADER AROUND THE WORLD:

AUL is also defending life around the world. Though human rights belong to all human beings, anti-life forces seek to develop a body of international law that provides for a "right to abortion" that agenda-driven U.S. judges will, in turn, impose upon America. Joining with pro-life lawyers around the world, AUL fights this at the United Nations, in international courts, and in other countries. Our groundbreaking Latin American counterpart to *Defending Life*, *Defending the Human Right to Life in Latin America*, was first published in

Spanish and in English in 2011. An interactive web page with the latest updates and additional country reports was launched in 2014, and is continuously updated at aul.org. AUL attorneys regularly consult with pro-life allies in other countries to assist them in passing and defending pro-life laws.

A LEADER AMONG LEADERS:

AUL experts write for news outlets and speak at events nationwide. You can find AUL on television, in print, and on informative websites every day. AUL has been innovative in getting its message out through on-line events and inventive media strategies.

AN AWARD WINNING VIEWPOINT:

The national vantage point of AUL's operation makes it uniquely qualified to recognize and honor pro-life leadership for accomplishments at state, federal, and international levels, often achieved in partnership with AUL's team. Among the leaders who have accepted AUL's honors for their consistent and effective efforts to protect life are the legendary Rep. Henry Hyde, Rep. Chris Smith, Gov. Haley Barbour, and U.S. Speaker of the House John Boehner.

AUL's work promotes a culture of life through the law. For assistance on legislation, questions about litigation, or to have AUL host a briefing for legislators and policy makers in your state, please contact: info@aul.org.

A PROVEN TRACK RECORD OF SUCCESS

With 50 years of pro-life legal leadership, Americans United for Life has a distinguished record of accomplishments, but a few key victories stand out as representative of AUL's unique contributions to pro-life success.

1. WINNING THE HYDE AMENDMENT CASES BEFORE THE U.S. SUPREME COURT.

In 1980, AUL won an historic victory for the Hyde Amendment in the celebrated U.S. Supreme Court case, *Harris v. McRae*, and its companion case, *Williams v. Zbaraz*. AUL's attorneys were counsel for both cases, and AUL attorney Victor Rosenblum argued *Zbaraz* before the Court. These monumental court decisions upheld federal and state prohibitions on public funding of abortion except in cases where the life of the mother is implicated, resulting in more than two million human lives saved since 1980.

2. ESTABLISHING FETAL HOMICIDE LAWS IN 37 STATES.

A fetal homicide law recognizes an unborn child as a potential victim of criminal violence. AUL's legal experts laid the intellectual groundwork to implement these laws nationwide. At the time of the *Roe* decision in 1973, only three states enforced these protective laws. Today, 37 states have fetal homicide laws in place, and 29 of these states protect the child beginning at conception.

3. DEFENDING LIFE, REDUCING ABORTIONS STATE BY STATE.

According to scholar Dr. Michael J. New, AUL's crucial work in helping pass and enact parental involvement laws, informed consent laws, and limits on taxpayer funding of abortion has reduced abortions across the country by an estimated 50 percent since 1980. In 2006, AUL decided to make its legal knowledge accessible to pro-life legislators and activists across the country and published the first edition of *Defending Life*, which instantly became known as the "pro-life playbook."

4. A LEADING ROLE IN THE FIGHT AGAINST SUICIDE BY PHYSICIAN.

In 1980, AUL published an important book on "Death, Dying and Euthanasia" and has continued to oppose every bill seeking to legalize suicide and to be involved in every significant case, at the state and federal level, concerning legalized suicide, including the extensive role AUL played in *Baxter v. Montana* in 2009.



Consider supporting the life-saving work of Americans United for Life by making a gift at [AUL.org](https://www.aul.org) today.

THIS PAGE INTENTIONALLY BLANK

THIS PAGE INTENTIONALLY BLANK

PRAISE FOR AMERICANS UNITED FOR LIFE



KRISTI NOEM | *Governor of South Dakota*

"As a former state legislator, eight-year member of Congress, and now Governor of South Dakota, I am proud of my 100% pro-life record. Given the science we know today about the preborn, no reasonable person can be anything other than pro-life. With that in mind, I am grateful for the work of Americans United for Life, an organization that for 50 years has stood up in the courts, in the legislatures, and in the public arena for the most defenseless among us: the preborn. God bless the people of AUL and their mission."



MARSHA BLACKBURN | *U.S. Senator (TN)*

"It is an honor to stand with Americans United for Life and the people of Tennessee in advocating for the protection of vulnerable persons. As I've seen first-hand as a Tennessee state legislator, as a Member of the U.S. House of Representatives, and now as a U.S. Senator, the spirited persistence of advocates for life is speaking powerfully to the conscience of this great nation."



MEGHAN MCCAIN | *Co-Host, ABC's The View*

"I applaud Americans United for Life for their comprehensive beginning-to-end approach, which is reducing abortions and helping state after state enact life-saving law and policy. We cannot let politics overrule what science and medicine reveals to be true about our shared humanity."



USA TODAY

"The USA TODAY/Arizona Republic analysis found Americans United for Life was behind the bulk of the more than 400 [pro-life] bills introduced in 41 states. The analysis compares known model legislation with bills introduced by lawmakers using a computer algorithm developed to detect similarities in language."



THE WASHINGTON POST

"Americans United for Life ... frames proposals that will be palatable to state legislatures, can be discussed in ways that will generate less political backlash and will appeal to the courts that will eventually have to review legislative intent and discussion."

Defending Life, brought to you by Americans United for Life, is the national playbook for advancing the human right to life. *Defending Life* empowers advocates and lawmakers across America to implement robust and effective pro-life law and policy across the spectrum of life issues. *Defending Life* equips the entire pro-life community with constitutionally sound laws designed to withstand judicial scrutiny and protect life. Visit AUL.ORG to learn about Americans United for Life and to consider making a gift to support our mission to advance the human right to life in culture, law, and policy.