



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
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INFANTS' PROTECTION PROJECT PRIORITIES

- Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Born-Alive Infant Protection Act
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PATIENT PROTECTION ACT PRIORITIES

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

ABORTION

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

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