



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
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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)
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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

- 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