



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
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INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
 - Prenatal Nondiscrimination Act
 - Perinatal Hospice Information Act
 - Unborn Infants Wrongful Death 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
 - Repeal 2019 law enacting suicide by physician
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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