



# 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.

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## 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

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## 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
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## 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)
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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
- 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