



# 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.

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## 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

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## 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
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## INFANTS' PROTECTION PROJECT PRIORITIES

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

- 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