



## Mississippi | RANKING 4

Over the last several years, AUL has worked with Mississippi to enact numerous life-affirming laws including its ban on abortions at or after 20 weeks, its informed consent law, and comprehensive protection for Healthcare Freedom of Conscience. However, it lags behind some other states in regulating emerging biotechnologies and failing to prohibit human cloning, destructive embryo research, or fetal experimentation.

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### ABORTION

- In *Pro-Choice Mississippi v. Fordice*, the Mississippi Supreme Court found that the state constitution's right of privacy includes "an implicit right to have an abortion." However, the court still upheld the state's informed consent law, 24-hour reflection period before an abortion, and a two-parent consent requirement before a minor may obtain an abortion.
- Mississippi has enacted legislation prohibiting abortion except in cases of life endangerment should *Roe v. Wade* be overturned.
- Mississippi passed legislation that prohibits knowingly performing an abortion that would end the life of an unborn child whose fetal heartbeat was detected, except when necessary to prevent the death of the woman or prevent "substantial and irreversible impairment of a major bodily function." The law is enjoined and in ongoing litigation.
- Mississippi limits abortions at 5 months (i.e., 20 weeks), on the basis of the health risks to women caused by a later-term abortion and the pain to the unborn child.
- Abortion is prohibited after 15 weeks' gestation "except in medical emergency and in cases of severe fetal abnormality." The law is enjoined and in ongoing litigation.
- Mississippi prohibits partial-birth abortion.
- Mississippi prohibits the dismemberment abortion procedure.
- Mississippi prohibits abortions based solely on the baby's race, sex, or diagnosis or potential diagnosis of a genetic abnormality.
- A physician may not perform an abortion on a woman until at least 24 hours after the woman receives counseling on the medical risks of abortion including the link between abortion and breast cancer, the medical risks of carrying the pregnancy to term, the probable gestational age of the unborn child, medical assistance benefits, and the legal obligations of the child's father. Mississippi also provides written material describing the development of the unborn child, the medical risks of abortion, available state benefits, and public and private agencies offering alternatives to abortion.
- In addition, an abortion provider is required to perform an ultrasound on a woman seeking an abortion.

The woman must be offered the opportunity to view the ultrasound image, receive a copy of the image, and listen to the unborn child's heartbeat. Abortion facilities must purchase ultrasound equipment.

- An abortion provider must inform a woman seeking abortion at or after 5 months (i.e., 20 week) because of her unborn child's life-limiting diagnosis of certain supportive services available to her should she decide to carry the child to term. These services include counseling and care from maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers, and specialty nurses who focus on alleviating fear and ensuring that the woman and her family experience the life and death of their child in a comfortable and supportive environment.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 without the written consent of both parents unless there is a medical emergency, the minor is the victim of incest by her father (in such circumstances, the consent of the minor's mother is sufficient), or the minor obtains a court order. The two-parent consent requirement has been upheld by both a federal appellate court and the Mississippi Supreme Court.
- Mississippi mandates minimum health and safety regulations for abortion clinics performing more than ten abortions per month and/or more than 100 abortions per year. The regulations prescribe minimum health and safety standards for the building or facility, clinic administration, staffing, and pre-procedure medical evaluations.
- Mississippi requires that second-trimester abortions be performed in hospitals, ambulatory surgical facilities, or a licensed Level I abortion facility (as defined by state statute).
- Abortion facilities are required to maintain emergency transfer agreements.
- Mississippi law requires physicians to be board certified in obstetrics and gynecology.
- The Abortion Complication Reporting Act requires abortion providers to report any incident in which a woman dies or needs further medical treatment as a result of an abortion. The measure applies to both surgical and nonsurgical abortions and requires hospitals to report the number of patients treated for complications resulting from abortions.
- Mississippi also requires that deaths resulting from criminal abortions, self-induced abortions, or abortions performed because of sexual abuse be reported to the medical examiner.
- Mississippi includes "reproductive healthcare facilities" in the definition of mandatory reporters for suspected child sexual abuse.
- It requires that a physician examine a woman before providing abortion-inducing drugs. Further, the physician must follow "the standard of care" and the provider or his/her agent must also schedule a follow-up appointment for the woman.
- Mississippi funds abortions for women eligible for public assistance when necessary to preserve the woman's life, the pregnancy is the result of rape or incest, or in cases involving fetal abnormalities.
- No money in the Mississippi Children's Trust Fund, established to assist child abuse and neglect programs, may be used for abortion counseling.
- Mississippi restricts the use of state facilities for the performance of abortions.

- Public school nurses are prohibited from providing abortion counseling or referring any student to abortion counseling or an abortion clinic.
- Insurance companies participating in the state insurance Exchanges, established pursuant to the federal healthcare law, cannot offer policies that provide abortion coverage within the Exchanges, except in cases of life endangerment, rape, or incest.
- Health insurance funds for state employees may not be used for insurance coverage of abortion unless an abortion is necessary to preserve the life or physical health of the mother.
- Mississippi offers “Choose Life” and “We Love Life” specialty license plates, the proceeds of which benefit organizations providing abortion alternatives.

## **LEGAL RECOGNITION AND PROTECTION OF UNBORN CHILDREN AND NEWLY BORN INFANTS**

- The killing of an unborn child at any stage of gestation is a form of homicide.
- Mississippi defines a nonfatal assault on an unborn child as a criminal offense.
- Further, Mississippi law also provides that an attack on a pregnant woman resulting in a stillbirth or miscarriage is a criminal assault.
- Mississippi authorizes a wrongful death (civil) action when an unborn child (after quickening) is killed through violence or negligence.
- It has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Mississippi law protects the anonymity of the parent relinquishing a newborn under the state’s infant abandonment statute.

## **BIOETHICS LAWS**

- Mississippi maintains no laws regarding human cloning, destructive embryo research, fetal experimentation, assisted reproductive technologies, or human egg harvesting.
- It promotes ethical forms of research through an umbilical cord blood banking program.
- In each of the last four years, Mississippi has enacted appropriations measures prohibiting state funds from being used in research in which a human embryo is killed or destroyed.

## **PATIENT PROTECTION LAWS**

- In Mississippi, suicide by physician is a felony.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION**

- The Mississippi Healthcare Rights of Conscience Act, based on AUL model legislation, provides comprehensive freedom of conscience protection for healthcare providers, institutions, and insurance companies (including pharmacists and pharmacies) who conscientiously object to participating in any healthcare service including abortion.

#### **PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE**

- Mississippi protects the civil rights of all healthcare providers who conscientiously object to participating in any healthcare services, including destructive embryo research and human cloning.

#### **WHAT HAPPENS AFTER *ROE* IS OVERTURNED?**

- Mississippi has a law, conditioned on *Roe* being overturned, that makes abortion illegal which may be enforceable. If not, abortion will be legal up to 20 weeks of pregnancy.

# RECOMMENDATIONS FOR MISSISSIPPI

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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
  - Component of the Child Protection Act providing remedies for third-party interference with parental rights
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## INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
  - Prenatal Nondiscrimination 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)

### 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