



Oklahoma | RANKING 3

Protecting women and their unborn children remains a primary focus of Oklahoma legislators. Even in the face of threatened litigation by abortion advocates, Oklahoma continues to enact comprehensive and protective laws and regulations, counting it more important to protect women from a predatory abortion industry that values profits over women's lives and health.

ABORTION

- Oklahoma possesses an enforceable abortion prohibition should the U.S. Constitution be amended or certain U.S. Supreme Court decisions be reversed or modified.
- Oklahoma prohibits abortions at or after 5 months of pregnancy (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- Oklahoma prohibits sex-selection abortions.
- Oklahoma prohibits partial-birth abortion.
- It also prohibits the dismemberment abortion procedure.
- Oklahoma requires that, 72 hours before an abortion, a woman receive counseling on the medical risks of abortion and pregnancy, the name of the physician performing the abortion, and the gestational age of the unborn child. The woman must also receive information on anatomical and physiological characteristics of fetuses at different stages of development and her right to receive state-prepared materials on potential government benefits, child support, and a list of support agencies and their services. A woman must also be informed that “[a]bortion shall terminate the life of a whole, separate, unique, living human being.” The reflection period is in ongoing litigation.
- Oklahoma has supplemented its informed consent requirements, mandating that women seeking abortions at 5 months gestation or later receive information about fetal pain.
- Oklahoma requires an ultrasound evaluation 72 hours prior to abortion for all patients who elect to have abortions. A woman at 6 weeks of gestation or later must be given an opportunity to hear the heartbeat of her unborn child.
- A woman considering abortion after a life-limiting diagnosis for her unborn child must receive information on perinatal hospice services at least 72 hours prior to the performance of the abortion.
- In 2019, Oklahoma passed legislation strengthening its informed consent requirements on chemical abortions. All clinics or facilities that provide mifepristone must put up a sign containing information on the possibility of reversing the effects of the drug. In addition, a woman who undergoes the chemical abortion must be informed at least 72 hours in advance, either over the telephone or in person, of the possibility of reversing the effects of the abortion. She must also be provided a written statement on reversing the effects of mifepristone after receiving the first dose.

- A physician may not perform an abortion on an unemancipated minor without the written, notarized consent of a parent or guardian. A parent or guardian must provide government-issued proof of identification, and the abortion provider must also sign a document attesting to the quality of the identification provided. Judicial bypass proceedings must be initiated in the county where the minor resides, and judges must consider certain enumerated factors in assessing the maturity of the minor and the specific circumstances of the case. In a medical emergency, abortion providers must notify a parent or guardian of the minor's abortion no less than 24 hours after the procedure, unless the minor obtains a judicial waiver. Oklahoma provides a civil cause of action for a minor (or her parent/guardian) if an abortion provider fails to comply.
- Oklahoma maintains a separate parental notice provision that does not include a judicial bypass procedure.
- Abortion facilities must post signs indicating that a woman cannot be coerced into an abortion.
- Oklahoma has amended its definition of "abortion" to include the use of abortion-inducing drugs. It has also amended the definition of "medical emergency" as applied to all of its abortion laws, narrowing the exception to exclude "mental health" and applying it only to cases where a physical condition could cause the major impairment of a bodily function or death.
- Oklahoma law mandates that abortion facilities comply with comprehensive health and safety standards, based in substantial part on AUL's Women's Health Defense Act. An additional requirement that abortions after the first trimester be performed in a hospital has been ruled unconstitutional.
- Only physicians licensed to practice medicine in Oklahoma may perform abortions.
- Oklahoma passed a law requiring that abortion providers must have admitting privileges at a general medicine surgical hospital within 30 miles of the abortion facility and must remain on the premises in order to facilitate the transfer of emergency cases until all abortion patients are stable and ready to leave the recovery room, but it is permanently enjoined.
- Abortion providers must report specific and detailed information about each abortion and abortion patient including aggregate information on the number of women receiving state abortion counseling materials and the number of abortions exempted from the counseling requirement because of a "medical emergency."
- In addition, abortion providers must report specific and detailed information regarding minors' abortions, including whether they obtained the mandatory parental consent, whether the minors sought judicial bypass of the consent requirement, and whether or not such bypass was granted. The requirements apply to both surgical and nonsurgical abortions, but do not require that any of this information be reported to the Centers for Disease Control (CDC).
- In 2013, Oklahoma amended its abortion reporting statute to require the provision of additional information including a screenshot of the ultrasound image. In 2014, it added a requirement that any incidents of injury or death must be reported to the state Board of Health.
- Oklahoma comprehensively regulates drug-induced abortions, which includes a requirement that physicians physically examine a woman before administering the drugs, as well as a requirement that the drugs be administered as restricted by the U.S. Food & Drug Administration (FDA). Abortion providers have challenged the law in state court.

- Telemedicine is not permitted to initiate a drug-induced abortion.
- Oklahoma enacted a law permitting a woman (or parent or legal guardian of a minor) to commence a civil action if an abortion provider violates the state’s informed consent law, ultrasound requirement, fetal pain counseling requirement, parental involvement law, or any other law regulating a minor’s abortion.
- Oklahoma 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.
- Under Oklahoma law, no public funds can be used to encourage a woman to have an abortion (except to the extent required by federal Medicaid rules).
- Oklahoma prohibits taxpayer funding of any entity associated with another entity that provides, counsels, or refers for abortion.
- The state prohibits the use of research grants provided through the Oklahoma Health Research Act for abortion.
- Oklahoma law restricts the use of state facilities for the performance of abortions and provides that no state actor may perform an abortion except in cases of life endangerment, incest, or rape. Healthcare providers who are state employees may not provide abortions, abortion referrals, or abortion counseling.
- It prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment.
- Oklahoma also prohibits private health insurance coverage for abortions, except in cases of life endangerment.
- Oklahoma has directed the state Department of Health to “facilitate funding to nongovernmental entities that provide alternatives to abortion services.” It has also allocated direct taxpayer funding to abortion alternatives.
- Oklahoma 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

- Under Oklahoma law, “the rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born.”
- Oklahoma criminalizes the unlawful killing of an unborn child from “the moment of conception.”
- Oklahoma also criminalizes a nonfatal assault on an unborn child.
- The Pregnant Woman’s Protection Act provides an affirmative defense to a woman who uses force to protect her unborn child from a criminal assault.
- Oklahoma allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- Wrongful death suits were expanded to include lawsuits against a doctor for performing a fraudulent abortion, which includes abortions performed without the woman’s consent, abortions performed

without the required informed consent, abortions performed on minor girls without parental consent or judicial authorization, or abortions that result in mental or physical harm.

- It prohibits civil causes of action for both “wrongful birth” and “wrongful life.”
- Oklahoma 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.
- Oklahoma requires healthcare professionals to report suspected prenatal drug exposure and mandates that the state Department of Human Services investigate when a newborn tests positive for controlled substances.
- Oklahoma created The Humanity of the Unborn Child Act and Fund, requiring the state Department of Health to develop, update, and maintain information on agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is in development (including adoption agencies). The comprehensive list of public and private agencies must include a description of services offered and information on how to contact each listed agency. In addition to promoting alternatives to abortion, the law also requires the Department of Health to develop and make available materials on fetal development.

BIOETHICS LAWS

- Oklahoma prohibits human cloning, destructive embryo research, and fetal experimentation.
- The state Department of Health has been directed to establish, operate, and maintain a public umbilical cord blood bank or cord blood collection operation. The Department has also been directed to establish a related education program, and each physician is to inform pregnant patients of the opportunity to donate to the bank following delivery.
- Oklahoma regulates the donation and transfer of human embryos used in assisted reproductive technologies and has recognized that donors of embryos relinquish all parental rights with respect to any resulting children.
- Oklahoma regulates assisted reproductive technologies.

PATIENT PROTECTION LAWS

- In Oklahoma, assisting a suicide is a felony.
- The Nondiscrimination in Health Care Coverage Act prohibits state agencies from relying on discriminatory measures—including “quality adjusted life years,” age, or disability—when determining health care recommendations.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION

- Oklahoma’s Freedom of Conscience Act provides broad conscience protections for individuals and institutions. No person is required to participate in medical procedures that result in or are in preparation for an abortion except when necessary to preserve a woman’s life. A private hospital is not required to permit abortions within its facilities.

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- The Freedom of Conscience Act provides broad conscience protections for individuals and institutions.

WHAT HAPPENS AFTER *ROE* IS OVERTURNED?

- Abortion will not be legal except to save the life of the mother based on existing law enacted before *Roe*.

RECOMMENDATIONS FOR OKLAHOMA

WOMEN'S PROTECTION PROJECT PRIORITIES

- Components of the Child Protection Act related to evidence retention and remedies for third-party interference with parental rights
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INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity 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

BIOETHICS

- Egg Provider Protection Act
- Assisted Reproductive Technologies Disclosure and Risk Reduction Act