



## South Carolina | RANKING 22

South Carolina maintains a number of life-affirming laws protecting women and unborn children from the harms inherent in abortion. These laws include comprehensive informed consent requirements and health and safety standards for abortion facilities. However, like many other states, South Carolina does not effectively regulate emerging biotechnologies, failing to prohibit human cloning, destructive embryo research, or fetal experimentation.

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### ABORTION

- In 2018, Governor Henry McMaster signed an executive order stating, “the preservation of life is the ultimate right to be protected and necessarily includes the life of unborn children” and declaring abortion clinics and affiliated physicians as “unqualified to provide family planning services.”
- South Carolina limits abortions when the probable post-fertilization age of the unborn child is 20 or more weeks. Abortions are also limited after 24 weeks gestation unless the attending physician and another independent physician certify in writing that the abortion is necessary to preserve the woman’s life or health. If both physicians certify the abortion is necessary to preserve the woman’s mental health, an independent psychiatrist must also certify that the abortion is necessary.
- South Carolina prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until 24 hours after she is informed of the probable gestational age of her unborn child, the abortion procedure to be used, and the availability of state-prepared written materials describing fetal development, listing agencies offering alternatives to abortion, and describing available medical assistance benefits.
- South Carolina requires that a woman be offered an ultrasound and the opportunity to view the image prior to an abortion.
- A physician may not perform an abortion on an unemancipated minor under the age of 17 without the informed written consent of one parent, a grandparent, or any other person who has standing in loco parentis, unless there is a medical emergency, the minor is a victim of incest, or the minor obtains a court order.
- South Carolina has enacted comprehensive health and safety regulations for abortion facilities. These regulations are based on national abortion industry standards and cover such areas as clinic administration, physical plant, sanitation standards, patient care, post-operative recovery, and proper maintenance of patient records.
- Only a physician licensed to practice medicine in South Carolina may perform an abortion.
- South Carolina has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The law applies to both surgical and nonsurgical abortions. In 2014, South Carolina added reporting requirements mandating that abortion providers

report whether they have hospital admitting privileges and report abortion complications.

- South Carolina 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. In 2018, the governor of South Carolina signed an executive order terminating abortion providers as qualified providers under its state Medicaid program. The order is enjoined.
- State law provides that no state funds may be expended to perform abortions, except those authorized by Medicaid under federal law. Further, South Carolina maintains the following funding restrictions: money appropriated to the Adolescent Pregnancy Prevention Initiative may not be used for transportation to or from abortion services; state funds appropriated for family planning may not be used to pay for an abortion; the South Carolina Department of Health and Environmental Control and its employees may not provide referral services or counseling for abortion; and funds appropriated under the South Carolina Birth Defects Program may not be used to counsel or refer women for abortions.
- South Carolina prohibits health plans offered through the state's health insurance Exchanges required under the federal healthcare law from including abortion coverage.
- State taxpayer funds appropriated to the State Health Insurance Plan may not be used to pay for an abortion except in cases of rape or incest, or to preserve a woman's life. In addition, \$100 must be used to create printed materials that let the reader know an unborn child at twenty weeks or more is capable of feeling pain.
- South Carolina offers "Choose Life" license plates, the proceeds of which benefit pregnancy resource centers.

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

- South Carolina provides protection for infants who are born alive after an abortion attempt.
- The Unborn Victims of Violence Act provides that the killing of an unborn child at any stage of gestation may be prosecuted as homicide. It also criminalizes a nonfatal assault on an unborn child.
- South Carolina allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- South Carolina 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.
- It defines substance abuse during pregnancy as "child abuse" under civil child-welfare statutes.

## **BIOETHICS LAWS**

- South Carolina does not prohibit human cloning, destructive embryo research, or fetal experimentation, nor does it promote ethical forms of research.
- South Carolina does not regulate the provision of assisted reproductive technologies or human egg harvesting.

## **PATIENT PROTECTION LAWS**

- Under South Carolina law, suicide by physician is a felony.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION**

- A physician, nurse, technician, or other employee of a hospital, clinic, or physician who objects in writing is not required to recommend, perform, or assist in the performance of an abortion.
- A healthcare provider's conscientious objection to performing or assisting in abortions may not be the basis for liability or discrimination. A person discriminated against in employment may bring a civil action for damages and reinstatement.
- Except in an emergency, a private or nongovernmental hospital or clinic is not required to permit the use of its facilities for the performance of an abortion or to admit a woman for an abortion.
- A hospital's refusal to perform or to permit the performance of abortions within its facility may not be the basis for civil liability.

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

- South Carolina currently provides no protection for the rights of healthcare providers who conscientiously object to participation in human cloning, destructive embryo research, and other forms of medical research that violate a provider's moral or religious beliefs.

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

- Abortion will be legal up to 20 weeks of pregnancy.

# RECOMMENDATIONS FOR SOUTH CAROLINA

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## WOMEN'S PROTECTION PROJECT PRIORITIES

- Enhanced penalties and enforcement mechanisms for the state's abortion-related laws
  - Coercive Abuse Against Mothers Prevention Act
  - 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

- Defunding the Abortion Industry and Advancing Women's Health Act

### 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

### HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act