



## Utah | RANKING 16

In recent years, Utah has enacted several commonsense measures designed to protect women and unborn children from the harms inherent in abortion, fulfilling the public policy of the state “to encourage all persons to respect the right to life.” Much work remains to be done, especially in the field of biotechnologies. Utah does not prohibit human cloning, destructive embryo research, or fetal experimentation, nor does it promote ethical alternatives to destructive research.

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### ABORTION

- The Utah legislature has resolved that “it is the finding and policy of the Legislature...that unborn children have inherent and inalienable rights that are entitled to protection by the state of Utah pursuant to the provisions of the Utah Constitution...The state of Utah has a compelling interest in the protection of the lives of unborn children... It is the intent of the Legislature to protect and guarantee to unborn children their inherent and inalienable right to life....”
- Moreover, the legislature has found and declared that “it is the public policy of this state to encourage all persons to respect the right to life of all other persons, regardless of age, development, condition or dependency, including all...unborn persons.”
- Utah passed a conditional law that would prohibit the performance of an abortion except in limited circumstances should the ability to regulate abortion be returned to the state.
- In 2019, Utah passed legislation prohibiting abortion after 18 weeks’ gestation.
- Utah prohibits post-viability abortions except in cases of life endangerment, “serious risk of substantial and irreversible impairment of a major bodily function,” severe fetal abnormality as certified by two physicians, or rape or incest reported to the police.
- In 2019, Utah passed legislation that would require the woman be given information about resources and education programs for Down syndrome.
- It includes a conditional law that would prohibit a woman from seeking an abortion solely because the unborn child has or may have Down syndrome contingent on a “court of binding authority” allowing states to enforce such a ban.
- Utah prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until at least 72 hours after first presenting her with an information module. The module will present information such as the state “prefers childbirth over abortion;” adoption is “a preferred and positive choice and alternative to abortion;” services are available to assist during pregnancy and after birth, such as medical assistance benefits for prenatal care, childbirth, and neonatal care; and medical evidence showing unborn children 20 weeks gestational age and older “may be capable of experiencing pain during an abortion procedure.”

- The physician must also inform her, in a face-to-face consultation, of the probable gestational age of her unborn child; fetal development; the nature of, risks of, and alternatives to the proposed abortion procedure; how the abortion procedure will affect the fetus; and the medical risks of carrying the pregnancy to term.
- Informed consent provisions are waived if there is a medical emergency or if two physicians who practice maternal-fetal medicine concur, in writing in the patient's medical record, that the unborn child has a defect that is uniformly diagnosable and lethal.
- Utah also requires that women seeking abortions be informed of the unique risks associated with chemical abortions, and that it may be possible to reverse the chemical abortion process.
- If an ultrasound is performed before an abortion, the abortion provider must offer to show it to the woman. The ultrasound provision is waived if there is a medical emergency or if two physicians who practice maternal-fetal medicine concur, in writing in the patient's medical record, that the unborn child has a defect that is uniformly diagnosable and lethal.
- Prior to the abortion procedure, a woman must be informed she has the right to control the final disposition of the fetal remains.
- A physician may not perform an abortion on a minor until the physician obtains the consent of one parent or guardian, unless there is a medical emergency or a minor obtains a court order.
- Utah requires that an anesthetic or analgesic be administered to an unborn child in an abortion performed after 20 weeks' gestation.
- Utah prohibits and criminalizes acts intended to coerce a woman into undergoing an abortion. It also requires abortion providers to affirmatively state in printed materials that it is illegal for someone to coerce a woman into having an abortion.
- Utah mandates comprehensive health and safety regulations and an annual licensing requirement for facilities that provide abortions during the first and second trimesters of pregnancy.
- Only a physician or osteopathic physician licensed by the state may perform an abortion. Further, abortion providers must maintain hospital admitting privileges or a transfer agreement with a third-party physician who maintains such privileges.
- Abortions can only be performed in an abortion clinic or hospital unless there is a medical emergency.
- Utah 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.
- Utah funds abortions for women eligible for public assistance when necessary to preserve the woman's life, the woman's physical health is threatened by a continued pregnancy, or the pregnancy is the result of rape or incest.
- No agency of the state or its political subdivisions may approve any application for state funds to directly or indirectly support any organization or healthcare provider that provides abortion services to unmarried minors without written consent of a minor's parent or guardian.
- Utah prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment, serious risk of substantial and irreversible impairment of major bodily function, lethal defect of the unborn baby, rape, or incest.

- Utah also prohibits private insurance companies from covering abortion, except in cases of life endangerment, serious risk of substantial and irreversible impairment of major bodily function, lethal defect of the unborn baby, rape, or incest.
- “Choose Life” license plates are expected to be available in the future.

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

- Utah law does not affirmatively protect infants born alive during attempted abortions.
- Under Utah law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- Utah allows a wrongful death (civil) action only when an unborn child is born alive following a negligent or criminal action and dies thereafter.
- Healthcare facilities are required to provide for the humane disposition of aborted or miscarried fetuses through cremation or interment.
- Utah has a “Baby Moses” law, establishing a safe haven for mothers to legally leave their infants at designated places and ensuring the infants receive appropriate care and protection.
- Utah requires substance abuse treatment programs receiving public funds to give priority admission to pregnant women and teenagers. It also requires healthcare professionals to report evidence of adverse effects of the mother’s substance abuse, suspected prenatal drug exposure or fetal alcohol spectrum disorder, drug or alcohol withdrawal symptoms in the newborn child, or whether the parent demonstrates an inability to care for the child as a result of substance abuse.
- Utah regulations include exposure to alcohol or other “harmful” substances in utero in the state’s definitions of “abuse,” “neglect,” and “dependency.”
- Utah has removed prohibitions (in certain cases) on the prosecution of a woman for killing her unborn child.

## **BIOETHICS LAWS**

- Utah does not prohibit human cloning, destructive embryo research, or fetal experimentation.
- It does not promote ethical alternatives to destructive embryo research.
- Utah does not provide any meaningful regulation of assisted reproductive technologies or human egg harvesting. Further, state law authorizes gestational agreements.
- The Uniform Parentage Act includes “donation of embryos” in its definition of “assisted reproduction.”

## **PATIENT PROTECTION LAWS**

- In Utah, assisting a suicide is a felony.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION**

- A healthcare provider who objects on religious or moral grounds is not required to participate in abortions.

- A healthcare facility is not required to admit a woman for the performance of an abortion.
- A healthcare provider or healthcare facility's conscientious objection to participating in abortion may not be a basis for civil liability or other recriminatory action.
- Moral or religious objections to abortion may not be a basis for discrimination including dismissal, demotion, suspension, discipline, harassment, retaliation, adverse change in status, termination of, adverse alteration of, or refusal to renew an association or agreement; or refusal to provide a benefit, privilege, raise, promotion, tenure, or increased status that the healthcare provider would have otherwise received. Importantly, Utah provides a private right of action for discrimination, providing equitable relief including reinstatement and damages.

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

- Utah 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 up to 18 weeks of pregnancy.

# RECOMMENDATIONS FOR UTAH

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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 (add reporting requirements)
  - Parental Involvement Enhancement Act
  - Child Protection Act
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## INFANTS' PROTECTION PROJECT PRIORITIES

- Perinatal Hospice Information Act
  - Born-Alive Infant Protection Act
  - Unborn Infants Wrongful Death Act
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## PATIENT PROTECTION ACT PRIORITIES

- Suicide by Physician Ban Act
  - 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

- 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