



# Virginia | RANKING 32

In 2020, Virginia repealed its 24-hour reflection law and informed consent requirements. It also expanded abortion providers to include nurse practitioners. However, it is one of only a small number of states that has enacted meaningful, protective regulations for emerging biotechnologies.

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## ABORTION

- A third-trimester abortion may be performed if the attending physician and two other physicians certify in writing that continuation of the pregnancy is likely to result in the woman's death or would "substantially and irretrievably impair" the woman's physical or mental health. Measures for life support for the unborn child "must be available and utilized if there is any clearly visible evidence of viability."
- Virginia prohibits "partial-birth infanticide" (i.e., partial-birth abortion).
- In 2020, Virginia repealed its 24-hour reflection period. Informed written consent is still required but all information previously included in the informed consent law have been repealed.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until he or she secures written consent from one parent or "authorized person" who has care and control of the minor, unless the minor is the victim of rape, incest, or child abuse, there is a medical emergency, or the minor secures a court order.
- Virginia requires that second-trimester abortions be performed in a hospital or ambulatory surgical center. The U.S. Supreme Court has upheld the constitutionality of this requirement.
- Physicians licensed by the state to practice medicine and surgery and nurse practitioners licensed by the Boards of Medicine and Nursing may perform abortions.
- Virginia 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.
- It provides abortion funding for women eligible for public assistance only in cases of rape, incest, fetal abnormality, or when the life of the mother is in jeopardy.
- No abortion-related expenditures from general or non-general fund sources may be made out of any appropriations by the General Assembly, except as otherwise required by federal law or state statute.
- No post-partum family planning funds provided to women under the state's Medicaid program may be used to make direct referrals for abortion.
- Virginia prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases of life endangerment, rape, or incest.
- Benefits provided to state employees through the Commonwealth of Virginia Health Benefits Plan may not provide coverage for abortion unless the procedure is necessary to preserve the woman's life or health, the pregnancy is the result of rape or incest that has been reported to a law enforcement or public health agency,

or a physician certifies that the fetus is believed to have an incapacitating physical deformity or mental deficiency.

- Virginia offers “Choose Life” license plates, the proceeds of which benefit pregnancy resource centers. Unfortunately, it also offers a pro-abortion license plate, “Trust Women/Respect Choice.” However, while Planned Parenthood and other abortion providers are eligible to receive the proceeds from the plates, they are specifically prohibited from using the earned revenue for “abortion services.”

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

- Virginia protects infants born alive at any stage of development from “deliberate acts” undertaken by a physician that result in the death of the infant.
- Under Virginia law, the killing of an unborn child at any stage of gestation is defined as a form of homicide.
- For purposes of “homicide” and “child abuse,” a “human infant who has been born alive and is fully brought forth from the mother has achieved an independent and separate existence, regardless of whether the umbilical cord has been cut or the placenta detached.”
- Virginia permits recovery for the death of an unborn child at any stage of development in a wrongful death (civil) action.
- Virginia has enacted 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.
- Virginia requires emergency personnel to report child abuse including cases of in utero exposure to controlled substances, and healthcare providers are required to report to the state Department of Social Services any diagnosis of fetal alcohol spectrum disorders or other medical condition caused by exposure to controlled substances during pregnancy.
- It also funds drug treatment programs for pregnant women and newborns.

## **BIOETHICS LAWS**

- Virginia prohibits human cloning for any purpose, but it does not prohibit destructive embryo research or fetal experimentation.
- Virginia prohibits tax credits for research on human cells, on tissue derived from induced abortions, and on stem cells obtained from human embryos. This prohibition is an annual rider.
- Virginia maintains the Virginia Cord Blood Bank Initiative as a public resource for advancing basic and clinical research and for the treatment of patients with life-threatening diseases or debilitating conditions. All women admitted to a hospital or birthing facility may be offered the opportunity to donate umbilical cord blood to the initiative. Likewise, every licensed practitioner who renders prenatal care is to provide information to pregnant patients regarding the option of umbilical cord blood banking.
- It has also created a special fund in the state treasury entitled the Christopher Reeve Stem Cell Research Fund. No monies from the fund may be provided to entities that conduct research with stem cells obtained from human embryos.
- Virginia maintains some regulation of assisted reproductive technologies but does not regulate human egg harvesting.

## **PATIENT PROTECTION LAWS**

- Virginia criminalizes suicide by physician.
- In 2018, Virginia passed legislation that requires hospitals to develop a process for the patient to obtain a second opinion regarding the medical and ethical appropriateness of proposed medical care, review by an interdisciplinary medical review committee, and a written explanation of the decision.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION**

- Any person who objects in writing and on personal, ethical, moral, and/or religious grounds is not required to participate in abortions.
- A physician, hospital, or medical facility is not required to admit a woman for the purposes of performing an abortion.
- The conscientious objection of an individual healthcare provider, hospital, or medical facility to participating in an abortion may not be a basis for a claim for damages, denial of employment, disciplinary action, or any other recriminatory action.

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

- Virginia 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 throughout pregnancy.

# RECOMMENDATIONS FOR VIRGINIA

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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
  - Women's Right to Know Act with reflection period
  - Women's Health Protection Act (emergency transfer and admission provisions)
  - 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
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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

### LEGAL RECOGNITION AND PROTECTION FOR THE UNBORN

- Pregnant Woman's Protection Act

### BIOETHICS

- Destructive Embryo Research Act

### END OF LIFE

- Suicide by Physician Ban Act

### HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act