



# West Virginia | RANKING 26

West Virginia maintains some protections for women considering abortion. For example, written materials required under an informed consent law include information about the abortion-breast cancer link, and the risky process of prescribing drug-induced abortions online is prohibited.

---

## ABORTION

- West Virginia voters approved a constitutional amendment stating that “Nothing in this Constitution secures or protects a right to abortion or requires the funding of abortion.”
- West Virginia prohibits abortions at or after 5 months (i.e., 20 weeks) on the basis of the pain experienced by unborn children.
- West Virginia prohibits dismemberment abortions.
- A physician may not perform an abortion on a woman until at least 24 hours after obtaining her informed consent and after informing her of the nature and risks of the proposed abortion procedure, the risks of carrying the pregnancy to term, and the probable gestational age of her unborn child.
- At least 24 hours prior to an abortion, a woman must also receive information about medical assistance benefits that may be available for prenatal care, childbirth, and neonatal care; the father’s liability for child support; and her right to review state-prepared materials describing the development of her unborn child, outlining common methods of abortion, discussing the medical risks of abortion, and listing agencies that offer alternatives to abortion. She may review this information either in print or on the state’s website.
- West Virginia prohibits the dangerous practice of using telemedicine to administer abortion-inducing drugs.
- West Virginia includes information about the abortion-breast cancer link in the educational materials that a woman must receive prior to abortion.
- If an ultrasound is performed before an abortion, the abortion provider must offer to show it to the woman. The woman must also be given the opportunity of having the image explained to her.
- A physician may not perform an abortion on an unemancipated minor under the age of 18 until at least 48 hours after actual notice has been provided to one parent, unless there is a medical emergency or the minor secures a court order. The law also allows an abortion to be performed without parental notice if a physician who is not performing the abortion determines that the minor is “mature enough to make the abortion decision independently or that parental notice is not in the minor’s best interest.”
- West 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.
- West Virginia’s Medicaid program only covers abortion in cases of medical emergency, if the unborn child has a congenital defect or terminal disease, or if the woman is the victim of rape or incest.

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

- West Virginia protects infants born alive during botched abortions by requiring the physician who performed the abortion to exercise the same degree of reasonable medical judgment he or she would give to preserve the life and health of any other child born alive. The physician must then ensure the child is immediately admitted to a hospital.
- West Virginia law recognizes an unborn child at any stage of gestation as a potential victim of homicide.
- It also criminalizes nonfatal assaults on the unborn.
- West Virginia allows a wrongful death (civil) action when an unborn child at any stage of development is killed through a negligent or criminal act.
- West Virginia has enacted 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.

## **BIOETHICS LAWS**

- West Virginia does not prohibit human cloning, destructive embryonic research, or fetal experimentation.
- It does not promote ethical alternatives to destructive embryo research.
- West Virginia does not regulate assisted reproductive technologies or human egg harvesting.

## **PATIENT PROTECTION LAWS**

- West Virginia does not have a specific statute criminalizing suicide by physician. However, suicide by physician remains a common law crime.

## **HEALTHCARE FREEDOM OF CONSCIENCE**

### **PARTICIPATION IN ABORTION AND CONTRACEPTION**

- West Virginia protects the civil rights of healthcare providers, including individuals, hospitals, and other medical facilities possessing conscientious objections to participating in abortions.
- West Virginia has a “contraceptive equity” law, requiring health insurance coverage for contraception. The law provides an exemption to employers or insurers with a conscientious objection to contraceptives.

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

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

# RECOMMENDATIONS FOR WEST VIRGINIA

---

## 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 Health Protection Act (abortion clinic regulations, emergency transfer and admission provisions)
  - Drug-Induced Abortion Information and Reporting Act
  - Parental Consent for Abortion Act
  - Parental Involvement Enhancement Act
  - Child Protection Act
- 

## INFANTS' PROTECTION PROJECT PRIORITIES

- Unborn Infants Dignity Act
  - Prenatal Nondiscrimination Act
  - Perinatal Hospice Information Act
- 

## 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
- 

## ADDITIONAL PRIORITIES

### ABORTION

- Defunding Abortion Providers and Advancing Women's Health Act
- Federal Abortion-Mandate Opt-Out 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

### END OF LIFE

- Suicide by Physician Ban Act

### HEALTHCARE FREEDOM OF CONSCIENCE

- Healthcare Freedom of Conscience Act