

An Overview of Abortion Laws

BACKGROUND: Since the Supreme Court handed down its 1973 decisions in *Roe v. Wade* and *Doe v. Bolton*, states have constructed a lattice work of abortion law, codifying, regulating and limiting whether, when and under what circumstances a woman may obtain an abortion. The following table highlights the major provisions of these state laws. More detailed information can be found by selecting the table column headings in blue. Except where noted, the laws are in effect, although they may not always be enforced.

HIGHLIGHTS:

- *Physician and Hospital Requirements:* 39 states require an abortion to be performed by a licensed physician. 19 states require an abortion to be performed in a hospital after a specified point in the pregnancy, and 18 states require the involvement of a second physician after a specified point.
- *Gestational Limits:* 36 states prohibit abortions, generally except when necessary to protect the woman's life or health, after a specified point in pregnancy, most often fetal viability.
- *"Partial-Birth" Abortion:* 12 states have laws in effect that prohibit "partial-birth" abortion. 8 of these laws appear to violate constitutional requirements—because they either apply throughout the pregnancy or lack a health exception—but have not been challenged in court.
- *Public Funding:* 17 states use their own funds to pay for all or most medically necessary abortions for Medicaid enrollees in the state. 32 states and the District of Columbia prohibit the use of state funds except in those cases when federal funds are available: where the woman's life is in danger or the pregnancy is the result of rape or incest. In defiance of federal requirements, South Dakota limits funding to cases of life endangerment only.
- *Coverage by Private Insurance:* 4 states restrict coverage of abortion in private insurance plans to cases in which the woman's life would be endangered if the pregnancy were carried to term. Additional abortion coverage is permitted only if the woman purchases it at her own expense.
- *Refusal:* 46 states allow individual health care providers to refuse to participate in an abortion. 43 states allow institutions to refuse to perform abortions, 16 of which limit refusal to private or religious institutions.
- *State-Mandated Counseling:* 28 states mandate that women be given counseling before an abortion that includes information on at least one of the following: the purported link between abortion and breast cancer (3 states), the ability of a fetus to feel pain (4 states), long-term mental health consequences for the woman (3 states) or the availability of services and funding should the woman decide to carry the pregnancy to term (26 states).
- *Waiting Periods:* 24 states require a woman seeking an abortion to wait a specified period of time, usually 24 hours, between when she receives counseling and the procedure is performed. 6 of these states have laws that effectively require the woman make two separate trips to the clinic to obtain the procedure.
- *Parental Involvement:* 34 states require some type of parental involvement in a minor's decision to have an abortion. 21 states require one or both parents to consent to the procedure, while 11 require that one or both parents be notified and 2 states require both parental consent and notification.



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OVERVIEW OF STATE ABORTION LAW (PAGE 1 OF 2)

STATE	MUST BE PERFORMED BY A LICENSED PHYSICIAN	MUST BE PERFORMED IN A HOSPITAL IF AT:	SECOND PHYSICIAN MUST PARTICIPATE IF AT:	PROHIBITED EXCEPT IN CASES OF LIFE OR HEALTH ENDANGERMENT IF AT:	"PARTIAL-BIRTH" ABORTION BANNED	PUBLIC FUNDING OF ABORTION		PRIVATE INSURANCE COVERAGE LIMITED TO LIFE ENDANGERMENT
						Funds All or Most Medically Necessary Abortions	Funds Limited to Life Endangerment, Rape and Incest	
AL	X	Viability	Viability	Viability*	▼		X	
AK	X				▼	X		
AZ	X		Viability	Viability	▼	X		
AR	X		Viability	Viability†	▼		X	
CA	X			Viability		X		
CO	X						X	
CT	X	Viability		Viability		X		
DE				▼‡			X	
DC							X	
FL	X		24 weeks	24 weeks	▼		X	
GA	X		3rd trimester	3rd trimester	Postviability		X	
HI	X					X		
ID	X	Viability	3rd trimester	Viability‡	▼		X	X
IL	X		Viability	Viability	▼	X		
IN	X	2nd trimester	Viability	Viability*	Ψ		X*	
IA	X			3rd trimester	▼		X ^Ω	
KS			Viability	Viability	Postviability		X	
KY		2nd trimester		Viability	▼		X	X
LA	X		Viability	Viability	▼		X	
ME	X			Viability			X	
MD	X			Viability ^Ω		X		
MA	X	12 weeks		24 weeks		X		
MI	X			Viability‡	▼		X	
MN	X	2nd trimester	▼	▼		X		
MS	X				Ψ		X ^Ω	
MO	X	Viability	Viability	Viability*	▼		X	X
MT			Viability	Viability*	Ψ	X		
NE	X			Viability	▼		X	
NV	X	24 weeks		24 weeks			X	
NH							X	
NJ	X	14 weeks			▼	X		
NM					Postviability	X		
NY			24 weeks	24 weeks‡		X		
NC	X	20 weeks		20 weeks			X	
ND	X	12 weeks	12 weeks	Viability	Ψ		X	X
OH	X		▼	▼*	Entire Pregnancy		X	
OK	X	2nd trimester	Viability	Viability	Ψ		X	
OR						X		
PA	X	Viability	Viability	24 weeks*			X	
RI	X			24 weeks‡	▼		X	▼
SC	X	3rd trimester	3rd trimester	3rd trimester	Ψ		X	
SD	X	24 weeks		24 weeks	Ψ		Life Only	
TN	X			Viability	Ψ		X	
TX	X			3rd trimester			X	
UT	X	90 days		▼*	§		X*, ^Ω	
VT						X		
VA	X	2nd trimester	Viability	3rd trimester	▼		X ^Ω	
WA				Viability		X		
WV					▼	X		
WI	X	12 weeks		Viability	▼		X*	
WY	X			Viability			X	
TOTAL	39	19	18	36	12	17	32+DC	4

▼ Permanently enjoined; law not in effect.

§ Temporarily enjoined; law not in effect.

* Exception in case of threat to the woman's physical health.

† Exception in case of rape or incest.

‡ Exception in case of life endangerment only.

Ψ Unchallenged in court although this policy is presumably unenforceable under the terms set out in *Stenberg v. Carhart*.

Ω Exception in case of fetal abnormality.

OVERVIEW OF STATE ABORTION LAW (PAGE 2 OF 2)

STATE	PROVIDERS MAY REFUSE TO PARTICIPATE		MANDATED COUNSELING INCLUDES INFORMATION ON:				WAITING PERIOD (in Hours) AFTER COUNSELING	PARENTAL INVOLVEMENT REQUIRED FOR MINORS
	Individual	Institution	Breast Cancer	Fetal Pain	Serious Psychological Effects	Abortion Alternatives and Support Services		
AL						X	24	Consent
AK	X	Private				X		▼
AZ	X	X						Consent
AR	X	X		X ^Φ	X	X	Day Before	Consent
CA	X	Religious						▼
CO	X	X						Notice
CT	X							
DE	X	X				X	▼	Notice ^ξ
DC								
FL	X	X						Notice
GA	X	X		X		X	24	Notice
HI	X	X						
ID	X	X					24	§
IL	X	Private		X				▼
IN	X	Private				X	18	Consent
IA	X	Private						Notice
KS	X	X				X	24	Notice
KY	X	X				X	24	Consent
LA	X	X				X	24	Consent
ME	X	X						
MD	X	X						Notice ^ξ
MA	X	X					▼	Consent
MI	X	X				X	24	Consent
MN	X	Private	X	X ^Φ		X	24	Notice ^b
MS	X	X	X			X	24	Consent ^b
MO	X	X					24	Consent
MT	X	Private					▼	▼
NE	X	X				X	24	Notice
NV	X	Private			X			▼
NH								▼
NJ	X	Private						▼
NM	X	X						▼
NY	X							
NC	X	X						Consent
ND	X	X				X	24	Consent
OH	X	X				X	24	Consent
OK	X	Private				X	24	Consent and Notice
OR	X	Private						
PA	X	Private				X	24	Consent
RI	X					X		Consent
SC	X	Private				X	1	Consent
SD	X	X			▼	X	24	Notice
TN	X	X				X	▼	Consent
TX	X	Private	X			X	24	Consent
UT	X	Private				X	24 ^Δ	Consent and Notice
VT								
VA	X	X				X	24	Consent
WA	X	X						
WV						X	24	Notice ^ξ
WI	X	X			X	X	24	Consent ^ξ
WY	X	Private						Consent
TOTAL	46	43	3	4	3	26	24	34

▼ Permanently enjoined; law not in effect

§ Temporarily enjoined; law not in effect

Φ Fetal pain information is given only to women who are at least 20 weeks gestation.

ξ Specified health professionals may waive parental involvement in certain circumstances.

^b Both parents must consent to the abortion.

Δ The waiting period requirement is waived if the pregnancy is the result of rape or incest, the fetus has grave defects or the patient is younger than 15.