



Wake Up America: Know Where Your State Stands on Abortion

Below is an overview of state laws (as of February 8, 2019) as they relate to late-term abortion, born-alive protections, and public funding of abortion.

Some states adhere to the *Roe* standard of viability, which is defined by the Supreme Court in *Roe* as "the capacity for meaningful life outside the womb, albeit with artificial aid" and not just "momentary survival."¹ Unless specifically stated otherwise, references to "health" adhere to the definition of health in *Doe v. Bolton*²: "all factors physical, emotional, psychological, familial, and the woman's age relevant to the well-being of the patient." If a state is listed as "N/A," then there are no state laws regarding either an abortion limit or exceptions. However, these states are subject to the federal precedent of viability in *Roe*, but if *Roe* were overturned, then these states would have no limits on abortion.

A handful of states have passed different versions of the Freedom of Choice Act (FOCA). This bill guarantees a woman's "fundamental right" to abortion access, at varying points in pregnancy, and essentially codifies *Roe*.

While federal funds are prohibited from funding abortion because of the Hyde Amendment, with the exception of rape, incest, or to save the life of the mother, states can use state funds to fund abortions and can do so under whatever circumstances the state determines. Each state with born-alive laws has varying degrees of protections for infants born alive and varying penalties for doctors who cause or allow the death of a born-alive infant. For more information, please see the referenced state statute or AUL's 2019 edition of *Defending Life*.³

Note: some states have passed more strict abortion laws, but these laws have been enjoined in litigation and are not currently enforced. Whenever possible, these cases have been noted.

This data was obtained and cross-referenced from the Guttmacher Institute,⁴ Americans United for Life,⁵ NARAL,⁶ and the Kaiser Family Foundation.⁷ Any conflicting information was cross-referenced through state statutes and has been noted in the table.

Location	Abortion Prohibited After	Exceptions to Late-Term Limit	Use of Public Funds to Pay for Abortion	Law Protecting Baby Born Alive During Attempted Abortion	Doctor Requirements
Alabama	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ⁸	Performed by licensed physician
Alaska	N/A	N/A	Funds all/most abortions	No	Performed by licensed physician
Arizona	Fetal viability (20-week ban permanently enjoined)	Life, health*	Funds all/most abortions	Yes ⁹	Performed by licensed physician
Arkansas	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ¹⁰	Performed by licensed physician
California	Fetal viability (FOCA)	Life, health*	Funds all/most abortions	Yes ¹¹	No
Colorado	N/A	N/A	Only life endangerment, rape, incest	No	No
Connecticut	Fetal viability (FOCA)	Life, health*	Funds all/most abortions	No	Performed by licensed physician
Delaware	Fetal viability	Life, health*, fetal anomaly	Only life endangerment, rape, incest	Yes ¹²	Performed by licensed physician
District of Columbia	Fetal viability	Life, rape, incest	Only life endangerment, rape, incest	No	No

Florida	24 weeks	Life, health*	Only life endangerment, rape, incest	Yes ¹³	Performed by licensed physician
Georgia	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ¹⁴	Performed by licensed physician
Hawaii	Fetal viability (FOCA)	Life, health*	Funds all/most abortions	No	Only surgical abortion
Idaho	Fetal viability (20-week ban permanently enjoined)	Life, rape, incest	Only life endangerment, rape, incest	No	Performed by licensed physician
Illinois	Fetal viability	Life, health*	Funds all/most abortions	Yes ¹⁵	Performed by licensed physician
Indiana	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ¹⁶	Performed by licensed physician
Iowa	20 weeks (heartbeat law enjoined)	Life, health*	Only life endangerment, rape, incest	Yes ¹⁷	Performed by licensed physician
Kansas	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ¹⁸	Performed by licensed physician
Kentucky	20 weeks	Life, physical health	Only life endangerment, rape, incest	No	Performed by licensed physician
Louisiana	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ¹⁹	Performed by licensed physician
Maine	Fetal viability (FOCA)	Life, health*	Only life endangerment, rape, incest	Yes ²⁰	Performed by licensed physician

Maryland	Fetal viability (FOCA)	Life, health*	Funds all/most abortions	No	Performed by licensed physician
Massachusetts	24 weeks	Life, health*	Funds all/most abortions	No	Only surgical abortion
Michigan	Fetal viability	Life	Only life endangerment, rape, incest	Yes ²¹	Performed by licensed physician
Minnesota	Fetal viability	Life, health*	Funds all/most abortions	Yes ²²	Performed by licensed physician
Mississippi	20 weeks (15-week ban blocked via court)	Life, physical health	Only life endangerment, rape, incest	Yes ²³	Performed only by OB-GYNs
Missouri	Fetal viability	Life, physical health	Only life endangerment, rape, incest	Yes ²⁴	Performed by licensed physician
Montana	Fetal viability	Life, health*	Funds all/most abortions	Yes ²⁵	No
Nebraska	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ²⁶	Performed by licensed physician
Nevada	24 weeks (FOCA)	Life, health*	Only life endangerment, rape, incest	Yes ²⁷	Performed by licensed physician
New Hampshire	N/A	N/A	Only life endangerment, rape, incest	No	No
New Jersey	N/A	N/A	Funds all/most abortions	No	Only surgical abortions
New Mexico	N/A	N/A	Funds all/most abortions	No	Only surgical abortions

New York ²⁸	24 weeks	Life, health*, absence of fetal viability	Funds all/most abortions	No	No
North Carolina	20 weeks	Life, health*	Only life endangerment, rape, incest	No	Performed by licensed physician
North Dakota	20 weeks (heartbeat law permanently enjoined)	Life, physical health	Only life endangerment, rape, incest	Yes ²⁹	Performed by licensed physician
Ohio	20 weeks	Life, health*	Only life endangerment, rape, incest	Yes ³⁰	Performed by licensed physician
Oklahoma	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ³¹	Performed by licensed physician
Oregon	N/A	N/A	Funds all/most abortions	No	No
Pennsylvania	24 weeks	Life, health*	Only life endangerment, rape, incest	Yes ³²	Performed by licensed physician
Rhode Island	24 weeks	Life	Only life endangerment, rape, incest	Yes ³³	Only surgical abortions
South Carolina	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ³⁴	Performed by licensed physician
South Dakota	20 weeks	Life, physical health	Only life endangerment	Yes ³⁵	Performed by licensed physician
Tennessee	Fetal viability	Life, health*	Only life endangerment, rape, incest	Yes ³⁶	Performed by licensed physician

Texas	20 weeks	Life, physical health	Only life endangerment, rape, incest	Yes ³⁷	Performed by licensed physician
Utah	Fetal viability	Life, health*	Only life endangerment, rape, incest	No	Performed by licensed physician
Vermont	N/A	N/A	Funds all/most abortions	No	No
Virginia	3rd trimester	Life, health*	Only life endangerment, rape, incest	Yes ³⁸	Performed by licensed physician
Washington	Fetal viability	Life, health*	Funds all/most abortions	Yes ³⁹	Only surgical abortions
West Virginia	20 weeks	Life, physical health	Only life endangerment, rape, incest	No	No
Wisconsin	20 weeks	Life, health*	Only life endangerment, rape, incest	Yes ⁴⁰	Performed by licensed physician
Wyoming	Fetal viability	Life, health*	Only life endangerment, rape, incest	Yes ⁴¹	Performed by licensed physician

* References to “health” adhere to the definition of health in *Doe v. Bolton*⁴²: “all factors – physical, emotional, psychological, familial, and the woman’s age – relevant to the well-being of the patient.”

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- ¹ <https://supreme.justia.com/cases/federal/us/410/113/>
- ² <https://supreme.justia.com/cases/federal/us/410/179/#tab-opinion-1950139>
- ³ <https://aui.org/wp-content/uploads/2018/12/Defending-Life-2019.pdf>
- ⁴ <https://www.guttmacher.org/state-policy/explore/overview-abortion-laws>
- ⁵ <https://aui.org/wp-content/uploads/2018/12/Defending-Life-2019.pdf>
- ⁶ <https://www.prochoiceamerica.org/report/2019-who-decides-the-status-of-womens-reproductive-rights-in-the-united-states/>
- ⁷ <https://www.kff.org/womens-health-policy/state-indicator/later-term-abortions/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>
- ⁸ Voluntary and informed consent required for abortion., Ala.Code 1975 § 26-23A-4
<https://codes.findlaw.com/al/title-26-infants-and-incompetents/al-code-sect-26-23a-4.html>
- ⁹ Duty to promote life of fetus or embryo delivered **alive**; rules; judicial enforcement; civil action; damages; definitions., Ariz. Rev. Stat. Ann. § 36-2301
<https://www.azleg.gov/search/oop/qfullhit.asp?CiWebHitsFile=/ars/36/02301.htm&CiRestriction=born%20alive>
- ¹⁰ [A.C.A. § 20-16-604](#)
- ¹¹ § 123435. Rights of infant prematurely born alive in course of abortion, West's Ann.Cal.Health & Safety Code § 123435 <https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-123435.html>
- ¹² § 1795. Live birth following abortion, 24 Del.C. § 1795
<https://codes.findlaw.com/de/title-24-professions-and-occupations/de-code-sect-24-1795.html>
- ¹³ Fla. Stat. Ann. § 390.011 (West) <http://laws.flrules.org/2013/121>
- ¹⁴ GA Code § 16-12-141. <https://law.justia.com/codes/georgia/2014/title-16/chapter-12/article-5/section-16-12-141/>
- ¹⁵ IL ST CH 5 § 70/1.36
<http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=3&GA=93&DocTypeId=SB&DocNum=1082&GAID=3&LegID=3910&SpecSess=&Session=>
- ¹⁶ Ind. Code Ann. § 16-34-2-3 (West) <https://codes.findlaw.com/in/title-16-health/in-code-sect-16-34-2-3.html>
- ¹⁷ Iowa Code Ann. § 707.10 (West)
<https://www.legis.iowa.gov/publications/search/document?fq=dtid:84&fq=name:702#702.20>
- ¹⁸ Kan. Stat. Ann. § 65-6709 (West)
http://www.kslegislature.org/li_2014/b2013_14/statute/o65_000_0000_chapter/o65_067_0000_article/o65_067_0009_section/o65_067_0009_k/
- ¹⁹ § 1061.12. Born-Alive Infant Protection Act, LSA-R.S. 40:1061.12
<https://codes.findlaw.com/la/revised-statutes/la-rev-stat-tit-40-sect-1061-12.html>
- ²⁰ Me. Rev. Stat. tit. 22, § 1595
<http://legislature.maine.gov/legis/statutes/22/title22sect1595.html>
- ²¹ Mich. Comp. Laws Ann. § 333.1073 (West)
[https://next.westlaw.com/Document/N1891E80032E01DB91B1B363A9ABE871/View/FullText.html?originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://next.westlaw.com/Document/N1891E80032E01DB91B1B363A9ABE871/View/FullText.html?originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))
- ²² Abortion; live births, M.S.A. § 145.423
<https://codes.findlaw.com/mn/health-ch-144-159/mn-st-sect-145-423.html>
- ²³ § 97-3-4. Allowing child delivered in failed abortion to die; penalties, Miss. Code Ann. § 97-3-4
<https://codes.findlaw.com/ms/title-97-crimes/ms-code-sect-97-3-4.html>
- ²⁴ Mo. Ann. Stat. § 188.030 (West)
<http://revisor.mo.gov/main/OneSection.aspx?section=188.030&bid=34834&hl=abortion%u2044born>
- ²⁵ 50-20-108. Protection of premature infants born alive, MCA 50-20-108
<https://codes.findlaw.com/mt/title-50-health-and-safety/mt-code-ann-sect-50-20-108.html>
- ²⁶ Care and treatment of child aborted, Neb.Rev.St. § 28-331

<https://codes.findlaw.com/ne/chapter-28-crimes-and-punishments/ne-rev-st-sect-28-331.html>

²⁷Nev. Rev. Stat. Ann. § 442.270 (West)

<https://www.leg.state.nv.us/NRS/NRS-442.html#NRS442Sec270>

²⁸<https://www.democratandchronicle.com/story/news/politics/albany/2019/02/01/abortion-law-ny-what-reproductive-health-act-does-and-doesnt-do/2743142002/>

²⁹ § 14-02.1-08. Protection of infant born alive--Penalty, NDCC, 14-02.1-08

<https://codes.findlaw.com/nd/title-14-domestic-relations-and-persons/nd-cent-code-sect-14-02-1-08.html>

³⁰Ohio Rev. Code Ann. § 2919.13 (West) <http://codes.ohio.gov/orc/2919.13>

³¹Okla. Stat. Ann. tit. 12, § 1053 (West)

<https://www.ok.gov/health2/documents/Oklahoma%20Abortion%20Statutes%2020171101.pdf>

³² 18 Pa.C.S.A. § 3212, Infanticide

<https://codes.findlaw.com/pa/title-18-pacsa-crimes-and-offenses/pa-csa-sect-18-3212.html>

³³R.I. Gen.Laws 1956, § 11-9-18 <https://codes.findlaw.com/ri/title-11-criminal-offenses/ri-gen-laws-sect-11-9-18.html>

³⁴ S.C. Code Ann. § 2-7-30

<https://www.scstatehouse.gov/code/t02c007.php>

³⁵ SDCL 34-23A-16.1

https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=34-23A-16.1

³⁶ § 39-15-206. Infant born alive during abortion; medical care and treatment; crimes and offenses, T. C. A. § 39-15-206 <https://codes.findlaw.com/tn/title-39-criminal-offenses/tn-code-sect-39-15-206.html>

³⁷ § 151.002. Rights of a Living Child After an Abortion or Premature Birth, V.T.C.A., Family Code § 151.002 <https://codes.findlaw.com/tx/family-code/fam-sect-151-002.html>

³⁸ § 18.2-71.1. Partial birth infanticide; penalty, VA Code Ann. § 18.2-71.1

<https://codes.findlaw.com/va/title-18-2-crimes-and-offenses-generally/va-code-sect-18-2-71-1.html>

³⁹ 18.71.240. Abortion--Right to medical treatment of infant born alive, West's RCWA 18.71.240

<https://codes.findlaw.com/wa/title-18-businesses-and-professions/wa-rev-code-18-71-240.html>

⁴⁰ Wis. Stat. Ann. § 990.001.17 (West) <https://docs.legis.wisconsin.gov/statutes/statutes/990/001/17>

⁴¹Wyo. Stat. Ann. § 35-6-104 (West)

<https://wyo.leg.gov/NXT/gateway.dll?f=templates&fn=default.htm&f=templates&fn=default.htm>

⁴² <https://supreme.justia.com/cases/federal/us/410/179/#tab-opinion-1950139>