Washington | RANKING: 50

Washington does not adequately protect women from the negative consequences of abortion, nor does it protect unborn children from criminal violence. Washington has failed to enact commonsense, publicly supported laws such as informed consent, parental involvement, abortion clinic regulations, and fetal homicide, and it does not prohibit human cloning, destructive embryo research, or fetal experimentation. Moreover, Washington explicitly permits physician-assisted suicide.

» ABORTION

- Washington maintains a Freedom of Choice Act. The Act mandates a right to abortion even if Roe v. Wade is eventually overturned, specifically providing: “The sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the [S]tate of Washington that: (1) Every individual has the fundamental right to choose or refuse birth control; (2) Every woman has the fundamental right to choose or refuse to have an abortion...; (3) ... the state shall not deny or interfere with a woman’s fundamental right to choose or refuse to have an abortion; and (4) the state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.”

- A state voter initiative declared: “The state may not deny or interfere with a woman’s right to choose to have an abortion prior to viability of the fetus, or to protect her life or health.”

- No abortion may be performed after viability unless necessary to protect the woman’s life or health.

- Washington does not have an informed consent law for abortion, parental involvement law for minors seeking abortion, or abortion clinic regulations.

- Only a physician licensed in Washington may perform an abortion.

- The state has an enforceable abortion reporting law, but does not require the reporting of information to the Centers for Disease Control (CDC). The measure pertains to both surgical and nonsurgical abortions and requires abortion providers to report short-term complications.

- Washington taxpayers are required by statute to fund “medically necessary” abortions for women receiving state public assistance. It must also provide benefits, services, or information to permit women to obtain abortions if it provides comparable maternity care benefits, services, or information.
• Washington protects physical access to abortion clinics and curtails the First Amendment rights of pro-life sidewalk counselors and demonstrators.

» LEGAL RECOGNITION AND PROTECTION OF UNBORN AND NEWLY BORN

• Under Washington criminal law, the killing of an unborn child after “quickening” is defined as a form of homicide.

• The state allows a wrongful death (civil) action when a viable unborn child is killed through negligence or a criminal act.

• Under Washington law, “the right of medical treatment of an infant born alive in the course of an abortion procedure shall be the same as the right of an infant born prematurely of equal gestational age.” Thus, the state has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.

• Washington 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.

• The state funds drug treatment programs for pregnant women and newborns.

» BIOETHICS LAWS

• Washington law does not prohibit human cloning, destructive embryo research, or fetal experimentation.

• All persons licensed to provide prenatal care or practice medicine must provide information to all pregnant women regarding the differences between public and private umbilical cord blood banking and the opportunity to donate the blood and tissue extracted from the placenta and umbilical cord following delivery.

• Washington maintains no meaningful regulation of assisted reproductive technologies or human egg harvesting.

• The Uniform Parentage Act includes “donation of embryos” in its definition of “assisted reproduction.”

» END OF LIFE LAWS

• Washington has legalized physician-assisted suicide by voter initiative. The law creates financial incentives for healthcare insurance companies to deny coverage for life-saving treatment and to pressure vulnerable patients to choose suicide—a practice already occurring in Oregon. Moreover, the law does not provide safeguards for those suffering from mental illness, such as depression, and requires physicians participating in patient suicides to falsify death certificates.

• The initiative superseded a prior law which made assisted suicide a felony. That law had
been upheld in the landmark case of *Washington v. Glucksberg*, where the U.S. Supreme Court refused to recognize a federal constitutional right to assisted suicide.

» HEALTHCARE FREEDOM OF CONSCIENCE

**Participation in Abortion**

- An individual healthcare worker or private medical facility cannot be required by law or contract to participate in the performance of abortions.

- No person may be discriminated against in employment or professional privileges because of participating or refusing to participate in an abortion.

- Overall, Washington protects individual healthcare providers, as well as private hospitals and medical facilities, who conscientiously object to participating in any healthcare procedure. However, this protection does not extend to public hospitals and medical facilities.

- Washington has a “contraceptive equity” law, requiring health insurance coverage for contraception. No exemption is provided for employers or insurers with a moral or religious objection to contraception.

**Participation in Research Harmful to Human Life**

- Washington 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, which violate a provider's moral or religious belief.

» WHAT HAPPENED IN 2014

- Washington considered legislation requiring parental notice before abortion. AUL submitted written testimony supporting the measure.

- It considered a measure seeking to broaden the ability of abortion providers to be reimbursed for “telemed” abortions.

- Washington considered a requirement that, when a patient died from assisted suicide, the physician who signs a patient’s death certificate designate that assisted suicide was the cause of death.

- It also considered a measure providing immunity from civil, criminal, and professional sanctions for a healthcare provider or facility that participates in good faith in the provision of medical care or in the withholding or withdrawal of life-sustaining treatment in accordance with the directives contained in a Physician Orders for Life-Sustaining Treatment (POLST) form.

- The Washington House passed the Reproductive Parity Act requiring health insurance plans that cover maternity care to also cover abortions. The phony conscience clause in the measure would require plan providers with religious objections to facilitate
abortion coverage for its plan beneficiaries. AUL submitted testimony against and assisted in defeating the measure.

- A challenge to a Washington Board of Pharmacy rule requiring pharmacists and/or pharmacies to dispense “emergency contraception” regardless of moral or conscience objection remains in litigation before the Ninth Circuit.
RECOMMENDATIONS for WASHINGTON

WOMEN’S PROTECTION PROJECT PRIORITIES

• Women’s Health Defense Act (5 month abortion limitation)
• Women’s Right to Know Act with reflection period
• Abortion Patients’ Enhanced Safety Act
• Abortion-Inducing Drugs Safety Act
• Parental Notification for Abortion Act
• Child Protection Act
• Enhanced penalties and enforcement mechanisms for the state’s abortion-related laws

ADDITIONAL PRIORITIES

Abortion

• Repeal of State FOCA
• Federal Abortion-Mandate Opt-Out Act
• Defunding the Abortion Industry and Advancing Women’s Health Act
• Women’s Ultrasound Right to Know Act
• Coercive Abuse Against Mothers Prevention Act
• Prenatal Nondiscrimination Act

Legal Recognition and Protection for the Unborn

• Crimes Against the Unborn Child Act (protecting a child from conception)
• Unborn Wrongful Death Act (for a pre-viable child)
• 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

• Limits on the provision of assisted suicide such as family member notification and mental health evaluations

Healthcare Freedom of Conscience

• Healthcare Freedom of Conscience Act