



## North Dakota | RANKING: 12

North Dakota maintains strong legal protections for life including a multi-faceted informed consent law, a ban on “telemed abortions,” and meaningful restrictions on public funding for abortions. Further, North Dakota has taken the lead in public funding for abortion alternatives and meaningful regulation of biotechnologies. It is also one of only a handful of states that bans human cloning for all purposes.

### ABORTION

- North Dakota has enacted a measure banning abortion should *Roe v. Wade* be overturned.
- North Dakota prohibits partial-birth abortion.
- A physician may not perform an abortion on a woman until at least 24 hours after the woman has been informed of the medical risks associated with abortion, the medical risks of carrying the pregnancy to term, the probable gestational age of the unborn child, state assistance benefits, the father’s legal obligations, the availability of state-prepared information on the development of the unborn child, and a list of agencies that offer alternatives to abortion. The woman must also be informed that “the abortion will terminate the life of a whole, separate, unique, living human being” and be provided information about the abortion-breast cancer link.
- Abortion providers must offer a woman the opportunity to view an ultrasound image of her unborn child.
- North Dakota prohibits anyone from coercing a woman into abortion. Further, notice must be posted at all abortion facilities stating that no one can force a woman to have an abortion.
- A physician may not perform an abortion on an unmarried minor under the age of 18 without the written consent of both parents (or the surviving parent, custodial parent, or guardian) unless there is a medical emergency or a minor obtains a court order.
- Only physicians licensed by North Dakota to practice medicine or osteopathy or employed by the United States may perform abortions.
- The state also requires that abortion clinics maintain a transfer agreement with a local hospital to assist in the treatment of abortion-related complications.
- 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.
- North Dakota follows the federal standard for Medicaid funding for abortions, only



permitting the use of federal or state matching Medicaid funds for abortions necessary to preserve the life of the woman or when the pregnancy is the result of rape or incest.

- North Dakota law also provides that no state funds or funds from any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency may be used to pay for the performance, or for promoting the performance, of an abortion unless the abortion is necessary to prevent the death of the woman.
- No funds, grants, gifts, or services of an organization receiving funds distributed by the “Children’s Services Coordinating Committee” may be used for the purposes of direct provision of contraception services, abortion, or abortion referrals to minors.
- An abortion may not be performed in hospitals owned or operated by the state, unless the abortion is necessary to preserve the life of the woman.
- State health insurance contracts, policies, and plans must exclude coverage for abortion unless the abortion is necessary to preserve the woman’s life. Private insurance companies are also prohibited from covering abortion except in cases of life endangerment.
- North Dakota bans “telemed abortions” by requiring that abortion-inducing drugs be administered by or in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient. The law is in litigation.
- North Dakota funds organizations that promote abortion alternatives.

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## LEGAL RECOGNITION OF UNBORN AND NEWLY BORN

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- Under North Dakota criminal law, the killing of an unborn child at any stage of gestation is defined as homicide.
- North Dakota defines a nonfatal assault on an unborn child as a criminal offense.
- The state has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive after viability.
- North Dakota requires healthcare professionals to report suspected prenatal drug exposure. In addition, healthcare professionals must test newborns for prenatal drug exposure when there is adequate suspicion of prenatal use by the mother.

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## BIOETHICS

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- North Dakota prohibits both human cloning and fetal experimentation; however, it does not prohibit destructive embryo research.
- North Dakota allows healthcare professionals to inform pregnant patients of options relating to umbilical cord blood, and hospitals are to allow pregnant patients to arrange for such donations.



- The “Uniform Parentage Act” includes “donation of embryos” in its definition of “assisted reproduction,” but the state maintains no meaningful regulation of assisted reproductive technologies.

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## END OF LIFE

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- In North Dakota, assisting a suicide is a felony.

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## HEALTHCARE FREEDOM OF CONSCIENCE

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### ***Participation in Abortion***

- A hospital, physician, nurse, hospital employee, or any other person is not under a legal duty or contractual obligation to participate in abortions.

### ***Participation in Research Harmful to Human Life***

- North Dakota currently provides no protection for the rights of healthcare providers who conscientiously object to participation in human cloning, destructive embryo research, and other forms of immoral medical research.

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## WHAT HAPPENED IN 2011

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- North Dakota did not hold a regular legislative session in 2012.



# RECOMMENDATIONS

for NORTH DAKOTA

## TOP PRIORITIES

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- Abortion Mandate Opt-Out Act
- Defunding the Abortion Industry and Advancing Women's Health Act
- Women's Health Defense Act
- Abortion Patients' Enhanced Safety Act

## ADDITIONAL PRIORITIES

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### ***Abortion***

- Child Protection Act
- Joint Resolution Commending Pregnancy Care Centers

### ***Legal Recognition and Protection for the Unborn***

- Unborn Wrongful Death Act (for a pre-viable child)
- Born-Alive Infant Protection Act
- Pregnant Woman's Protection Act

### ***Bioethics***

- Promotion of ethical forms of medical research

### ***Healthcare Freedom of Conscience***

- Healthcare Freedom of Conscience Act