

50-State Survey: Potential Private Civil Causes of Action Arising from or Relating to Abortion Procedures by Hall Booth Smith, P.C.

Survey of Laws

Federal

Partial Birth Abortion

- Cause of Action: If a partial birth abortion is performed on a woman, the abortion provider can be subject to civil liability.¹
- Standing:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was caused by the plaintiff's criminal conduct.²
- Standard: intentionally.³
- Remedies:
 - money damages for all injuries, psychological and physical, resulting from the violation of this section; and
 - statutory damages in an amount equal to three times the cost of the partial-birth abortion.⁴
- Statute of Limitations: two years.⁵

ALABAMA

Pain-Capable Abortion

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.⁶
- Standing for legal remedies:
 - mother; and
 - father of the unborn child.⁷
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother;
 - the district attorney (with appropriate jurisdiction); or
 - the Attorney General.⁸

¹ 18 U.S.C. § 1531.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ 28 U.S. Code § 2401.

⁶ Ala.Code § 26-23B-5; § 26-23B-7.

⁷ *Id.* at (a).

⁸ *Id.* at (b).

- Standard: intentional, knowing, or reckless.⁹
- Remedies:
 - actual or punitive damages
 - injunctive relief; and
 - reasonable attorney fees if the plaintiff prevails.¹⁰
- Statute of Limitations: two years.¹¹
- Misc: Reasonable attorney fees can be awarded to the defendant if the court finds the suit was frivolous or brought in bad faith.¹²

Partial Birth Abortion

- Cause of Action: If a partial birth abortion is performed on a woman, the abortion provider can be subject to civil liability.¹³
- Standing:
 - father (if married to the mother); and
 - maternal grandparents, (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is the result of the plaintiff's criminal misconduct, or the plaintiff consented to the abortion.¹⁴
- Standard: intentional.¹⁵
- Remedies:
 - monetary damages for all injuries (including psychological and physical); and
 - punitive damages.¹⁶
- Statute of Limitations: two years.¹⁷

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed on a woman, the abortion provider can be subject to civil liability.¹⁸
- Standing:
 - mother;
 - father; and
 - maternal grandparents (if the mother has not reached 18 years of age or if she dies as a result of the abortion);
 - UNLESS the pregnancy is the result of the plaintiff's criminal misconduct.¹⁹
- Standard: Purposely²⁰

⁹ *Id.* at (a).

¹⁰ *Id.*

¹¹ Ala.Code § 6-2-1.

¹² Ala.Code § 26-23B-7(d).

¹³ Ala.Code § 26-23-3; § 26-23-5.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Ala.Code § 6-2-1.

¹⁸ Ala.Code § 26-23G-5(a).

¹⁹ *Id.*

²⁰ Ala.Code 26-23G-2.

- Remedies:
 - monetary damages for all injuries (including psychological and physical); and
 - statutory damages equal to three times the cost of the dismemberment abortion.²¹
- Statute of limitation: two years.²²

Abortions Performed Without Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.²³
- Standing: unclear.
- Standard: simple negligence, gross negligence, wantonness, willfulness, intention, or breach of other legal standard of care.²⁴
- Remedies:
 - compensatory; and
 - punitive.²⁵
- Statute of Limitation: two years.²⁶
- Misc.
 - Provides a basis for disciplinary for suspension or revocation of any license; and
 - Provides a basis for recovery for the woman for a wrongful death action, regardless of liability.²⁷

Abortions Performed Without Parental Consent Upon a Minor

- Cause of Action: If an abortion is performed on a minor without the consent of the parent or guardian, the abortion provider can be subject to civil liability.²⁸
- Standing: unclear.
- Standard: simple negligence, gross negligence, wantonness, willfulness, intention, or breach of other legal standard of care.²⁹
- Remedies:
 - compensatory; and
 - punitive damages.³⁰
- Statute of Limitations: two years.³¹
- Misc:
 - No civil liability exists for complying with parental consent requirement or refusal to disclose any information regarding a court ordered abortion to the minor's parent.³²

²¹ Ala.Code § 26-23G-5(c).

²² Ala.Code § 6-2-1.

²³ Ala.Code § 26-23A-4; § 26-23A-10.

²⁴ Ala.Code § 26-23A-10.

²⁵ Id.

²⁶ Ala.Code § 6-2-1.

²⁷ Ala.Code § 26-23A-10(b) and § 26-23A-10(c).

²⁸ Ala.Code § 26-21-3(b); § 26-21-6.1.

²⁹ Ala.Code § 26-21-6.1.

³⁰ Id.

³¹ Ala.Code § 6-2-1.

³² Ala.Code § 26-21-7.

Sale Or Disposition of Bodily Remains of Unborn Infant

- Cause of Action: The sale, disposition, or experimentation upon bodily remains from an abortion can subject the abortion provider to civil liability.³³
- Standing:
 - mother;
 - father; and
 - maternal grandparent (if the mother has not reached 18 years of age).³⁴
- Standard: knowingly.³⁵
- Remedies:
 - Monetary damages for all psychological injuries; and
 - Statutory damages equal to three times the cost of the mother's delivery or abortion.³⁶
- Statute of Limitations: two years.³⁷
- Misc:
 - Provides a basis for professional disciplinary action for suspension or revocation of license.³⁸

ALASKA

- No statutes create a civil cause of action.

ARIZONA

Abortion After Viability (20 Weeks)

Held unconstitutional by *Isaacson v. Horne*, 716 F.3d 1213 (9th Cir, 2013).

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.³⁹
- Standing:
 - mother;
 - father; and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was caused by the plaintiff's criminal conduct.⁴⁰
- Standard: knowingly.⁴¹
- Remedies:
 - money damages for all psychological, emotional and physical injuries resulting from the violation of this section;

³³ Ala.Code § 26-23F-7.

³⁴ Ala.Code § 26-23F-7.

³⁵ Id.

³⁶ Id.

³⁷ Ala.Code § 6-2-1.

³⁸ Ala.Code § 26-23F-7(2).

³⁹ Ariz. Rev. Stat. Ann. § 36-2159(B).

⁴⁰ Id. at (E).

⁴¹ Id. at (C).

- statutory damages in an amount equal to \$5,000 or three times the cost of the abortion, whichever is greater; and
- reasonable attorney fees and costs.⁴²
- Statute of Limitations: six years.⁴³

Partial Birth Abortion

- Cause of Action: If a partial birth abortion is performed on a woman, the abortion provider can be subject to civil liability.⁴⁴
- Standing:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was caused by the plaintiff’s criminal conduct.⁴⁵
- Standard: knowingly.⁴⁶
- Remedies:
 - money damages for all injuries, psychological and physical, resulting from the violation of this section; and
 - statutory damages in an amount equal to three times the cost of the partial-birth abortion.⁴⁷
- Statute of Limitations: two years.⁴⁸

Discriminatory Abortion (Sex, Race, Disability)

- Cause of Action: If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider or coercer can be subject to civil liability.⁴⁹
- Standing for legal remedies:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age).⁵⁰
- Standing for injunctive relief:
 - county attorney; or
 - attorney general.⁵¹
- Standard: knowingly.⁵²
- Remedies:

⁴² *Id.* at (F).

⁴³ *Id.* at (G).

⁴⁴ Ariz. Rev. Stat. Ann. § 13-3603.01.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Ariz. Rev. Stat. Ann. § 12-542.

⁴⁹ Ariz. Rev. Stat. Ann. § 13-3603.02.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

- “Appropriate relief” includes monetary damages for all injuries, whether psychological, physical or financial, including loss of companionship and support, resulting from the violation of this act.⁵³
- civil fine of not more than \$10,000; and
- injunctive relief.⁵⁴
- Statute of Limitations: two years.⁵⁵

Abortions Performed Without Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability. Three types of informed consent are required: general information⁵⁶, ultrasound requirements⁵⁷, and information about fetal conditions.⁵⁸
- Standing:
 - mother;
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was caused by the plaintiff’s criminal conduct.⁵⁹
- Standard: simple negligence, gross negligence, wantonness, willfulness, intention, or any other legal standard of care.⁶⁰
- Remedies:
 - money damages for all psychological, emotional and physical injuries resulting from the violation of this section;
 - statutory damages in an amount equal to \$5,000 or three times the cost of the abortion, whichever is greater; and
 - reasonable attorney fees and costs.⁶¹
- Statute of Limitations: six years.⁶²

Abortion Performed Without Parental Consent of a Minor

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁶³
- Standing:
 - maternal grandparents.⁶⁴

⁵³ Id.

⁵⁴ Id.

⁵⁵ Ariz. Rev. Stat. Ann. § 12-542.

⁵⁶ Ariz. Rev. Stat. Ann. § 36-2153.

⁵⁷ Ariz. Rev. Stat. Ann. § 36-2156.

⁵⁸ Ariz. Rev. Stat. Ann. § 36-2158.

⁵⁹ Ariz. Rev. Stat. Ann. § 36-2153(K); § 36-2156; § 36-2158.

⁶⁰ Ariz. Rev. Stat. Ann. § 36-2153; § 36-2156; § 36-2158.

⁶¹ Ariz. Rev. Stat. Ann. § 36-2153(L); § 36-2156; § 36-2158.

⁶² Ariz. Rev. Stat. Ann. § 36-2153(M); § 36-2156; § 36-2158.

⁶³ Ariz. Rev. Stat. Ann. §36-2152.

⁶⁴ Id.

- Standard: simple negligence, gross negligence, wantonness, willfulness, intention, or any other legal standard of care.⁶⁵
- Remedies:
 - money damages for all psychological, emotional, and physical injuries resulting from the violation of this section;
 - statutory damages in an amount equal to \$5,000 or three times the cost of the abortion, whichever is greater; and
 - reasonable attorney fees and costs.⁶⁶
- Statute of Limitations: six years.⁶⁷

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.⁶⁸
- Standing:
 - mother;
 - father (no marriage requirement);
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was caused by the plaintiff's criminal conduct.⁶⁹
- Standard: simple negligence, gross negligence, wantonness, willfulness, intention or any other legal standard of care.⁷⁰
- Remedies:
 - money damages for all psychological, emotional and physical injuries resulting from the violation of this section;
 - statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater; and
 - reasonable attorney fees and costs.⁷¹
- Statute of Limitations: six years.⁷²

ARKANSAS

Pain-Capable Abortion

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.⁷³
- Standing for legal remedies:
 - mother.⁷⁴
- Standing for injunctive relief:

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Ariz. Rev. Stat. Ann. § 36-2301.

⁶⁹ Ariz. Rev. Stat. Ann. § 36-2301(H).

⁷⁰ Ariz. Rev. Stat. Ann. § 36-2301(I).

⁷¹ *Id.*

⁷² Ariz. Rev. Stat. Ann. § 36-2301(J).

⁷³ Ark. Code Ann. § 20-16-1405; § 20-16-1408.

⁷⁴ *Id.* at (a)(2).

- mother;
- father (if married to the mother);
- maternal grandparent/guardian;
- aunt/uncle;
- current or former licensed healthcare provider of the mother;
- prosecuting attorney (with appropriate jurisdiction); and
- attorney general.⁷⁵
- Standard: purposefully, knowing, or reckless.⁷⁶
- Remedies:
 - actual or punitive damages⁷⁷;
 - injunctive relief⁷⁸; and
 - reasonable attorney fees if the plaintiff prevails.⁷⁹
- Statute of limitations: three years.⁸⁰
- Misc.
 - Defendant gets reasonable attorney's fees if the suit was frivolous and brought in bad faith.⁸¹

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.⁸²
- Standing:
 - father (if married to the mother); and
 - maternal grandparents/mother's guardian (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy resulted from the plaintiff's criminal misconduct.⁸³
- Standard: knowingly.⁸⁴
- Remedies:
 - money damages for all injuries, psychological and physical, occasioned by the violation of this section;
 - statutory damages equal to three times the cost of the partial-birth abortion.⁸⁵
- Statute of Limitations: three years.⁸⁶

⁷⁵ *Id.* at (b).

⁷⁶ Ark. Code Ann. § 20-16-1408.

⁷⁷ *Id.* at (a)(2).

⁷⁸ *Id.* at (b)(1).

⁷⁹ *Id.* at (c).

⁸⁰ Ark. Code Ann. § 16-56-105.

⁸¹ Ark. Code Ann. § 20-16-1408(d).

⁸² Ark. Code Ann. § 20-16-1203; Ark. Code Ann. § 20-16-1205.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Ark. Code Ann. § 16-56-105.

Discriminatory Abortion (sex)

- Cause of Action: If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.⁸⁷
- Standing for legal remedies:
 - mother; and
 - maternal grandparent (if the mother has not reached 18 years of age or emancipated).⁸⁸
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed healthcare provider of the mother;
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.⁸⁹
- Standard: knowingly, reckless.⁹⁰
- Remedies:
 - money damages for all psychological and physical injuries occasioned by the violation of this subchapter;
 - statutory damages equal to ten times the cost of the abortion performed in violation of this subchapter; and
 - injunctive relief.⁹¹
- Statute of Limitations: three years.⁹²

Chemical Abortion

- Cause of Action: If a chemical abortion is performed on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.⁹³
- Standing:
 - mother;
 - father (if married to the woman at the time the abortion was performed); and
 - maternal grandparents.⁹⁴
- Standard: unclear (though given this statute falls under malpractice or wrongful death, most likely a negligence standard).
- Remedies:
 - actual damages;
 - punitive damages; and

⁸⁷ Ark. Code Ann. § 20-16-1906; 20-16-2105.

⁸⁸ *Id.*

⁸⁹ Ark. Code Ann. § 20-16-1906; 20-16-2105.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Ark. Code Ann. § 16-56-105.

⁹³ Ark. Code Ann. § 20-16-1504; 20-16-1507.

⁹⁴ *Id.*

- reasonable attorney’s fees if the plaintiff prevails.⁹⁵
- Statute of Limitations: three years.⁹⁶
- Misc.
 - Defendant gets reasonable attorney’s fees if the suit was frivolous and brought in bad faith.⁹⁷

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁹⁸
- Standing:
 - mother;
 - father; and
 - maternal grandparent (if the mother has not reached 18 years of age).⁹⁹
- Standard: unclear.
- Remedies:
 - Compensatory damages;
 - Punitive damages;
 - Injunctive relief.
- Statute of Limitations: three years.¹⁰⁰
- Misc.
 - May include a malpractice and wrongful death.¹⁰¹

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.¹⁰²
- Standing:
 - mother;
 - father; and
 - maternal grandparent/mother’s legal guardian (if the mother has not reached 18 years of age).¹⁰³
- Standard: intentional.¹⁰⁴
- Remedies:
 - Compensatory damages;
 - Punitive Damages; and

⁹⁵ *Id.*

⁹⁶ Ark. Code Ann. § 16-56-105.

⁹⁷ Ark. Code Ann. § 20-16-1507.

⁹⁸ Ark. Code Ann. § 20-16-811.

⁹⁹ Ark. Code Ann. § 20-16-811.

¹⁰⁰ Ark. Code Ann. § 16-56-105.

¹⁰¹ Ark. Code Ann. § 20-16-811.

¹⁰² Ark. Code Ann. §20-16-604.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

- Injunction from future acts.¹⁰⁵
- Statute of Limitations: three years.¹⁰⁶
- Misc.
 - May include a malpractice and wrongful death.

CALIFORNIA

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.¹⁰⁷
- Standing:
 - child born alive.
- Standard: unclear.
- Remedies:
 - unclear.
- Statute of Limitations: two years.¹⁰⁸

COLORADO

Parental Notification

- Cause of Action: If an abortion is performed or attempted on a minor without first notifying the parent or guardian, the abortion provider can be subject to civil liability.¹⁰⁹
- Standing:
 - unclear.
- Standard: willful.¹¹⁰
- Remedies:
 - Actual damages “proximately cause thereby”.¹¹¹
- Statute of Limitations: two years.¹¹²

CONNECTICUT

- No civil causes of action.

DELAWARE

Parental/Other Notification

- Cause of Action: If an abortion is performed on a minor without the consent of a one or both parents (either custodial or noncustodial), a grandparent, a licensed mental health professional

¹⁰⁵ *Id.*

¹⁰⁶ Ark. Code Ann. § 16-56-105.

¹⁰⁷ Cal. Health and Safety Code § 123435.

¹⁰⁸ Civ. Proc. § 335.1.

¹⁰⁹ C.R.S. § 13-22-706.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² C.R.S. § 13-80-102.5.

(who shall not be an employee or under contract to an abortion provider except employees or contractors of an acute care hospital) or to the legal guardian, the abortion provider can be subject to civil liability.¹¹³

- Standing:
 - maternal grandparents.¹¹⁴
- Standard: intentionally and knowingly.¹¹⁵
- Remedies:
 - Damages for interference with family relations;
 - Does not preclude the award of punitive damages.¹¹⁶
- Statute of Limitations: two years.¹¹⁷

DISTRICT OF COLUMBIA (DC)

- No civil causes of action.

FLORIDA

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.¹¹⁸
- Standing:
 - father (if married to the mother at time of the abortion); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS pregnancy resulted from plaintiff's criminal behavior.¹¹⁹
- Standard: knowingly.¹²⁰
- Remedies:
 - monetary damages for all injuries; and
 - damages equal to three times the cost of the partial birth abortion.¹²¹
- Statute of Limitations: four years.¹²²

¹¹³ Del. Code Ann. tit. 24, 1783; § 1789B.

¹¹⁴ Del. Code Ann. tit. 24, § 1789.

¹¹⁵ *Id.*

¹¹⁶ Del. Code Ann. tit. 24, 1783; § 1789B.

¹¹⁷ Del. Code Ann. § 6856.

¹¹⁸ Fla. Stat. Ann. § 390.0111(11).

¹¹⁹ *Id.* at (a).

¹²⁰ *Id.* at (5)(a).

¹²¹ *Id.* at (11)(b).

¹²² Fla. Stat. Ann. §95.11.

GEORGIA

Abortions Performed After Detectable Heartbeat

- Cause of Action: If an abortion is performed on a mother carrying a fetus with a detectable heartbeat, the abortion provider can be subject to civil liability.¹²³
- Standing:
 - mother.¹²⁴
- Standard: purposeful and knowingly.¹²⁵
- Remedies:
 - any damages available under tort law.¹²⁶
- Statute of Limitations: two years.¹²⁷

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.¹²⁸
- Standing:
 - father; and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is the result of plaintiff's criminal conduct.¹²⁹
- Standard: knowingly.¹³⁰
- Remedies:
 - money damages for all injuries, psychological and physical; and
 - statutory damages equal to three times the cost of the partial-birth abortion.¹³¹
- Statute of Limitations: two years.¹³²

HAWAII

- No civil causes of action.

IDAHO

Abortions Performed After Detectable Heartbeat

- Cause of Action: If an abortion is performed or attempted on a mother carrying a fetus with a detectable heartbeat, the abortion provider can be subject to civil liability.¹³³
- Standing:
 - mother;
 - father;

¹²³ O.C.G.A. § 16-12-141.

¹²⁴ *Id.* at (g).

¹²⁵ *Id.* at (a)(1).

¹²⁶ *Id.* at (g).

¹²⁷ O.C.G.A. § 9-3-33.

¹²⁸ O.C.G.A. § 16-12-141(c).

¹²⁹ *Id.* at (c).

¹³⁰ *Id.* at (b).

¹³¹ *Id.* at (c).

¹³² O.C.G.A. § 9-3-33.

¹³³ Idaho Code Ann. § 18-8804; Idaho Code Ann. § 18-8807.

- grandparent;
- sibling of the preborn child; and
- aunt/uncle;
- UNLESS the pregnancy is a result of the Plaintiff's criminal conduct.¹³⁴
- Standard: knowing or reckless.¹³⁵
- Remedies:
 - actual damages;
 - statutory damages in amount no less than \$20,000; and
 - costs and attorney's fees.¹³⁶
- Statute of Limitations:
 - four years.¹³⁷

Pain-Capable Abortion

Held unconstitutional by *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128 (D. Idaho 2013), *aff'd sub nom. McCormack v. Herzog*, 788 F.3d 1017 (9th Cir. 2015).

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.¹³⁸
- Standing for legal remedies:
 - mother; and
 - father.¹³⁹
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - mother's current or former licensed health care provider;
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.¹⁴⁰
- Standard: intentional or reckless.¹⁴¹
- Remedies:
 - actual damages;
 - injunctive relief.¹⁴²
- Statute of Limitations: two years.¹⁴³

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Idaho Code Ann. § 18-505; Idaho Code Ann. § 18-508.

¹³⁹ Idaho Code Ann. § 18-508(1).

¹⁴⁰ *Id.* at (2).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ Idaho Code Ann. § 5-219(4).

Partial Birth Abortions

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.¹⁴⁴
- Standing:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is a result of the Plaintiff's criminal conduct or consented to the abortion.¹⁴⁵
- Standard: intentionally.¹⁴⁶
- Remedies:
 - money damages for all mental and physical injuries suffered by the plaintiff as a result of the abortion performed in violation of this section; and
 - statutory damages equal to three times the cost of performing the abortion procedure.¹⁴⁷
- Statute of Limitations: two years.¹⁴⁸
- Misc.
 - Does not apply to abortions necessary to save the life of the mother.¹⁴⁹

Chemical Abortions

- Cause of Action: If a chemical abortion is performed or attempted on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.¹⁵⁰
- Standing for legal remedies:
 - mother;
 - father (if married to the mother); and
 - maternal grandparents (if the mother is deceased).¹⁵¹
- Standing for injunctive relief:
 - prosecuting attorney (with appropriate jurisdiction);
 - attorney general.¹⁵²
- Standard: knowing or reckless.¹⁵³
- Remedies:
 - actual damages;
 - punitive damages; and
 - injunctive relief.¹⁵⁴

¹⁴⁴ Idaho Code Ann. § 18-613.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Idaho Code Ann. § 5-219(4).

¹⁴⁹ Idaho Code Ann. § 18-613.

¹⁵⁰ Idaho Code Ann. §18-618; 18-687.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

- Statute of Limitations: two years.¹⁵⁵

ILLINOIS

- No cause of action where abortion was permitted by law and requisite consent given.

But see, Fetal Death

- The state of gestation or development of a human being when an injury is caused, when an injury takes effect, or at death, shall not foreclose maintenance of any cause of action under the law of this State arising from the death of a human being caused by wrongful act, neglect or default.¹⁵⁶

INDIANA

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed on a woman, the abortion provider can be subject to civil liability.¹⁵⁷
- Standing for legal remedies:
 - mother;
 - father; and
 - maternal grandparents (if the mother has not reached 18 years of age or if woman died as result of abortion);
 - UNLESS the pregnancy is a result of the Plaintiff's criminal conduct.¹⁵⁸
- Standing for injunctive relief:
 - mother;
 - maternal grandparents (if the mother has not reached 18 years of age or if woman died as result of abortion); and
 - A prosecuting attorney in the jurisdiction where:
 - dismemberment abortion was performed; or
 - mother resides.¹⁵⁹
- Standard: intentionally or knowingly.¹⁶⁰
- Remedies:
 - damages for all injuries, including psychological and physical injuries, caused by the dismemberment abortion;
 - damages equal to three times the cost of the dismemberment abortion; and
 - injunctive relief.¹⁶¹
- Statute of Limitations: two years.¹⁶²

¹⁵⁵ Idaho Code Ann. § 5-219(4).

¹⁵⁶ 740 Ill. Comp. Stat. Ann. 180/2.2.

¹⁵⁷ Ind. Code Ann. § 16-34-2-9; Ind. Code Ann. § 16-34-2-10.

¹⁵⁸ Ind. Code Ann. § 16-34-2-10.

¹⁵⁹ Ind. Code Ann. § 16-34-2-9.

¹⁶⁰ Ind. Code Ann. § 16-34-2-1(c).

¹⁶¹ Ind. Code Ann. § 16-34-2-9; Ind. Code Ann. § 16-34-2-10.

¹⁶² Ind. Code § 34-11-2-4(1).

Discriminatory Abortion (sex, race, national origin/ancestry, disability)¹⁶³

- If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.¹⁶⁴
- Standing: unspecified.
- Standard: knowingly or intentionally.¹⁶⁵
- Remedies:
 - Damages associated with wrongful death claims.¹⁶⁶
- Statute of Limitations: two years.¹⁶⁷

Parental Consent/Aiding or Assisting

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider or a person who aids or assists the minor in obtaining the abortion can be subject to civil liability.¹⁶⁸
- Standing:
 - mother; and
 - maternal grandparents UNLESS the pregnancy is a result of the adult engaging in or consenting to another person engaging in a sex act with the minor in violation of criminal laws.¹⁶⁹
- Standard: knowingly or intentionally.¹⁷⁰
- Remedies:
 - Compensatory damages for physical and emotional injury without need of being physically present at the event
 - Attorney's fees and court costs
 - Punitive damages.¹⁷¹
- Statute of Limitations: two years.¹⁷²

¹⁶³ This law is in flux. In 2017, it was ruled unconstitutional. However, the U.S. Supreme Court held that ruling unconstitutional. *Planned Parenthood of Indiana and Kentucky, Inc. v. Comm'r, Indiana State Dep't of Health*, 265 F. Supp. 3d 859 (S.D. Ind. 2017), *aff'd sub nom. Planned Parenthood of Indiana and Kentucky, Inc. v. Comm'r of Indiana State Dep't of Health*, 888 F.3d 300 (7th Cir. 2018), *reh'g en banc granted, judgment vacated*, 727 F. App'x 208 (7th Cir. 2018), *vacated*, 917 F.3d 532 (7th Cir. 2018), and *opinion reinstated*, 917 F.3d 532 (7th Cir. 2018), and *cert. granted in part, judgment rev'd in part sub nom. Box v. Planned Parenthood of Indiana and Kentucky, Inc.*, 587 U.S. ____ (2019).

¹⁶⁴ Ind. Code Ann. § 16-34-4-4--16-34-4-9.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Ind. Code § 34-11-2-4(1).

¹⁶⁸ Ind. Code §16-34-2-4.2.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² Ind. Code § 34-11-2-4(1).

- Misc.
 - A cause of action cannot be brought against a person who is related to the minor as a parent or stepparent, grandparent, stepgrandparent, sibling or stepsibling.¹⁷³

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.¹⁷⁴
- Standing: father and mother jointly or by either of them, legal guardian (for wrongful death).¹⁷⁵
- Standard:
 - unspecified.
- Remedies: damages for loss of child's services, loss of child's companionship, expenses re child's funeral/burial, reasonable expense of psychiatric/psychological counseling incurred by surviving parent or minor sibling that is required because of the death, uninsured debts of the child, admin of child's estate including reasonable attorney fees.¹⁷⁶
- Statute of Limitations: two years.¹⁷⁷

IOWA

Abortions After Viability (20 weeks)

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.¹⁷⁸
- Standing for legal remedies:
 - mother.¹⁷⁹
- Standing for injunctive relief:
 - mother;
 - maternal grandparent/guardian (if the mother has not reached 18 years of age);
 - current or former licensed healthcare provider of the mother;
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.¹⁸⁰
- Standard: intentional or reckless¹⁸¹
- Remedies:
 - actual or punitive damages¹⁸²;
 - injunctive relief¹⁸³; and

¹⁷³ Ind. Code §16-34-2-4.2.

¹⁷⁴ Ind. Code §16-34-2-3.

¹⁷⁵ *Id.*; Ind. Code 34-23-2-1.

¹⁷⁶ Ind. Code 34-18-14-3.

¹⁷⁷ Ind. Code § 34-11-2-4(1).

¹⁷⁸ Iowa Code Ann. § 146B.2.

¹⁷⁹ Iowa Code Ann. § 146B.3(2)-(3).

¹⁸⁰ *Id.* at (4).

¹⁸¹ *Id.* at (2).

¹⁸² *Id.* at (2)-(3).

¹⁸³ *Id.* at (4).

- reasonable attorney fees if the plaintiff prevails.¹⁸⁴
- Statute of Limitations: two years.¹⁸⁵
- Misc.
 - Defendant entitled to reasonable attorney fees if the court finds that the plaintiff's suit was frivolous and brought in bad faith.¹⁸⁶

KANSAS

Abortions After Viability (22 weeks)

- Cause of Action: If an abortion is performed or induced on a woman carrying a fetus aged 22 weeks or more post-fertilization, the abortion provider can be subject to civil liability.¹⁸⁷
- Standing:
 - mother;
 - father (if married to the woman); and
 - maternal grandparents/guardian (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is the result of the plaintiff's criminal conduct.¹⁸⁸
- Standard: intentional.¹⁸⁹
- Remedies:
 - money damages for all injuries, psychological and physical, occasioned by the violation of this section;
 - statutory damages equal to three times the cost of the abortion; and
 - reasonable attorney fees.¹⁹⁰
- Statute of Limitations: two years.¹⁹¹

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is induced or performed on a mother, the abortion provider can be subject to civil liability.¹⁹²
- Standing:
 - father, if married to the woman; and
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was caused by the criminal conduct of the plaintiff, or the plaintiff consented to the abortion.¹⁹³
- Standard: intentional.¹⁹⁴
- Remedies:
 - money damages for all injuries, psychological and physical;

¹⁸⁴ *Id.* at (5).

¹⁸⁵ Iowa Code Ann. § 614.1(2).

¹⁸⁶ *Id.* at (6).

¹⁸⁷ Kan. Stat. Ann. § 65-6703.

¹⁸⁸ *Id.*

¹⁸⁹ Kan. Stat. Ann. § 65-6701(a)(1).

¹⁹⁰ Kan. Stat. Ann. § 65-6703.

¹⁹¹ Kan. Stat. Ann. § 60-513(g)(2).

¹⁹² Kan. Stat. Ann. § 65-6721(a).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

- statutory damages equal to three times the cost of the abortion; and
- reasonable attorney fees.¹⁹⁵
- Statute of Limitations: two years.¹⁹⁶

Dismemberment Abortion

Held unconstitutional by *Nauser v. Derek Schmidt - Atty. Gen.*, No. 2015-CV-490, (Kan. Dist. Ct. Apr. 07, 2021).

- Cause of Action: If a dismemberment abortion is attempted or performed on a woman, the abortion provider can be subject to civil liability.¹⁹⁷
- Standing:
 - mother;
 - father (if married to the mother);
 - parents or custodial guardians (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is caused by the plaintiff's criminal conduct.¹⁹⁸
- Standard: purposefully or knowingly.¹⁹⁹
- Remedies:
 - Money damages for all injuries, psychological and physical;
 - Statutory damages equal to three times the cost of the dismemberment abortion;
 - Injunctive relief; and
 - reasonable attorney fees.²⁰⁰
- Statute of Limitations: two years.²⁰¹
- Misc.
 - Defendant may be awarded reasonable attorney fees if the court finds that the plaintiff's action was frivolous and brought in bad faith.²⁰²

Discriminatory Abortion (sex)

- If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.²⁰³
- Standing:
 - mother;
 - father (if married to the woman); and
 - parents or custodial guardians of the woman (if the mother has not reached 18 years of age);

¹⁹⁵ Id.

¹⁹⁶ Kan. Stat. Ann. § 60-513(g)(2).

¹⁹⁷ Kan. Stat. Ann. § 65-6745

¹⁹⁸ Id.

¹⁹⁹ Kan. Stat. Ann. § 65-6742(b)(1).

²⁰⁰ Kan. Stat. Ann. § 65-6745

²⁰¹ Kan. Stat. Ann. § 60-513(g)(2).

²⁰² Kan. Stat. Ann. § 65-6745

²⁰³ Kan. Stat. Ann. § 65-6726.

- UNLESS the pregnancy is the result of the plaintiff’s criminal conduct.²⁰⁴
- Standard: knowingly.²⁰⁵
- Remedies:
 - money damages for all injuries, psychological and physical;
 - statutory damages equal to three times the cost of the abortion;
 - injunctive relief; and
 - reasonable attorney fees.²⁰⁶
- Statute of Limitations: two years.²⁰⁷

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.²⁰⁸
- Standing:
 - Maternal grandparents or legal guardian.²⁰⁹
- Standard: unspecified (likely negligence).²¹⁰
- Remedies:
 - money damages for all injuries, psychological and physical;
 - cost of any subsequent medical treatment such minor might require because of the abortion performed without parental consent or knowledge, or without a court order;
 - statutory damages equal to three times the cost of the abortion; and
 - reasonable attorney fees.²¹¹
- Statute of Limitations: two years.²¹²

KENTUCKY

Abortions After Detectable Heartbeat

- Cause of Action: If an abortion is performed or induced on a mother carrying a fetus with a detectable heartbeat, the abortion provider can be subject to civil liability²¹³
- Standing:
 - mother.²¹⁴
- Standard:
 - intentional.²¹⁵

²⁰⁴ Id.

²⁰⁵ Id.

²⁰⁶ Id.

²⁰⁷ Kan. Stat. Ann. § 60-513(g)(2).

²⁰⁸ Kan. Stat. Ann. § 65-6705.

²⁰⁹ Id.

²¹⁰ *M.T. as next friend of M.K. v. Walmart Stores, Inc.*, 528 P.3d 1067 (Kan. 2023), review denied (Aug. 25, 2023), affirming negligence is the proper informed consent standard.

²¹¹ Kan. Stat. Ann. § 65-6705.

²¹² Kan. Stat. Ann. § 60-513(g)(2).

²¹³ Ky. Rev. Stat. Ann. § 311.7705.

²¹⁴ Ky. Rev. Stat. Ann. § 311.7709.

²¹⁵ Id.

- Remedies:
 - statutory damages equal to \$10,000 or an amount determined by the trier of fact (after consideration of the evidence at the mother’s election at any time prior to final judgment subject to the same defenses and requirements of proof, except any requirement of live birth, as would apply to a suit for the wrongful death of a child who had been born alive);
 - court costs and reasonable attorney fees.²¹⁶
- Misc.:
 - If the defendant prevails and the court finds the action was frivolous and the defendant was adversely affected by the frivolous conduct, then defendant can recover reasonable attorney fees.²¹⁷

Abortions After Fifteen Weeks

- Cause of Action: If an abortion is attempted, induced, or performed on a woman carrying a fetus aged at 15 weeks or more post-fertilization, the abortion provider can be subject to civil liability.²¹⁸
- Standing:
 - mother²¹⁹;
 - father²²⁰; or
 - “any person, or the representative of the estate of any person including but not limited to an unborn child, who sustains injury, death, or loss to person or property as the result of the performance or inducement or the attempted performance or inducement of the abortion”.²²¹
- Standard: intentionally (actual knowledge or heedless indifference).²²²
- Remedies:
 - actual damages;
 - compensatory damages;
 - punitive damages;
 - injunctive relief; and
 - reasonable attorney fees and court costs.²²³
- Statute of Limitations: one year.²²⁴
- Misc:
 - If a judgment is rendered in favor of the defendant and the action constitutes frivolous conduct and that the defendant was adversely affected by the conduct, the court shall award reasonable attorney’s fees.²²⁵

²¹⁶ Id.

²¹⁷ Id.

²¹⁸ Ky. Rev. Stat. Ann. § 311.782; § 311.784.

²¹⁹ Ky. Rev. Stat. Ann. § 311.784(2).

²²⁰ Id.

²²¹ Ky. Rev. Stat. Ann. § 311.782(5).

²²² Id.

²²³ *Id.*; § 311.784.

²²⁴ Ky. Rev. Stat. Ann. § 413.140(1)(a).

²²⁵ Ky. Rev. Stat. Ann. § 311.784(3).

Discriminatory Abortion (sex, race/color, national origin, disability)

- If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.²²⁶
- Standing:
 - Any person, including the unborn child, or the representative of the estate of any person, including an unborn child, who sustains injury, death, or loss to person or property as the result of the performance or inducement or the attempted performance or inducement of the abortion.²²⁷
- Standard: intentional.²²⁸
- Remedies:
 - compensatory damages; and
 - punitive Damages.²²⁹
- Statute of Limitations: one year.²³⁰

Chemical/Drug Induced Abortion

- Cause of Action: If a chemical abortion is performed on a woman, the abortion provider can be subject to civil liability.²³¹
- Standing:
 - mother,
 - maternal grandparents; and
 - survivors of the mother (for wrongful death).²³²
- Standard: intentionally, knowingly, or recklessly.²³³
- Remedies:
 - Actual damages;
 - Punitive damages; and
 - Reasonable attorney fees.²³⁴
- Statute of Limitations: one year.²³⁵
- Misc.
 - If the defendant prevails and the court finds the action was frivolous and brought in bad faith, then defendant can recover reasonable attorney fees.²³⁶

²²⁶ Ky. Rev. Stat. Ann. § 311.731(6)

²²⁷ *Id.*

²²⁸ *Id.* at (2)

²²⁹ *Id.* at (6)

²³⁰ Ky. Rev. Stat. Ann. § 413.140(1)(a).

²³¹ Ky. Rev. Stat. Ann. §§ 311.7731-311.7739.

²³² Ky. Rev. Stat. Ann. § 311.7739.

²³³ Ky. Rev. Stat. Ann. § 311.7733.

²³⁴ Ky. Rev. Stat. Ann. §§ 311.7731-311.7739.

²³⁵ Ky. Rev. Stat. Ann. § 413.140(1)(e).

²³⁶ Ky. Rev. Stat. Ann. §§ 311.7731-311.7739.

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.²³⁷
- Standing: unspecified.
- Standard: unspecified (likely negligence).²³⁸
- Remedies:
 - Interference with family relations
 - Does not preclude exemplary damages²³⁹
- Statute of Limitations: one year.²⁴⁰

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.²⁴¹
- Standing:
 - mother;
 - father;
 - maternal grandparent (if the mother has not reached 18 years of age).²⁴²
- Standard: simple negligence, gross negligence, wantonness, willfulness, intentional conduct, or another violation of the legal standard of care.²⁴³
- Remedies:
 - Compensatory damages
 - Punitive damages.²⁴⁴
- Statute of Limitations: one year.²⁴⁵

LOUISIANA

Abortions Performed After Fertilization

- Cause of Action: If an abortion is performed on a mother carrying a fetus with after fertilization, the abortion provider can be subject to civil liability.²⁴⁶
- Standing:
 - Mother.²⁴⁷
- Standard:

²³⁷ Ky. Rev. Stat. Ann. § 311.732(11).

²³⁸ *Watson v. Landmark Urology, P.S.C.*, 642 S.W.3d 660, 671 (Ky. 2022) (explaining negligence is the standard of liability for consent claims in Kentucky).

²³⁹ Ky. Rev. Stat. Ann. §311.732(11).

²⁴⁰ Ky. Rev. Stat. Ann. § 413.140(1)(a).

²⁴¹ Ky. Rev. Stat. Ann. §311.823; 311.824.

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ Ky. Rev. Stat. Ann. § 413.140(1)(a).

²⁴⁶ La. Stat. Ann. § 9:2800.12; La. Stat. Ann. § 40:1061.1.5.

²⁴⁷ La. Stat. Ann. § 9:2800.12.

- intentional
- negligence.²⁴⁸
- Remedies:
 - all special and general damages which are recoverable in an intentional tort, negligence, survival; or
 - wrongful death action for injuries suffered or damages occasioned by the unborn child or mother.²⁴⁹
- Statute of Limitations:
 - three years.²⁵⁰

Pain-Capable Abortion

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.²⁵¹
- Standing for malpractice Remedies:
 - mother.²⁵²
- Standing for civil fines:
 - attorney general.²⁵³
- Standard: intentionally and knowingly.²⁵⁴
- Remedies:
 - those available in malpractice action and for the death of her unborn child under Civil Code Article 2315.2²⁵⁵; and
 - civil fines of \$1,000 per incident.²⁵⁶
- Statute of Limitations: one year²⁵⁷

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.²⁵⁸
- Standing:
 - mother;
 - father, (unless his criminal conduct caused the pregnancy);
 - maternal grandparent/mother's guardians (if the mother has not reached 18 years of age) (maternal grandparent/mother's guardians consented).²⁵⁹

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*

²⁵¹ La. Stat. Ann. § 40:1061.1.2(E); § 40:1061.10(C).

²⁵² *Id.* at (C)(3).

²⁵³ *Id.* at (A).

²⁵⁴ *Id.* at (C)(1).

²⁵⁵ *Id.* at (C)(3).

²⁵⁶ *Id.* at (A).

²⁵⁷ La. Civ. Code Ann. § 3492.

²⁵⁸ La. Stat. Ann. § 40:1061.28.

²⁵⁹ La. Stat. Ann. § 40:1061.28.

- Standard: unspecified (likely negligence).²⁶⁰
- Remedies:
 - all damages for injury or otherwise arising out of the action. *See* Louisiana Civil Code Articles 2315.1 and 2315.2.²⁶¹
- Statute of Limitations: one year.²⁶²

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed on a woman, the abortion provider can be subject to civil liability.²⁶³
- Standing:
 - mother;
 - father (unless his criminal conduct caused the pregnancy); and
 - maternal grandparent/mother’s guardians (if the mother has not reached 18 years of age) (maternal grandparent/mother’s guardians consented).²⁶⁴
- Standard: unspecified (likely negligence).²⁶⁵
- Remedies:
 - all damages for injury or otherwise arising out of the action. *See* Louisiana Civil Code Articles 2315.1 and 2315.2.²⁶⁶
- Statute of Limitations: one year.²⁶⁷

Discriminatory Abortion (disability)

- Cause of Action: If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.²⁶⁸
- Standing for legal remedies:
 - mother.²⁶⁹
- Standing for injunctive relief:
 - district attorney (with proper jurisdiction);
 - Health Department Secretary; and
 - attorney general.²⁷⁰
- Standard: intentional.²⁷¹
- Remedies:

²⁶⁰ La. Civ. Code Ann. § 2315.1; La. Civ. Code Ann. 2315.2. (Standard not explicitly stated but follows wrongful death construction and the standard for wrongful death is negligence in Louisiana).

²⁶¹ La. Stat. Ann. § 40:1061.28(D).

²⁶² La. Civ. Code Ann. § 3492.

²⁶³ La. Civ. Code Ann. §1061.1.3.

²⁶⁴

²⁶⁵ *Id.*

²⁶⁶ La. Civ. Code Ann.2315.1 and 2315.2. (Standard not explicitly stated, but follows wrongful death construction and the standard for wrongful death is negligence in Louisiana).

²⁶⁷ La. Civ. Code Ann. § 3492.

²⁶⁸ La. Stat. Ann. § 40:1061.1.4; 40:1061.29.

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

- Civil fine of \$1,000 per violation
- Damages from civil malpractice action
- Wrongful death damages; and
- Injunctive relief.²⁷²
- Statute of Limitations: one year.²⁷³

MAINE

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability for wrongful death and medical malpractice.²⁷⁴
- Standing
 - personal representative or special administrator of deceased child (wrongful death).
 - Mother (medical malpractice).²⁷⁵
- Standard: negligence.²⁷⁶
- Remedies for wrongful death:
 - Civil liability for wrongful death and medical malpractice if abortion results in live birth and there is a failure to take reasonable steps to preserve the life and health of the live born person;
 - funeral and medical expenses,
 - loss of comfort/society/companionship and emotional distress (not to exceed \$1 million), and
 - punitive damages (not to exceed \$500,000).
- Remedies for medical malpractice:
 - compensatory; and
 - punitive damages.²⁷⁷
- Statute of Limitations: six years.²⁷⁸

MARYLAND

- No liability for performing abortions.

Refusal of Provider to Perform an Abortion

- Cause of Action: If an abortion is not performed and the failure to refer the patient for such medical procedure would reasonably be determined as the cause of death or serious

²⁷² Id.

²⁷³ La. Civ. Code Ann. § 3492.

²⁷⁴ 22 M.R.S.A. § 1594.

²⁷⁵ Id.

²⁷⁶ Id.

²⁷⁷ Id.

²⁷⁸ 14 M.R.S.A. § 752.

physical injury to the patient or such failure is otherwise contrary to the standards of medical care, then a care provider can be civilly liable.²⁷⁹

- Standing: unspecified (though presumably any persons who would have standing in a wrongful death action).
- Standard: unspecified.
- Remedies: civil damages.²⁸⁰
- Statute of limitations: three years.²⁸¹

MASSACHUSETTS

- No provisions for civil liability

MICHIGAN

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.²⁸²
- Standing:
 - maternal grandparents.
- Remedies:
 - Damages for interference with family relations;
 - Does not preclude the award of punitive damages.²⁸³
- Statute of limitations: two years.²⁸⁴
- Misc.:
 - Failure to obtain consent is prima facie evidence in appropriate civil actions of his or her failure to obtain informed consent to perform the abortion or of his or her interference with family relations.²⁸⁵

MINNESOTA

Parental Notification

Held unconstitutional by *Doe v. State*, No. 62-CV-19-3868, at *1 (Minn. Dist. Ct. July 11, 2022).

- Cause of Action: If an abortion is performed on a minor without the notification to a parent or guardian, the abortion provider can be subject to civil liability.²⁸⁶
- Standing: the person wrongfully denied notification.²⁸⁷

²⁷⁹ Md. Code Ann., Health-Gen. § 20-214(d).

²⁸⁰ Id.

²⁸¹ Md. Code Ann., Jud. Proc. Code § 5-109.

²⁸² Mich. Comp. Laws Ann. § 722.907(2) and (5).

²⁸³ Mich. Comp. Laws Ann. § 722.907(2).

²⁸⁴ Mich. Comp. Laws Ann. § 600.2912b.

²⁸⁵ Mich. Comp. Laws Ann. § 722.907(2).

²⁸⁶ Minn. Stat. Ann. § 144.343(3).

²⁸⁷ Id.

- Standard: negligence.²⁸⁸
- Remedies: unspecified.
- Statute of Limitations: four years.²⁸⁹

MISSISSIPPI

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.²⁹⁰
- Standing:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy was a result of plaintiff's criminal conduct.²⁹¹
- Standard: knowingly.²⁹²
- Remedies:
 - money damages for all injuries, psychological and physical; and
 - statutory damages equal to three times the cost of the partial-birth abortion.²⁹³
- Statute of limitations: three years.²⁹⁴

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed on a woman, the abortion provider can be subject to civil liability.²⁹⁵
- Standard: unspecified.
- Standing for legal remedies:
 - mother;
 - father (if married to the woman); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is the result of plaintiff's criminal conduct.²⁹⁶
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and

²⁸⁸ *Conway v. Benson*, No. 360250, at *3 (Mich. Ct. App. Mar. 23, 2023) (explaining negligence is the correct standard of liability for violation of consent statute).

²⁸⁹ Minn. Stat. Ann. §541.076.

²⁹⁰ Miss. Code Ann. § 41-41-73.

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ Miss. Code § 15-1-49.

²⁹⁵ Miss. Code §41-41-157.

²⁹⁶ Miss. Code §41-41-159.

- prosecuting attorney.²⁹⁷
- Remedies:
 - injunctive relief²⁹⁸;
 - attorney's fees²⁹⁹; and
 - ONLY if injunctive relief has been denied:
 - money damages for all injuries, psychological and physical; and
 - statutory damages equal to three the cost of the dismemberment abortion.³⁰⁰
- Statute of limitations: three years.³⁰¹
- Misc:
 - If the defendant prevails and the court finds the action was frivolous and brought in bad faith, then defendant can recover reasonable attorney fees.³⁰²

MISSOURI

Abortions Performed Before 20 Weeks

- SB 453 would create the possibility for civil action.

Parental Consent (Aiding and Abetting Minor)

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.³⁰³
- Standing:
 - mother;
 - The person or persons required to give consent.³⁰⁴
- Standard: intentionally.³⁰⁵
- Remedies:
 - Actual damages, including compensation for emotion injury w/out need for personal presence
 - Attorney fees and litigation costs
 - Punitive damages.³⁰⁶
- Statute of limitations: two years.³⁰⁷

²⁹⁷ Miss. Code §41-41-157.

²⁹⁸ Id.

²⁹⁹ Miss. Code §41-41-161.

³⁰⁰ Miss. Code §41-41-159.

³⁰¹ Miss. Code § 15-1-49.

³⁰² Miss. Code §41-41-161.

³⁰³ Mo. Ann. Stat. §188.250.

³⁰⁴ Id.

³⁰⁵ Id.

³⁰⁶ Id.

³⁰⁷ Id.; Mont. Code Ann. §516.105.

MONTANA

Pain-Capable Abortion (20 weeks)

Held unconstitutional by *Planned Parenthood of Montana v. State*, 515 P.3d 301 (Mont. 2022).

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.³⁰⁸
- Standing for legal remedies:
 - mother; and
 - father.³⁰⁹
- Standing for injunctive relief:
 - mother;
 - father (if married to woman);
 - prosecuting attorney (with proper jurisdiction); and
 - attorney general.³¹⁰
- Standard: purposely or knowingly.³¹¹
- Remedies:
 - actual damages;
 - punitive damages;
 - reasonable attorney fees; and³¹²
 - injunctive relief.³¹³
- Statute of limitations: two years.³¹⁴
- Misc.
 - If the defendant prevails and the court finds the action was frivolous and brought in bad faith, then defendant can recover reasonable attorney fees.³¹⁵

Chemical Abortions

- Cause of Action: If a chemical abortion is performed on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.³¹⁶
- Standing:
 - mother;
 - mother's survivors.³¹⁷
- Standard: intent or knowledge.³¹⁸
- Remedies:
 - actual damages; and

³⁰⁸ Mont. Code Ann. § 50-20-603(1).

³⁰⁹ Mont. Code Ann. § 50-20-605.

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² *Id.*

³¹³ *Id.* at (2)(a).

³¹⁴ Mont. Code Ann. § 27-2-204(1).

³¹⁵ *Id.* at (4).

³¹⁶ Mont. Code Ann. § 50-20-701; § 50-20-712.

³¹⁷ *Id.*

³¹⁸ *Id.*

- punitive damages.³¹⁹
- Statute of limitations: two years.³²⁰

Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.³²¹
- Standing:
 - mother; or
 - if the mother has not reached 18 years of age or is physically/mentally incapacitated:
 - father; or
 - maternal grandparent.³²²
- Standard: knowing or reckless.³²³
- Damages
 - actual damages; or
 - punitive damages.³²⁴
- Statute of Limitations: two years.³²⁵

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.³²⁶
- Standing:
 - maternal grandparents/guardian.³²⁷
- Standard: negligence or actual malice.³²⁸
- Remedies:
 - Actual damages;
 - Punitive damages.³²⁹
- Statute of Limitations: two years.³³⁰

³¹⁹ Id.

³²⁰ Mont. Code Ann. § 27-2-204(1).

³²¹ Mont. Code Ann. § 50-20-307; Mont. Code Ann. § 50-20-304; Mont. Code Ann. § 50-20-106; Mont. Code Ann. § 50-20-104.

³²² Mont. Code Ann. § 27-2-307(1).

³²³ *Id.* at (2).

³²⁴ Id.

³²⁵ *Id.* at (1).

³²⁶ Mont. Code Ann § 50-20-510.

³²⁷ *Id.*; Mont. Code Ann § 27-1-221.

³²⁸ Id.

³²⁹ Id.

³³⁰ Mont. Code Ann. § 27-2-204(1).

NEBRASKA

Abortions Generally

- Cause of Action: If an abortion, meaning the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child, is performed on a mother the abortion provider can be subject to civil liability.³³¹
- Standing:
 - mother; and
 - maternal grandparent/guardian.³³²
- Standard:
 - professional negligence.³³³
- Remedies:
 - reasonable attorney's fee.³³⁴
- Statute of limitations
 - three years.³³⁵

Pain-Capable Abortion (20 weeks)

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.³³⁶
- Standing for legal remedies:
 - mother; and
 - father (if abortion actually performed).³³⁷
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother;
 - county attorney (with appropriate jurisdiction); and
 - attorney general.³³⁸
- Standard: intentional or reckless.³³⁹
- Remedies:
 - actual damages;
 - reasonable attorney fees; and
 - injunctive relief.³⁴⁰

³³¹ Neb. Rev. Stat. § 28-326; Neb.Rev.St. § 28-327.04.

³³² Neb.Rev.St. § 28-327.04.

³³³ *Id.* See also Neb.Rev.St. § 25-222.

³³⁴ Neb.Rev.St. § 28-327.04.

³³⁵ *Id.*

³³⁶ Neb. Rev. Stat. Ann. § 28-3,106.

³³⁷ *Id.*

³³⁸ *Id.*

³³⁹ *Id.*

³⁴⁰ *Id.*

- Statute of limitations: two years.³⁴¹
- Misc.
 - If the defendant prevails and the court finds the action was frivolous and brought in bad faith, then defendant can recover reasonable attorney fees.³⁴²

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed on a woman, the abortion provider can be subject to civil liability.³⁴³
- Standing for legal remedies:
 - mother;
 - father (if married to the mother);
 - maternal grandparents (if the mother has not reached 19 years of age or has died as a result of the abortion);
 - UNLESS the pregnancy is a result of the plaintiff's criminal conduct.³⁴⁴
- Standing for injunctive relief:
 - father (if married to the mother);
 - maternal grandparents (if the mother has not reached 19 years of age);
 - prosecuting attorney (with appropriate jurisdiction).³⁴⁵
- Standard: purposely.³⁴⁶
- Remedies:
 - money damages for all injuries, psychological and physical;
 - injunction; and
 - attorney's fees.³⁴⁷
- Statute of limitations: two years.³⁴⁸

Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.³⁴⁹
- Standing:
 - Mother; and
 - Maternal grandparents (if the mother has not reached 19 years of age).³⁵⁰

³⁴¹ Neb. Rev. Stat. Ann. § 25-222.

³⁴² Neb. Rev. Stat. Ann. § 28-3,106.

³⁴³ Neb. Rev. Stat. Ann. §28-347; 28-347.02.

³⁴⁴ *Id.*

³⁴⁵ Neb. Rev. Stat. Ann. § 28-347.01; Neb. Rev. Stat. Ann. § 28-347.

³⁴⁶ Neb. Rev. Stat. Ann. §28-347; Neb. Rev. Stat. Ann. § 28-347.02.

³⁴⁷ Neb. Rev. Stat. Ann. § 28-347.01; Neb. Rev. Stat. Ann. § 28-347; Neb. Rev. Stat. Ann. § 28-347.02.

³⁴⁸ Neb. Rev. Stat. Ann. § 25-222.

³⁴⁹ Neb. Rev. Stat. Ann. § 28-327. Neb. Rev. Stat. Ann. § 28-327.04; Neb. Rev. Stat. Ann. § 28-327.07; Neb. Rev. Stat. Ann. § 28-327.11.

³⁵⁰ Neb. Rev. Stat. Ann. §28-327; Neb. Rev. Stat. Ann. § 28-327.04; N Neb. Rev. Stat. Ann. § 28-327.07; Neb. Rev. Stat. Ann. § 28-327.11; Neb. Rev. Stat. Ann. § 43-2101.

- Standard: intentional, knowing, or negligence.³⁵¹
- Damages
 - “[W]hatever remedies are available under the common or statutory laws”;
 - Reasonable costs and attorney’s fees;
 - Noneconomic damages including pain, suffering, inconvenience, mental suffering, emotional distress, psychological trauma, loss of society or companionship, loss of consortium, injury to reputation, or humiliation associated with the abortion; and
 - A recovery for the pregnant woman for the wrongful death of her unborn child under section 30-809 upon proving by a preponderance of evidence that the physician knew or should have known that the pregnant woman’s consent was either not fully informed or not fully voluntary pursuant.³⁵²
- Statute of limitations: two years.³⁵³
- Misc.
 - provides prima facie evidence of professional negligence.³⁵⁴

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.³⁵⁵
- Standing:
 - Maternal grandparents (or other who had right to consent).³⁵⁶
- Standard: knowingly and intentionally or with reckless disregard.³⁵⁷
- Remedies: unspecified.
- Statute of limitations: two years.³⁵⁸

NEVADA

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability for wrongful death and medical malpractice.³⁵⁹

³⁵¹ *Id.*

³⁵² Neb. Rev. Stat. Ann. §28-327. Neb. Rev. Stat. Ann. § 28-327.04; Neb. Rev. Stat. Ann. § 28-327.07; Neb. Rev. Stat. Ann. § 28-327.11.

³⁵³ Neb. Rev. Stat. Ann. § 25-222.

³⁵⁴ Neb. Rev. Stat. Ann. § 28-327. Neb. Rev. Stat. Ann. § 28-327.04; Neb. Rev. Stat. Ann. § 28-327.07; Neb. Rev. Stat. Ann. § 28-327.11.

³⁵⁵ Neb. Rev. Stat. Ann. §§ 71-6901-06; Neb. Rev. Stat. Ann. §§ 71-6909-11.

³⁵⁶ Neb. Rev. Stat. Ann. §71-6907.

³⁵⁷ *Id.*

³⁵⁸ Neb. Rev. Stat. Ann. § 25-222.

³⁵⁹ Nev. Rev. Stat. Ann. § 442.270.

- Standing:
 - (for WD: heirs of decedent (child) and personal representatives) (for med mal: patient (mother))
- Standard: unspecified.
- Remedies:
 - For WD: pecuniary damages, special damages, exemplary/punitive damages
 - For med mal: economic and non economic damages (non-economic capped at \$350,000)
- Statute of Limitations: two years.³⁶⁰

NEW HAMPSHIRE

Viability (24 weeks)

- Cause of Action: If an abortion is performed, induced, or attempted on a woman carrying a fetus aged 24 weeks or more post-fertilization, the abortion provider can be subject to civil liability.³⁶¹
- Standing:
 - mother;
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is a result of Plaintiff's criminal conduct.³⁶²
- Standard: international, knowingly.³⁶³
- Remedies:
 - money damages for all injuries, psychological and physical.³⁶⁴
- Statute of limitations: three years.³⁶⁵

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is performed on a mother, the abortion provider can be subject to civil liability.³⁶⁶
- Standing:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is the result of Plaintiff's criminal conduct.³⁶⁷
- Standard: intentional.³⁶⁸
- Remedies:
 - money damages for all injuries, psychological and physical; and

³⁶⁰ Nev. Rev. Stat. Ann. § 11.190(4)(e); Nev. Rev. Stat. Ann. § §25-222.

³⁶¹ N.H. Rev. Stat. Ann. § 329:44; N.H. Rev. Stat. Ann. § 329:47.

³⁶² N.H. Rev. Stat. Ann. § 329:47(I).

³⁶³ *Id.* at (I).

³⁶⁴ *Id.* at (II).

³⁶⁵ N.H. Rev. Stat. Ann. § 508:4.

³⁶⁶ N.H. Rev. Stat. Ann. §329:37.

³⁶⁷ *Id.*

³⁶⁸ N.H. Rev. Stat. Ann. § 329:33(III).

- statutory damages three times the cost of the partial-birth abortion.³⁶⁹
- Statute of limitations: three years.³⁷⁰

Parental Notification

- Cause of Action: If an abortion is attempted or performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.³⁷¹
- Standing:
 - Maternal grandparent (Any person wrongfully denied notification).³⁷²
- Standard: intentional.³⁷³
- Remedies: unspecified.
- Statute of limitations: three years.³⁷⁴

NEW JERSEY

Parental Notification

Held unconstitutional by *Planned Parenthood of Cent. New Jersey v. Farmer*, 762 A.2d 620 (N.J. 2000).

- Cause of Action: If an abortion is performed on a minor without the notification to a parent or guardian, the abortion provider can be subject to civil liability.³⁷⁵
- Standing:
 - Maternal grandparent.³⁷⁶
- Standard: unspecified (likely negligence).³⁷⁷
- Remedies:
 - civil penalty of not less than \$1,000 and not more than \$5,000;
 - damages for wrongfully denied notification.³⁷⁸
- Statute of Limitations: two years.³⁷⁹

NEW MEXICO

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.³⁸⁰

³⁶⁹ N.H. Rev. Stat. Ann. § 329:37.

³⁷⁰ N.H. Rev. Stat. Ann. § 508:4.

³⁷¹ N.H. Rev. Stat. Ann. §132:35.

³⁷² N.H. Rev. Stat. Ann. § 329:43(I).

³⁷³ Id.

³⁷⁴ N.H. Rev. Stat. Ann. § 508:4.

³⁷⁵ N.J. Stat. Ann. § 9:17A-1.10.

³⁷⁶ Id.

³⁷⁷ *Rivera v. Valley Hosp., Inc.*, 280 A.3d 299, 313 (N.J. 2022) explaining negligence is the proper standard for liability for consent actions.

³⁷⁸ N.J. Stat. Ann. § 9:17A-1.10.

³⁷⁹ N.J. Stat. Ann. § 2A-14-2(a)

³⁸⁰ N.M. Stat. Ann. § 30-5A-4.

- Standing:
 - mother;
 - father; and
 - maternal parents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is the result of Plaintiff's criminal conduct or Plaintiff consented to the abortion.³⁸¹
- Standard: intentional.³⁸²
- Remedies:
 - compensatory damages.³⁸³
- Statute of Limitations: four years.³⁸⁴

NEW YORK

- No civil liability provisions.

NORTH CAROLINA

Abortions Performed After 12 Weeks

- Cause of Action: If an abortion is attempted, induced, or performed on a mother carrying a fetus aged 12 weeks or more post-fertilization, the abortion provider can be subject to civil liability.³⁸⁵
- Standing for damages:
 - mother;
 - father; and
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age).³⁸⁶
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother;
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.³⁸⁷
- Standard: knowing or reckless.³⁸⁸
- Remedies:
 - actual damages;

³⁸¹ Id.

³⁸² N.M. Stat. Ann. § 30-5A-2(A).

³⁸³ N.M. Stat. Ann. § 30-5A-4.

³⁸⁴ NMS § 37-1-4.

³⁸⁵ N.C.G.S.A. § 90-21.81A; N.C.G.S.A. § 90-21.88.

³⁸⁶ N.C.G.S.A. § 90-21.88(a1).

³⁸⁷ Id. at (b).

³⁸⁸ N.C.G.S.A. § 90-21.88.

- attorney fees; and
- injunctive relief.³⁸⁹
- Statute of limitations:
 - three years.³⁹⁰
- Misc:
 - A minor will have three years to bring a cause of action when reaching the age of majority.³⁹¹
 - If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous or brought in bad faith, then the court shall tax as part of the costs reasonable attorneys' fees in favor of the defendant against the plaintiff.³⁹²

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.³⁹³
- Standing for damages:
 - mother;
 - father; and
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age).³⁹⁴
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.³⁹⁵
- Standard: knowing or reckless.³⁹⁶
- Remedies:
 - actual damages;
 - attorney fees; and
 - injunctive relief.³⁹⁷
- Statute of limitations:
 - three years.³⁹⁸
- Misc:

³⁸⁹ *Id.*

³⁹⁰ N.C.G.S. § 1-52(16).

³⁹¹ N.C.G.S.A. § 90-21.88(c).

³⁹² *Id.* at (c).

³⁹³ N.C.G.S.A. § 90-21.81A; § 90-21.88.

³⁹⁴ N.C.G.S.A. § 90-21.88(a1).

³⁹⁵ *Id.* at (b).

³⁹⁶ N.C.G.S.A. § 90-21.88.

³⁹⁷ N.C.G.S.A. § 90-21.87; N.C.G.S.A. § 90-21.88.

³⁹⁸ N.C.G.S. § 1-52(16).

- A minor will have three years to bring a cause of action when reaching the age of majority.³⁹⁹
- If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous or brought in bad faith, then the court shall tax as part of the costs reasonable attorneys' fees in favor of the defendant against the plaintiff.⁴⁰⁰

Informed Consent

- Cause of Action: If an abortion is performed or attempted on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁴⁰¹
- Standing for legal remedies:
 - Mother;
 - Father (if abortion performed)
 - Maternal grandparents/mother's guardian (if a minor).⁴⁰²
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.⁴⁰³
- Standard:
 - knowing or reckless (if abortion performed); and
 - willful (if abortion attempted).⁴⁰⁴
- Remedies:
 - reasonable attorney fees; and
 - injunctive relief.⁴⁰⁵
- Statute of limitations:
 - three years.⁴⁰⁶
- Misc.
 - If the defendant prevails and the court finds the action was frivolous or brought in bad faith, then defendant can recover reasonable attorney fees.⁴⁰⁷

³⁹⁹ N.C.G.S.A. § 90-21.88(c).

⁴⁰⁰ N.C.G.S.A. § 90-21.88(c).

⁴⁰¹ N.C.G.S.A. § 90-21.88; N.C.G.S.A § 90-21.83A.

⁴⁰² *Id.*

⁴⁰³ *Id.*

⁴⁰⁴ *Id.*

⁴⁰⁵ *Id.*

⁴⁰⁶ *Id.*

⁴⁰⁷ *Id.*

Discriminatory Abortion (sex, race, down syndrome)

- If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.⁴⁰⁸
- Standing for legal remedies:
 - The woman upon whom an abortion was performed or attempted
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - A parent of the woman if she was a minor at the time of abortion.⁴⁰⁹
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.⁴¹⁰
- Standard: knowingly.⁴¹¹
- Remedies:
 - all damages;
 - punitive damages; and
 - civil fines:
 - \$10,000 for the first violation;
 - \$50,000 for the second violation; and
 - \$100,000 for the third violation and each subsequent violation.
 - injunctive relief.⁴¹²
- Statute of limitations:
 - three years.⁴¹³

North Dakota

Informed Consent

- Cause of Action: If an abortion is performed or attempted on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁴¹⁴
- Standing:

⁴⁰⁸ N.C.G.S.A § 90-21.121; N.C.G.S.A § 90-21.122.

⁴⁰⁹ N.C.G.S.A § 90-21.121; N.C.G.S.A § 90-21.122.

⁴¹⁰ *Id.*

⁴¹¹ *Id.*

⁴¹² *Id.*

⁴¹³ N.C.G.S. § 1-52(16).

⁴¹⁴ N.D. Cent. Code Ann. § 14-02.1-02.(9); N.D. Cent. Code Ann. § 14-02.1-03.2.

- Mother.⁴¹⁵
- Standard: unspecified.
- Remedies:
 - If abortion performed
 - \$10,000 in punitive damages; and
 - Treble whatever actual damages the plaintiff may have sustained.⁴¹⁶
 - If abortion attempted
 - \$5,000 in punitive damages; and
 - Treble whatever actual damages the plaintiff may have sustained.⁴¹⁷
- Statute of Limitations: six years.⁴¹⁸

OHIO

Abortions Generally

- Cause of Action: If an abortion, meaning the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child, is performed on a mother the abortion provider can be subject to civil liability.⁴¹⁹
- Standing:
 - mother.⁴²⁰
- Standard: knowingly and purposefully.
- Remedies:
 - compensatory damages;
 - exemplary damages;
 - court costs and reasonable attorney's fees.⁴²¹
- Statute of Limitations: two years.⁴²²

Abortions After Detectable Heartbeat (Before Determining if One Exists)

- Cause of Action: If an abortion is performed or induced on a mother carrying a fetus with a detectable heartbeat, before determining if one exists, the abortion provider can be subject to civil liability.⁴²³
- Standing:
 - mother.⁴²⁴
- Standard: knowingly and purposefully
- Remedies:

⁴¹⁵ N.D. Cent. Code Ann. § 14-02.1-03.2.

⁴¹⁶ N.D. Cent. Code Ann. § 14-02.1-03.2.

⁴¹⁷ Id.

⁴¹⁸ N.D. Cent. Code Ann. § 28-01-16.

⁴¹⁹ Ohio Rev. Code Ann. § 2919.13.

⁴²⁰ Id.

⁴²¹ Id.

⁴²² Ohio Rev. Code Ann. § 2307.52(C). Ohio Rev. Code Ann. § 2305.11.

⁴²³ Ohio Rev. Code Ann. § 2919.193.

⁴²⁴ Id.

- compensatory damages;
- exemplary damages; and
- court costs and reasonable attorney’s fees.⁴²⁵
- Statute of Limitations: two years.⁴²⁶

Abortions After Detectable Heartbeat (After Determining if One Exists)

Held unconstitutional by *Preterm-Cleveland v. Yost*, No. A2203203, 2022 WL 16137799, at *21 (Ohio Com.Pl. Oct. 12, 2022).

- Cause of Action: If an abortion is performed or induced on a mother carrying a fetus with a detectable heartbeat, the abortion provider can be subject to civil liability.⁴²⁷
- Standing:
 - mother.⁴²⁸
- Standard: knowingly and purposefully.⁴²⁹
- Remedies:
 - statutory damages of \$10,000; or
 - appropriate wrongful death damages.
 - court costs and reasonable attorney’s fees.⁴³⁰
- Statute of Limitations: two years.⁴³¹

Pain-Capable Abortion (20 weeks)

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.⁴³²
- Standing:
 - mother; and
 - father.⁴³³
- Standard: purposely.⁴³⁴
- Remedies:
 - compensatory damages;
 - punitive or exemplary damages; and
 - court costs and reasonable attorney fees.⁴³⁵
- Statute of Limitations: two years.⁴³⁶
- Misc.

⁴²⁵ Id.

⁴²⁶ Ohio Rev. Code Ann. § 2307.52(C). Ohio Rev. Code Ann. § 2305.11.

⁴²⁷ Ohio Rev. Code Ann. § 2919.194; §2919.199.

⁴²⁸ Ohio Rev. Code Ann. §2919.199.

⁴²⁹ Id.

⁴³⁰ Id.

⁴³¹ Ohio Rev. Code Ann. § 2307.52(C); §2305.11

⁴³² Ohio Rev. Code Ann. §2307.54; Ohio Rev. Code Ann. 2919.201.

⁴³³ Ohio Rev. Code Ann. §2307.54.

⁴³⁴ Ohio Rev. Code Ann. §2919.151.

⁴³⁵ Ohio Rev. Code Ann. §2307.54.

⁴³⁶ Ohio Rev. Code Ann. § 2305.11.

- If the defendant prevails and the court finds the action was frivolous, then defendant can recover reasonable attorney fees.⁴³⁷

Abortions Performed After Viability

- Cause of Action: If an abortion is performed on a woman carrying a fetus that has reached viability, meaning there is a realistic possibility of the maintaining and nourishing of a life outside of the womb with or without temporary artificial life-sustaining support, the abortion provider can be subject to civil liability.⁴³⁸
- Standing:
 - mother.⁴³⁹
- Standard: purposely.⁴⁴⁰
- Remedies:
 - compensatory damages;
 - punitive or exemplary damages; and
 - court costs and reasonable attorney fees.⁴⁴¹
- Statute of Limitations: two years.⁴⁴²
- Misc.
 - If the defendant prevails and the court finds the action was frivolous, then defendant can recover reasonable attorney fees.⁴⁴³

Partial Birth

- Cause of Action: If a partial-birth abortion is attempted or performed on a mother, the abortion provider can be subject to civil liability.⁴⁴⁴
- Standing:
 - mother;
 - father (if the child not conceived by rape); and
 - maternal grandparents (if the mother has not reached 18 years of age).⁴⁴⁵
- Standard: intentional.⁴⁴⁶
- Remedies:
 - compensatory damages;
 - punitive or exemplary damages; and
 - court costs and reasonable attorney fees.⁴⁴⁷

⁴³⁷ Ohio Rev. Code Ann. § 2919.15.

⁴³⁸ Ohio Rev. Code Ann. § 2307.52(B); *see also Id.* at §§ 2919.16(M) and 2919.17(E), (H) (defining Trigger Age for viability and setting out cause of action).

⁴³⁹ Ohio Rev. Code Ann. § 2307.52(B)

⁴⁴⁰ *Id.*

⁴⁴¹ *Id.* at (C).

⁴⁴² Ohio Rev. Code Ann. § 2305.11.

⁴⁴³ Ohio Rev. Code Ann. § 2307.52.

⁴⁴⁴ Ohio Rev. Code Ann. § 2307.53.

⁴⁴⁵ *Id.*

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.*

- Statute of Limitations: two years.⁴⁴⁸
- Misc.
 - If the defendant prevails and the court finds the action was frivolous, then defendant can recover reasonable attorney fees.⁴⁴⁹

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is attempted or performed on a mother, the abortion provider can be subject to civil liability.⁴⁵⁰
- Standing:
 - mother;
 - father (if the child not conceived by rape); and
 - maternal grandparents (if the mother has not reached 18 years of age).⁴⁵¹
- Standard: purposeful.⁴⁵²
- Remedies:
 - compensatory damages;
 - punitive or exemplary damages; and
 - court costs and reasonable attorney fees.⁴⁵³
- Statute of Limitations: two years.⁴⁵⁴
- Misc.
 - If the defendant prevails and the court finds the action was frivolous, then defendant can recover reasonable attorney fees.⁴⁵⁵

Discriminatory Abortion (down syndrome)

- If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.⁴⁵⁶
- Standing:
 - any person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as the result of the performance or inducement or the attempted performance or inducement of the abortion.⁴⁵⁷
- Standard: purposely.⁴⁵⁸
- Remedies:
 - compensatory damages;
 - exemplary damages; and

⁴⁴⁸ Ohio Rev. Code Ann. § 2305.11.

⁴⁴⁹ Ohio Rev. Code Ann. § 2307.53.

⁴⁵⁰ Id.

⁴⁵¹ Id.

⁴⁵² Ohio Rev. Code Ann. § 2919.15.

⁴⁵³ Ohio Rev. Code Ann. § 2307.53.

⁴⁵⁴ Ohio Rev. Code Ann. § 2305.11.

⁴⁵⁵ Ohio Rev. Code Ann. § 2307.53.

⁴⁵⁶ Ohio Rev. Code Ann. § 2919.10.

⁴⁵⁷ Id.

⁴⁵⁸ Id.

- reasonable attorney fees⁴⁵⁹
- Statute of Limitations: two years.⁴⁶⁰

Informed Consent

- Cause of Action: If an abortion is performed after a fetal heartbeat can be detected on a mother without the voluntary and informed consent of the mother, the abortion provider can be subject to civil liability.⁴⁶¹
- Standing:
 - any person, or the representative of the estate of any person, who sustains injury, death, or loss to person or property as a result of the failure to satisfy those conditions.⁴⁶²
- Standard: actual knowledge or heedless indifference.⁴⁶³
- Remedies:
 - compensatory damages; and
 - exemplary damages.⁴⁶⁴
- Statute of Limitations: two years.⁴⁶⁵
- Misc.
 - basis for disciplinary action.⁴⁶⁶

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁴⁶⁷
- Standing:
 - The woman upon whom the abortion is performed or attempted; and
 - Maternal grandparents/mother's guardian (if the mother has not reached 18 years of age)⁴⁶⁸
- Standard: knowingly.⁴⁶⁹
- Remedies:
 - compensatory,
 - exemplary;
 - statutory of \$10,000; or
 - appropriate wrongful death damages.⁴⁷⁰
- Statute of Limitations: two years.⁴⁷¹

⁴⁵⁹ Id.

⁴⁶⁰ Ohio Rev. Code Ann. § 2305.11.

⁴⁶¹ Ohio Rev. Code Ann. § 2317.56; 2919.194.

⁴⁶² Id.

⁴⁶³ Id.

⁴⁶⁴ Id.

⁴⁶⁵ Ohio Rev. Code Ann. § 2305.11.

⁴⁶⁶ Ohio Rev. Code Ann. § 2317.56; 2919.194.

⁴⁶⁷ Ohio Rev. Code Ann. § 2919.121.

⁴⁶⁸ Id.

⁴⁶⁹ Id.

⁴⁷⁰ Id.

⁴⁷¹ Ohio Rev. Code Ann. § 2305.11.

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.⁴⁷²
- Standing:
 - mother.⁴⁷³
- Standard: purposely.⁴⁷⁴
- Remedies:
 - Compensatory damages; and
 - Exemplary damages
 - Court costs and reasonable attorney fees⁴⁷⁵
- Statute of Limitations: two years.⁴⁷⁶
- Misc.
 - §3701.792 – failure to meet reporting requirements for each time a child is born alive after abortion creates a cause of action by a woman whom the abortion was performed for damages in the amount of \$10,000, court costs, and reasonable attorney fees.⁴⁷⁷

OKLAHOMA

Abortions Generally

Held unconstitutional by *Oklahoma Call for Reprod. Just. v. State*, 531 P.3d 117 (Okla. 2023).

- Cause of Action: If an abortion, meaning the act of using, prescribing, administering, procuring, or selling of any instrument, medicine, drug, or any other substance, device, or means with the purpose to terminate the pregnancy, is performed on a mother the abortion provider can be subject to civil liability.⁴⁷⁸
- Standing:
 - any person other than the state.⁴⁷⁹
- Standard: knowingly.⁴⁸⁰
- Remedies:
 - injunctive relief;
 - statutory damages no less than \$10,000 per violation;
 - nominal and compensatory damages for loss of consortium and emotional distress; and
 - court costs and attorney's fees.⁴⁸¹
- Statute of limitations:

⁴⁷² Ohio Rev. Code Ann. §2919.13.

⁴⁷³ Id.

⁴⁷⁴ Id.

⁴⁷⁵ Id.

⁴⁷⁶ Ohio Rev. Code Ann. § 2305.11.

⁴⁷⁷ Ohio Rev. Code Ann. §2919.13.

⁴⁷⁸ Okla. Stat. Ann. tit. 63, § 1-745.51(1); Okla. Stat. Ann. tit. 63, § 1-745.55.

⁴⁷⁹ Okla. Stat. Ann. tit. 63, § 1-745.55(A).

⁴⁸⁰ Okla. Stat. Ann. tit. 63, § 1-745.51(1); Okla. Stat. Ann. tit. 63, § 1-745.55.

⁴⁸¹ Okla. Stat. Ann. tit. 63, § 1-745.55(B).

- six years.⁴⁸²

Abortion After Detectable Heartbeat

Held unconstitutional by *Oklahoma Call for Reprod. Just. v. State*, 531 P.3d 117 (Okla. 2023).

- Cause of Action: If an abortion is performed on a mother carrying a fetus with a detectable heartbeat, the abortion provider can be subject to civil liability.⁴⁸³
- Standing:
 - Any person, other than the state, its political subdivisions, and any officer or employee of a state or local governmental entity in this state.⁴⁸⁴
- Standard: knowingly, intentional.⁴⁸⁵
- Remedies:
 - injunctive relief;
 - statutory damages no less than \$10,000 per violation;
 - nominal and compensatory damages for loss of consortium and emotional distress; and
 - court costs and attorney’s fees.⁴⁸⁶
- Statute of limitations:
 - six years.⁴⁸⁷
- Misc.
 - The action can be brought against any person who performs or induces an abortion in violation of this act; knowingly engages in conduct that aids or abets the performance or inducement of an abortion including paying for or reimbursing the costs of an abortion through insurance or otherwise, if the abortion is performed or induced in violation of this act, regardless of whether the person knew or should have known that the abortion would be performed or induced in violation of this act; or intends to engage in the previously described conduct.

Pain-Capable Abortion (20 weeks)

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.⁴⁸⁸
- Standing for legal remedies:
 - mother;
 - father.⁴⁸⁹
- Standing for injunctive relief:
 - mother;

⁴⁸² *Id.* at (D).

⁴⁸³ Okla. Stat. Ann. tit. 63, § 1-745.34; Okla. Stat. Ann. tit. 63, § 1-745.39.

⁴⁸⁴ Okla. Stat. Ann. tit. 63, § 1-745.39.

⁴⁸⁵ Okla. Stat. Ann. tit. 63, § 1-745.34; Okla. Stat. Ann. tit. 63, § 1-745.39.

⁴⁸⁶ Okla. Stat. Ann. tit. 63, § 1-745.39.

⁴⁸⁷ *Id.*

⁴⁸⁸ Okla. Stat. Ann. tit. 63, § 1-745.5; Okla. Stat. Ann. tit. 63, § 1-745.8.

⁴⁸⁹ Okla. Stat. Ann. tit. 63, § 1-745.8.

- father (if married to the mother);
- maternal grandparent/guardian;
- aunt/uncle;
- current or former licensed health care provider of mother;
- county attorney (with appropriate jurisdiction); and
- attorney general.⁴⁹⁰
- Standard: knowing or reckless.⁴⁹¹
- Remedies:
 - actual damages;
 - punitive damages;
 - injunctive relief; and
 - reasonable attorney fees.⁴⁹²
- Statute of limitations: two years.⁴⁹³
- Misc.
 - If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant.⁴⁹⁴

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed on a woman, the abortion provider can be subject to civil liability.⁴⁹⁵
- Standing for legal remedies:
 - Mother; and
 - Maternal grandparents (if the mother has not reached 18 years of age or if she died as a result of the abortion
 - UNLESS the pregnancy is the result of the plaintiff's criminal conduct.⁴⁹⁶
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction).⁴⁹⁷

⁴⁹⁰ Id.

⁴⁹¹ Id.

⁴⁹² Okla. Stat. Ann. tit. 63, § 1-745.8.

⁴⁹³ Okla. Stat. Ann. tit. 12, § 95.

⁴⁹⁴ Okla. Stat. Ann. tit. 63, § 1-745.8.

⁴⁹⁵ 63 Okl.St. Ann. § 1-737.10; 63 Okl.St. Ann. § 1-737.11.

⁴⁹⁶ Id.

⁴⁹⁷ 63 Okl.St. Ann. § 1-737.10.

- Standard: purposefully.⁴⁹⁸
- Remedies:
 - Money damages for all injuries, psychological and physical;
 - Statutory damages equal to three times the cost of the dismemberment abortion; and
 - Injunctive relief.⁴⁹⁹
- Statute of limitations: two years.⁵⁰⁰

Informed Consent

- Cause of Action: If an abortion is performed or attempted on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁵⁰¹
- Standard: knowing or reckless.⁵⁰²
- Remedies:
 - actual damages; and
 - punitive damages.⁵⁰³
- Standing for legal remedies:
 - mother;
 - father; and
 - grandparents.⁵⁰⁴
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.⁵⁰⁵
- Misc: If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant.⁵⁰⁶

⁴⁹⁸ 63 Okl.St. Ann. § 1-737.8.

⁴⁹⁹ 63 Okl.St. Ann. § 1-737.10; 63 Okl.St. Ann. § 1-737.11.

⁵⁰⁰ Okla. Stat. Ann. tit. 12, § 95.

⁵⁰¹ 63 Okl.St. Ann. § 1-738.15.

⁵⁰² Id.

⁵⁰³ Id.

⁵⁰⁴ Id.

⁵⁰⁵ Id.

⁵⁰⁶ Id.

Informed Consent

- Cause of Action: If an abortion is performed, induced, or attempted on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁵⁰⁷
- Standing for legal remedies:
 - mother; and
 - father.⁵⁰⁸
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother;
 - county attorney (with appropriate jurisdiction); and
 - attorney general.⁵⁰⁹
- Standard: intentionally or reckless.⁵¹⁰
- Remedies:
 - actual damages;
 - punitive damages;
 - injunctive relief; and
 - reasonable attorney fees.⁵¹¹
- Statute of limitations: two years.⁵¹²
- Misc.
 - If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for a reasonable attorney fee in favor of the defendant.⁵¹³
 - An injunction may also be pursued by any woman upon whom an abortion was performed or induced or attempted to be performed or induced in violation of the Pain-Capable Unborn Child Protection Act; by any person who is the parent, sibling or guardian of, or a current or former licensed health care provider of, the woman.⁵¹⁴

Violation of Ultrasound Requirement

Held unconstitutional by *Nova Health Sys. v. Pruitt*, 292 P.3d 28, (Okla. 2012).

⁵⁰⁷ Okla. Stat. Ann. tit. 63, § 1-745.16.

⁵⁰⁸ Id.

⁵⁰⁹ Id.

⁵¹⁰ Id.

⁵¹¹ Id.

⁵¹² Okla. Stat. Ann. tit. 12, § 95.

⁵¹³ Okla. Stat. Ann. tit. 63, § 1-745.16.

⁵¹⁴ Id.

- Cause of Action: If an abortion is performed on a without the performance of an ultrasound and the opportunity for the mother to see and view the ultrasound, the abortion provider can be subject to civil liability.⁵¹⁵
- Standing for legal remedies:
 - Mother; and
 - Maternal grandparents (if the mother has not reached 18 years of age).⁵¹⁶
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother;
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.⁵¹⁷
- Standard: knowingly.⁵¹⁸
- Remedies:
 - actual damages; and
 - punitive damages.⁵¹⁹
- Statute of limitations: two years.⁵²⁰
- Misc.
 - Knowing or reckless violation of the injunction shall be subject to civil contempt, and shall be fined \$10,000 for the first violation, \$50,000 for the second violation, \$100,000 for the third violation and for each succeeding violation an amount in excess of \$100,000

Voluntary/ Informed Consent

- Cause of Action: If an abortion is performed, induced, or attempted on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁵²¹
- Standing:
 - Mother; and
 - Parent or guardian of the woman (if she is an unemancipated minor).⁵²²
- Standard: negligent.⁵²³
- Remedies:

⁵¹⁵ Okla. Stat. Ann. tit. 63, § 1-738.3e.

⁵¹⁶ Id.

⁵¹⁷ Id.

⁵¹⁸ Id.

⁵¹⁹ Id.

⁵²⁰ Okla. Stat. Ann. tit. 12, § 95.

⁵²¹ 63 Okl. St. Ann. § 1-738.2; §1-738.3f.

⁵²² Id.

⁵²³ Id.

- Actual damages, including mental anguish and emotional distress of the plaintiff; and
- Punitive damages, in cases of gross negligent.⁵²⁴
- Statute of limitations: two years.⁵²⁵
- Misc.
 - Action can be brought against the abortion provider, against the prescriber of any drug or chemical intended to induce abortion, and against any person or entity which referred the woman to the abortion provider or prescriber and which knew or reasonably should have known that the abortion provider or prescriber had acted in violation of Section 1-738.2, 1-738.3d, 1-738.8, 1-740.2 or 1-740.4b of Title 63 of the Oklahoma Statutes.⁵²⁶

Voluntary and Informed Consent

- Cause of Action: If an abortion is performed, induced, or attempted on a mother without the mother's voluntary and informed consent, the abortion provider can be subject to civil liability.⁵²⁷
- Standing:
 - mother;
 - father; and
 - grandparents.⁵²⁸
- Standard: negligence.⁵²⁹
- Damages
 - actual damages; and
 - punitive damages.⁵³⁰
- Statute of limitations: two years.⁵³¹

Abortion Performed on a Minor Without Parental Consent or Notification

- Cause of Action: If an abortion is performed on a minor without the consent of or notification to a parent or guardian, the abortion provider can be subject to civil liability.⁵³²
- Standing:
 - Mother;
 - Any person or persons required to give consent.⁵³³
- Standard: knowing or reckless.⁵³⁴

⁵²⁴ Id.

⁵²⁵ Okla. Stat. Ann. tit. 12, § 95.

⁵²⁶ 63 Okl. St. Ann. § 1-738.2; §1-738.3f.

⁵²⁷ 63 Okl. St. Ann. § 1-746.2; §1-746.8.

⁵²⁸ Id.

⁵²⁹ 63 Okl. St. Ann. § 1-738.3f.

⁵³⁰ 63 Okl.St. Ann.. §1-746.2; §1-746.8.

⁵³¹ 12 Okla. Stat. Ann. § 95.

⁵³² 63 Okl.St. Ann. §1-740; 1-740.4; 1-740.4b.

⁵³³ Id.

⁵³⁴ Id.

- Remedies:
 - Cost Subsequent medical treatment the minor may require because of the abortion ;
 - Actual damages
 - Punitive damages.⁵³⁵
- Statute of limitations: two years.⁵³⁶

Discriminatory Abortion (sex)

- Cause of Action: If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.⁵³⁷
- Standing for legal remedies:
 - Mother;
 - Maternal grandparent/mother’s guardian (if the mother has not reached 18 years of age).⁵³⁸
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother;
 - county attorney (with appropriate jurisdiction); and
 - attorney general.⁵³⁹
- Remedies:
 - Actual damages;
 - Punitive damages; and
 - Injunctive relief.⁵⁴⁰
- Standard: knowing or reckless.⁵⁴¹
- Statute of limitations: two years.⁵⁴²
- Misc.
 - Knowing or reckless violation of the injunction shall be subject to civil contempt, and shall be fined \$10,000 for the first violation, \$50,000 for the second violation, \$100,000 for the third violation and for each succeeding violation an amount in excess of \$100,000.

⁵³⁵ Id.

⁵³⁶ Okla. Stat. Ann. tit. 12, § 95.

⁵³⁷ Okla. Stat. Ann. tit. 63, § 1-731.2.

⁵³⁸ Id.

⁵³⁹ Id.

⁵⁴⁰ Id.

⁵⁴¹ Id.

⁵⁴² Okla. Stat. Ann. tit. 12, § 95.

Chemical Abortion (Physician Must Be Present in Room)

- Cause of Action: If a chemical abortion is performed, induced, or attempted on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.⁵⁴³
- Standing for legal remedies:
 - mother;
 - father (if married to the mother); and
 - maternal grandparents.⁵⁴⁴
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction); and
 - attorney general.⁵⁴⁵
- Standard: knowing or reckless.⁵⁴⁶
- Remedies:
 - Actual damages
 - Punitive damages
 - Reasonable attorney fees.⁵⁴⁷
- Statute of limitations: two years.⁵⁴⁸
- Misc.
 - Knowing or reckless violation of the injunction shall be subject to civil contempt, and shall be fined \$10,000 for the first violation, \$50,000 for the second violation, \$100,000 for the third violation and for each succeeding violation an amount in excess of \$100,000.⁵⁴⁹

Chemical Abortions (Sale and Distribution of Abortion Drugs)

Held unconstitutional by *Oklahoma Coal. for Reprod. Just. v. Cline*, 441 P.3d 1145 (OK 2019).

- Cause of Action: If a chemical abortion is performed, induced, or attempted on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.⁵⁵⁰

⁵⁴³ Okla. Stat. Ann. tit. 63, § 1-729.3.

⁵⁴⁴ Id.

⁵⁴⁵ Id.

⁵⁴⁶ Id.

⁵⁴⁷ Id.

⁵⁴⁸ Okla. Stat. Ann. tit. 12, § 95.

⁵⁴⁹ Okla. Stat. Ann. tit. 63, § 1-729.3.

⁵⁵⁰ Id.

- Standing:
 - The person or persons adversely affected by the violation or violations.⁵⁵¹
- Standard: intentionally, knowingly, or recklessly.⁵⁵²
- Remedies:
 - Compensation for emotional, physical, and psychological harm;
 - Punitive damages;
 - Litigation costs; and
 - Attorney fees.⁵⁵³
- Statute of limitations: two years.⁵⁵⁴

Chemical Abortions – Steps for Drug Induced Abortion

- Cause of Action: If abortions for drugs are not provided following the steps under this statute, the abortion provider can be subject to civil liability.⁵⁵⁵
- Standing for legal remedies:
 - presumably anyone who would have standing for civil malpractice, so the patient/mother. If the patient/mother dies, then her survivors have standing to bring a wrongful death action.⁵⁵⁶
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction).⁵⁵⁷
- Standard: negligence.
- Remedies:
 - actual damages
 - punitive damages;
 - injunctive relief; and
 - reasonable attorney fees.⁵⁵⁸
- Statute of limitations: two years.⁵⁵⁹

⁵⁵¹ Id.

⁵⁵² Id.

⁵⁵³ Id.

⁵⁵⁴ Okla. Stat. Ann. tit. 12, § 95.

⁵⁵⁵ Okla. Stat. Ann. tit. 63, §1-756.11

⁵⁵⁶ Id.

⁵⁵⁷ Id.

⁵⁵⁸ Id.

⁵⁵⁹ Okla. Stat. Ann. tit. 12, § 95.

- Misc.
 - If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court may render judgment for reasonable attorney fees in favor of the defendant.⁵⁶⁰

Chemical Abortions – Abortion Inducing Drug Certification Program Act

- Cause of Action: If an abortion provider fails to follow the parameters of the Oklahoma Abortion-Inducing Drug Certification Program and injury results, the abortion provider can be subject to civil liability.⁵⁶¹
- Standing for legal remedies:
 - anyone who would have standing for civil malpractice, so the patient/mother. If the patient/mother dies, then her survivors have standing to bring a wrongful death action.⁵⁶²
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);
 - maternal grandparent/guardian;
 - aunt/uncle;
 - current or former licensed health care provider of mother; and
 - prosecuting attorney (with appropriate jurisdiction).⁵⁶³
- Standard: negligence.⁵⁶⁴
- Remedies:
 - Actual damages
 - Punitive damages
 - Reasonable attorney fees
- Statute of limitations: two years.⁵⁶⁵
- Misc.
 - If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court may render judgment for reasonable attorney fees in favor of the defendant.⁵⁶⁶

Failure to Post Required Signage (Abortions Generally)

- Cause of Action: If a chemical abortion is performed or attempted on a mother and the proper signage is not conspicuously posted, the abortion provider can be subject to civil liability.⁵⁶⁷

⁵⁶⁰ Okla. Stat. Ann. tit. 63, §1-756.11

⁵⁶¹ Id.

⁵⁶² Id.

⁵⁶³ Id.

⁵⁶⁴ Id.

⁵⁶⁵ Okla. Stat. Ann. tit. 12, § 95.

⁵⁶⁶ Okla. Stat. Ann. tit. 63, §1-757.11

⁵⁶⁷ Okla. Stat. Ann. tit. 63, §1-737.4.

- Standing:
 - Any individual injured by the failure.⁵⁶⁸
- Standard: knowing, reckless, or negligent.⁵⁶⁹
- Remedies:
 - damages for emotional distress; and
 - any other damages allowed by law.⁵⁷⁰
- Statute of limitations: two years.⁵⁷¹
- Misc.
 - Administrative fine of \$10,000.

Chemical Abortions - Failure to Post Required Signage

- Cause of Action: If a chemical abortion is performed or attempted on a mother and the proper signage is not conspicuously posted, the abortion provider can be subject to civil liability.⁵⁷²
- Standing:
 - mother;
 - father; and
 - maternal grandparent (if the mother has not reached 18 years of age or died as a result of the mediation abortion).⁵⁷³
- Standard: knowingly or reckless.⁵⁷⁴
 - UNLESS the pregnancy is a result of the plaintiff's criminal conduct.⁵⁷⁵
- Remedies:
 - actual damages;
 - punitive damages; and
 - reasonable attorney fees.⁵⁷⁶
- Statute of limitations: two years.⁵⁷⁷

OREGON

- No civil liability provisions.

⁵⁶⁸ Id.

⁵⁶⁹ Id.

⁵⁷⁰ Id.

⁵⁷¹ Okla. Stat. Ann. tit. 12, § 95.

⁵⁷² Okla. Stat. Ann. tit. 63, §1-756.

⁵⁷³ Id.

⁵⁷⁴ Id.

⁵⁷⁵ Id.

⁵⁷⁶ Id.

⁵⁷⁷ Okla. Stat. Ann. tit. 12, § 95.

PENNSYLVANIA

Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁵⁷⁸
- Standing:
 - mother.⁵⁷⁹
- Standard: knowingly.⁵⁸⁰
- Remedies:
 - any damages caused thereby;
 - punitive damages in the amount of \$5,000; and
 - reasonable attorney fees.⁵⁸¹
- Statutes of Limitations: two years.⁵⁸²

Parental Consent

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁵⁸³
- Standing:
 - maternal grandparent.⁵⁸⁴
- Standard: knowingly, intentionally, reckless disregard, and negligence.⁵⁸⁵
- Remedies:
 - Does not exclude exemplary damages or damages for emotional distress even if unaccompanied by physical complications.⁵⁸⁶
- Statutes of Limitations: two years.⁵⁸⁷

Spousal Notice

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁵⁸⁸
- Standing:
 - father (if married to the mother).⁵⁸⁹
- Standard: knowing.⁵⁹⁰
- Remedies:
 - any damages caused thereby;

⁵⁷⁸ 18 Pa. Stat. and Cons. Stat. Ann. § 3205; § 3217.

⁵⁷⁹ 18 Pa. Stat. and Cons. Stat. Ann. § 3217.

⁵⁸⁰ Id.

⁵⁸¹ Id.

⁵⁸² Pa. C.S. Tit. 42 § 5524(1).

⁵⁸³ 18 Pa. Stat. and Cons. Stat. Ann. § 3206.

⁵⁸⁴ Id.

⁵⁸⁵ Id.

⁵⁸⁶ Id.

⁵⁸⁷ Pa. C.S. Tit. 42 § 5524(1).

⁵⁸⁸ 18 Pa. Stat. and Cons. Stat. Ann. §3209.

⁵⁸⁹ Id.

⁵⁹⁰ Id.

- punitive damages in the amount of \$5,000; and
 - reasonable attorney fees.⁵⁹¹
- Statutes of Limitations: two years.⁵⁹²

RHODE ISLAND

Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁵⁹³
- Standing: mother.⁵⁹⁴
- Standard: willful.⁵⁹⁵
- Remedies:
 - The willful failure to provide the woman with the substance of the information pursuant to the requirements of § 23-4.7-3 shall be prima facie evidence of failure to obtain informed consent in an action at law or in equity.⁵⁹⁶
- Statutes of Limitations: three years.⁵⁹⁷

SOUTH CAROLINA

Abortions After Detectable Heartbeat

- Cause of Action: If an abortion is performed on a mother carrying a fetus with a detectable heartbeat, the abortion provider can be subject to civil liability.⁵⁹⁸
- Standing for legal remedies:
 - mother; and
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age at the time of the abortion or died as a result of the abortion).⁵⁹⁹
- Standing for injunctive relief:
 - mother;
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age at the time of the abortion or died as a result of the abortion);
 - solicitor or prosecuting attorney with proper jurisdiction; and
 - the Attorney General.⁶⁰⁰
- Standard: intentional.⁶⁰¹

⁵⁹¹ 18 Pa. Stat. and Cons. Stat. Ann. §3209.

⁵⁹² Pa. C.S. Tit. 42 § 5524(1).

⁵⁹³ 23 R.I. Gen. Laws Ann. § 23-4.7-3; § 23-4.7-7.

⁵⁹⁴ Id.

⁵⁹⁵ Id.

⁵⁹⁶ Id.

⁵⁹⁷ R.I. Gen. L. § 9-1-14.

⁵⁹⁸ S.C. Code Ann. § 44-41-630; 680.

⁵⁹⁹ S.C. Code Ann. § 44-41-680.

⁶⁰⁰ Id.

⁶⁰¹ S.C. Code Ann. § 44-41-610(1).

- Remedies:
 - Statutory damages of \$10,000 per violation;
 - Actual and punitive damages;
 - attorneys fees; and
 - injunctive relief.⁶⁰²
- Statute of limitations:
 - three years.⁶⁰³

Informed Consent

- Cause of Action: If an abortion is performed or induced on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁶⁰⁴
- Standing for legal remedies:
 - mother; and
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age at the time of the abortion or died as a result of the abortion).⁶⁰⁵
- Standing for injunctive relief:
 - mother;
 - maternal grandparent/mother's guardian (if the mother has not reached 18 years of age at the time of the abortion or died as a result of the abortion);
 - solicitor or prosecuting attorney with proper jurisdiction; and
 - the Attorney General.⁶⁰⁶
- Standard: intentional.⁶⁰⁷
- Remedies:
 - Statutory damages of \$10,000 per violation;
 - Actual and punitive damages;
 - attorneys fees; and
 - injunctive relief.⁶⁰⁸
- Statute of limitations:
 - three years.⁶⁰⁹
- Misc.
 - If the defendant prevails and the court finds the action was frivolous and defendant was adversely affected by the frivolous conduct, then defendant can recover reasonable attorney fees.⁶¹⁰

⁶⁰² S.C. Code Ann. § 44-41-680.

⁶⁰³ S.C. Code Ann. § 15-3-530.

⁶⁰⁴ S.C. Code Ann. §44-41-620.

⁶⁰⁵ S.C. Code Ann. § 44-41-680.

⁶⁰⁶ Id.

⁶⁰⁷ S.C. Code Ann. §44-41-620.

⁶⁰⁸ S.C. Code Ann. § 44-41-680.

⁶⁰⁹ S.C. Code Ann. § 15-3-530.

⁶¹⁰ S.C. Code Ann. §44-41-620.

SOUTH DAKOTA

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is performed on a mother, the abortion provider can be subject to civil liability.⁶¹¹
- Standing:
 - father; and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the plaintiff consented to the abortion of the pregnancy is the result of plaintiff's criminal conduct.⁶¹²
- Standard: unspecified.
- Remedies:
 - money damages for all injuries, psychological or physical, that are proximately caused by a partial-birth abortion; and
 - three times the cost of the partial birth abortion.⁶¹³
- Statute of Limitations: three years.⁶¹⁴

Discriminatory Abortion (down syndrome)

- Cause of Action: If an abortion is performed on a woman based on the sex or race of the child, the race of a parent of that child, or a genetic abnormality of the child, the abortion provider can be subject to civil liability.⁶¹⁵
- Standing:
 - mother; or
 - mother's survivors.⁶¹⁶
- Standard: intentional, knowing, negligent.⁶¹⁷
- Remedies:
 - Liquidated damages in the amount of \$10,000; and
 - Reasonable attorney's fees and costs.⁶¹⁸
- Statute of Limitations: three years.⁶¹⁹

Parental Consent

- Cause of Action: If an abortion is performed or attempted on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁶²⁰
- Standing:
 - mother; and

⁶¹¹ S.D.C. §34-23A-29; 34-23A-30; 34-23A-32.

⁶¹² Id.

⁶¹³ Id.

⁶¹⁴ S.D.C. § 15-2-14(3).

⁶¹⁵ S.D.C. 34-23A-90; § 34-23A-91.

⁶¹⁶ Id.

⁶¹⁷ Id.

⁶¹⁸ Id.

⁶¹⁹ S.D.C. § 15-2-14(3).

⁶²⁰ S.D.C. §34-23A-22.

- maternal grandparent (if the mother has not reached 18 years of age (if abortion performed)).⁶²¹
- Standard: willfully, wantonly, or maliciously.⁶²²
- Remedies:
 - No more than \$10,000 in punitive damages if performed;
 - No more than \$5,000 in punitive damages if attempted; and
 - Reasonable attorney fees.⁶²³
- Statute of Limitations: three years.⁶²⁴
- Misc.
 - If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous or brought in bad faith, the court shall also render judgment for a reasonable attorney's fee in favor of the defendant.⁶²⁵

Informed Consent

- Cause of Action: If an abortion is performed on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁶²⁶
- Standing:
 - mother;
 - or her survivors.⁶²⁷
- Standard: intentional, knowing, negligent.⁶²⁸
- Remedies:
 - statutory damages of \$10,000; and
 - reasonable attorney fees and costs.
- Statute of Limitations: three years.⁶²⁹

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.⁶³⁰
- Standing:
 - mother;
 - born alive child.⁶³¹
- Standard: negligence.⁶³²
- Remedies:

⁶²¹ S.D.C. §34-23A-22.

⁶²² Id.

⁶²³ Id.

⁶²⁴ S.D.C. § 15-2-14(3).

⁶²⁵ S.D.C. §34-23A-22.

⁶²⁶ S.D.C. §34-23A-56; 34-23A-57; 34-23A-60; 34-23A-61.

⁶²⁷ Id.

⁶²⁸ Id.

⁶²⁹ S.D.C. § 15-2-14(3).

⁶³⁰ S.D.C. §34-23A-16.2.

⁶³¹ Id.

⁶³² Id.

- For the mother:
 - money damages (compensatory and punitive) for any psychological injury sustained.⁶³³
- For the born alive child:
 - damages arising from any physical or psychological injury, or both, for any injuries sustained during and as a result of the abortion, and for any additional physical or psychological injury, or both, where the negligence of the physician, the physician's agents, and the abortion facility, in the medical care following birth, was a significant contributing factor.⁶³⁴
- Reasonable attorney fees.⁶³⁵
- Statute of Limitations: three years.⁶³⁶

TENNESSEE

Chemical Abortion

- Cause of Action: cause of action: If a chemical abortion is performed or attempted on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.⁶³⁷
- Standing:
 - mother;
 - father; and
 - maternal grandparent (if the mother has not reached 18 years of age or died as a result of the chemical abortion);
 - UNLESS the pregnancy is the result of plaintiff's criminal conduct.⁶³⁸
- Standard: knowing or reckless.⁶³⁹
- Remedies:
 - Actual Damages;
 - Punitive Damages; and
 - Reasonable attorney fees.⁶⁴⁰
- Statute of limitations: one year.⁶⁴¹
- Misc.

⁶³³ Id.

⁶³⁴ Id.

⁶³⁵ Id.

⁶³⁶ S.D.C. § 15-2-14(3).

⁶³⁷ Tenn. Code Ann. § 39-15-218.

⁶³⁸ Id.

⁶³⁹ Id.

⁶⁴⁰ Id.

⁶⁴¹ Tenn. Code Ann. § 29-26-116.

- If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, then the court shall award the defendant reasonable attorney's fees.⁶⁴²

Parental Consent

- Cause of Action: If an abortion is performed or attempted on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁶⁴³
- Standing: unspecified.
 - maternal grandparents.⁶⁴⁴
- Standard: unspecified (likely negligence).⁶⁴⁵
- Remedies:
 - Damages for interference with family relations
 - Does not preclude exemplary damages.⁶⁴⁶
- Statute of Limitations: one year.⁶⁴⁷

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.⁶⁴⁸
- Standing: unspecified (likely survivors of the child).
- Standard: unspecified.
- Remedies: civil damages
- Statute of Limitations: one year.⁶⁴⁹

TEXAS

Performing Abortion Generally

- Cause of Action: If an abortion, meaning the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child, is performed on a mother the abortion provider can be subject to civil liability.⁶⁵⁰
- Standing:
 - attorney general.⁶⁵¹
- Standard: unspecified.
- Remedies:

⁶⁴² Tenn. Code Ann. § 39-15-218.

⁶⁴³ Tenn. Code Ann. § 37-10-307.

⁶⁴⁴ Id.

⁶⁴⁵ *McKenzie v. Women's Health Servs.-Chattanooga, P.C.*, No. E201700091COAR3CV, 2018 WL 4005511, at *15 (explaining negligence is the proper standard of liability for informed consent). (Tenn. Ct. App. Aug. 20, 2018)

⁶⁴⁶ Tenn. Code Ann. § 37-10-307.

⁶⁴⁷ Tenn. Code Ann. § 28-3-104(a)(1).

⁶⁴⁸ Tenn. Code Ann. § 39-15-206.

⁶⁴⁹ Tenn. Code Ann. § 28-3-104(a)(1).

⁶⁵⁰ Tex. Health and Safety Code Ann. § 170A.002; § 170A.005(1); § 245.002(1).

⁶⁵¹ Tex. Health and Safety Code Ann. § 170A.005.

- civil penalty of not less than \$100,000 for each violation; and
- attorney’s fees and costs.⁶⁵²
- Misc:
 - This law mandates that the attorney general brings this civil action against those performing illegal abortions.⁶⁵³
 - This law does not limit standing only to the attorney general for other causes of action related to abortion.⁶⁵⁴
- Statute of limitations: two years.⁶⁵⁵

Abortions After Detectable Heartbeat

- Cause of Action: If an abortion is performed on a woman carrying a fetus with a detectable fetal heartbeat, the abortion provider can be subject to civil liability.⁶⁵⁶
- Standing:
 - any person other than an officer or employee of a state or local governmental entity in this state.⁶⁵⁷
- Standard: knowingly.⁶⁵⁸
- Remedies:
 - injunctive relief;
 - statutory damages no less than \$10,000 for each violation;
 - costs and attorney fees.⁶⁵⁹
- Statute of limitations: two years.⁶⁶⁰

Aiding and Abetting an Abortion

- Cause of Action: If an abortion is performed on a woman carrying a fetus with a detectable fetal heartbeat, the abortion provider or someone who aids and abets the mother can be subject to civil liability.⁶⁶¹
- Standing:
 - Any person, other than an officer or employee of a state or local governmental entity in this state.⁶⁶²
- Standard: knowingly.⁶⁶³
- Remedies:
 - Injunctive relief
 - Statutory damages no less than \$10,000 for each abortion

⁶⁵² Id.

⁶⁵³ Tex. Health and Safety Code Ann. § 170A.005.

⁶⁵⁴ Tex. Health and Safety Code Ann. § 170A.006.

⁶⁵⁵ Tex. Civ. Prac. and Rem. Code § 16.002.

⁶⁵⁶ Tex. Health and Safety Code Ann. § 171.204; § 171.208.

⁶⁵⁷ Id.

⁶⁵⁸ Id.

⁶⁵⁹ Tex. Health and Safety Code Ann. § 171.208.

⁶⁶⁰ Tex. Civ. Prac. and Rem. Code § 16.002.

⁶⁶¹ Tex. Health and Safety Code Ann. §171.208.

⁶⁶² Id.

⁶⁶³ Id.

- Costs and attorney fees.⁶⁶⁴
- Statute of limitations: two years.⁶⁶⁵
- Misc.
 - §171.208(f) and 171.209 provide affirmative defenses.
- Statute of limitations: two years.⁶⁶⁶

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.⁶⁶⁷
- Standing:
 - Father; and
 - Parent of the mother (if the mother has not reached 18 years of age);
 - UNLESS the plaintiff consented to the abortion or the pregnancy is a result of plaintiff's criminal conduct.⁶⁶⁸
- Standard: knowingly.⁶⁶⁹
- Remedies:
 - money damages for physical injury, mental anguish, and emotional distress; and
 - exemplary damages equal to three times the cost of the partial-birth abortion.⁶⁷⁰
- Statute of limitations: two years.⁶⁷¹

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.⁶⁷²
- Standing:
 - Attorney general.⁶⁷³
- Standard: unspecified.
- Remedies:
 - A physician failing to provide the appropriate medical treatment to a child born alive after an abortion or an attempted abortion is liable to the state for a civil penalty of not less than \$100,000. The attorney general may bring a suit to collect the penalty. In addition to the civil penalty, the attorney general may recover reasonable attorney's fees.⁶⁷⁴
- Statute of limitations: two years.⁶⁷⁵

⁶⁶⁴ Id.

⁶⁶⁵ Tex. Civ. Prac. and Rem. Code § 16.002.

⁶⁶⁶ Id.

⁶⁶⁷ Tex. Health and Safety Code Ann. § 171.104.

⁶⁶⁸ Id.

⁶⁶⁹ Id.

⁶⁷⁰ Tex. Health and Safety Code Ann. § 171.104.

⁶⁷¹ Tex. Civ. Prac. and Rem. Code § 16.002.

⁶⁷² Tex. Fam. Code Ann. §151.002.

⁶⁷³ Id.

⁶⁷⁴ Id.

⁶⁷⁵ Tex. Civ. Prac. and Rem. Code § 16.002.

UTAH

Partial Birth Abortion

- Cause of Action: If a partial-birth abortion is performed on a mother, the abortion provider can be subject to civil liability.⁶⁷⁶
- Standing:
 - father (if married to the mother); and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS the pregnancy is a result from plaintiff's criminal conduct or plaintiff consented to the abortion.⁶⁷⁷
- Standard: knowingly.⁶⁷⁸
- Remedies:
 - money damages for all injuries, psychological and physical; and
 - statutory damages equal to three times the cost of the partial birth.⁶⁷⁹
- Statute of limitations: four years.⁶⁸⁰

VERMONT

- No provisions for civil liability

VIRGINIA

- No provisions for civil liability

WASHINGTON

- No provisions for civil liability

WEST VIRGINIA

Pain-Capable Abortion

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.⁶⁸¹
- Standing for legal remedies:
 - mother.⁶⁸²
- Standing for injunctive relief:
 - mother;
 - father (if married to the mother);

⁶⁷⁶ Utah Code Ann. § 76-7-327.

⁶⁷⁷ Id.

⁶⁷⁸ Utah Code Ann. § 76-7-326.

⁶⁷⁹ Utah Code Ann. § 76-7-327.

⁶⁸⁰ U.C.A. § 78B-2-307.

⁶⁸¹ W. Va. Code Ann. § 16-2M-2(7); W. Va. Code Ann. § 16-2M-4; W. Va. Code Ann. § 16-2M-6.

⁶⁸² W. Va. Code Ann. § 16-2M-6(a).

- maternal grandparent/guardian;
- aunt/uncle;
- mother’s current or former licensed health care provider;
- district attorney (with proper jurisdiction); and
- attorney general.⁶⁸³
- Statute of limitations: two years.⁶⁸⁴
- Standard: intentionally or reckless.⁶⁸⁵
- Remedies:
 - any remedy otherwise available⁶⁸⁶; and
 - injunctive relief.⁶⁸⁷

Dismemberment Abortion

- Cause of Action: If a dismemberment abortion is performed or induced on a woman, the abortion provider can be subject to civil liability.⁶⁸⁸
- Standing:
 - mother.⁶⁸⁹
- Standard: intentionally or reckless.⁶⁹⁰
- Remedies:
 - any remedy otherwise available.⁶⁹¹
- Statute of limitations: two years.⁶⁹²
- Misc.
 - Explicitly does not carve out exceptions for rape or incest.⁶⁹³

Parental Notification

- Cause of Action: If an abortion is performed on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁶⁹⁴
- Standing:
 - The patient.⁶⁹⁵
- Standard: intentionally or reckless.⁶⁹⁶
- Remedies:
 - Any remedy otherwise available.⁶⁹⁷

⁶⁸³ *Id.* at (b).

⁶⁸⁴ W. Va. Code Ann. § 55-2-12(b).

⁶⁸⁵ W. Va. Code Ann. § 16-2M-6.

⁶⁸⁶ *Id.* at (a).

⁶⁸⁷ *Id.* at (b).

⁶⁸⁸ W. Va. Code, § 16-2O-1.

⁶⁸⁹ *Id.*

⁶⁹⁰ *Id.*

⁶⁹¹ *Id.*

⁶⁹² W. Va. Code Ann. § 55-2-12(b).

⁶⁹³ W. Va. Code, § 16-2O-1.

⁶⁹⁴ W. Va. Code o§16-2F-8.

⁶⁹⁵ *Id.*

⁶⁹⁶ *Id.*

⁶⁹⁷ *Id.*

- Statute of limitations: two years.⁶⁹⁸

Born-Alive Abortion

- Cause of Action: If an abortion is performed and the mother gives birth to a living fetus is the fetus is not properly cared for the abortion provider can be subject to civil liability.⁶⁹⁹
- Standing:
 - Mother.⁷⁰⁰
- Standard: knowingly and willingly.⁷⁰¹
- Remedies:
 - Any remedy otherwise available.⁷⁰²
- Statute of limitations: two years.⁷⁰³

WISCONSIN

Pain-Capable Abortion

- Cause of Action: If an abortion is performed on a woman carrying a fetus aged 20 weeks or more post-fertilization, the abortion provider can be subject to civil liability.⁷⁰⁴
- Standing for legal remedies:
 - mother;
 - father of the unborn child unless pregnancy result of sexual assault.⁷⁰⁵
- Standing for injunctive relief:
 - prosecuting attorney (with appropriate jurisdiction).⁷⁰⁶
- Standard: intentionally or recklessly.⁷⁰⁷
- Remedies:
 - damages for personal injury and emotional and psychological distress;
 - punitive damages;
 - injunctive relief; and
 - attorney's fees.⁷⁰⁸
- Statute of Limitations: three years.⁷⁰⁹
- Misc.
 - Defendant can recover attorney's fees if suit is determined to be frivolous.⁷¹⁰

⁶⁹⁸ W. Va. Code Ann. § 55-2-12(b).

⁶⁹⁹ W. Va. Code § 16-2P-1.

⁷⁰⁰ *Id.*

⁷⁰¹ *Id.*

⁷⁰² *Id.*

⁷⁰³ W. Va. Code Ann. § 55-2-12(b).

⁷⁰⁴ Wis. Stat. Ann. § 253.107(3)(a).

⁷⁰⁵ *Id.* at (5).

⁷⁰⁶ *Id.* at (5)(f).

⁷⁰⁷ *Id.* at (5).

⁷⁰⁸ *Id.*

⁷⁰⁹ Wis. Stat. Ann. § 893.54(1m)(a).

⁷¹⁰ Wis. Stat. Ann. § 253.107(5)(c)(2).

Partial Birth Abortions

- Cause of Action: If a partial-birth abortion is attempted, induced, or performed on a mother, the abortion provider can be subject to civil liability.⁷¹¹
- Standing:
 - father; and
 - maternal grandparents (if the mother has not reached 18 years of age);
 - UNLESS plaintiff consented to the abortion or what pregnancy was the result of plaintiff's sexual assault of the woman.⁷¹²
- Standard: intentional.⁷¹³
- Remedies:
 - Damages arising out of the performance of the partial-birth abortion, including damages for personal injury and emotional and psychological distress; and
 - exemplary damages equal to three times the cost of the partial birth abortion.⁷¹⁴
- Statute of Limitations: three years.⁷¹⁵

Chemical Abortions

- Cause of Action: If a chemical abortion is performed on a woman without complying with the chemical abortion statute, the abortion provider can be subject to civil liability.⁷¹⁶
- Standing:
 - mother;
 - maternal grandparents (if the mother has not reached 18 years of age); and
 - Father of the unborn child unless pregnancy was result of sexual assault by father.⁷¹⁷
- Standard: intentionally or recklessly.⁷¹⁸
- Remedies:
 - Damages arising out of inducement of abortion, including personal injury and emotional/psychological distress; and
 - Punitive damages.⁷¹⁹
- Statute of Limitations: three years.⁷²⁰

Voluntary/ Informed Consent

- Cause of Action: If an abortion is performed, induced, or attempted on a woman without the voluntary and informed consent of the woman, the abortion provider can be subject to civil liability.⁷²¹
- Standing:

⁷¹¹ Wis. Stat. Ann. § 895.038.

⁷¹² Id.

⁷¹³ Wis. Stat. Ann. § 940.16(1)(b).

⁷¹⁴ Wis. Stat. Ann. § 895.038.

⁷¹⁵ Wis. Stat. Ann. § 893.54(1m)(a).

⁷¹⁶ Wis. Stat. Ann. §253.105

⁷¹⁷ Id.

⁷¹⁸ Id.

⁷¹⁹ Id.

⁷²⁰ Wis. Stat. Ann. § 893.54(1m)(a).

⁷²¹ Wis. Stat. Ann. §253.10(3) and (6).

- The woman upon whom the abortion was performed or attempted
- The father
- Any grandparent.⁷²²
- Standard: unspecified (likely negligence).⁷²³
- Remedies:
 - Damages, including those for personal injury and emotional and psychological distress
 - Not less than \$1,000 nor more than \$10,000 in punitive damages
 - Reasonable attorney fees.⁷²⁴
- Statute of Limitations: three years.⁷²⁵

Parental Consent

- Cause of Action: If an abortion is performed or induced on a minor without the consent of a parent or guardian, the abortion provider can be subject to civil liability.⁷²⁶
- Standing:
 - mother;
 - maternal grandparents/mother's guardian.
- Standard: intentionally.⁷²⁷
- Remedies:
 - Damages, including damages for personal injury and emotional and psychological distress;
 - Punitive damages, if shown by clear and convincing evidence the defendant's conduct was willful, wanton, or reckless; and
 - Reasonable attorney fees.
- Statute of Limitations: three years.⁷²⁸

Requirements to Perform Abortions (admitting privileges)

Held unconstitutional by *Planned Parenthood of Wisconsin, Inc. v. Schimel*, 806 F.3d 908 (7th Cir. 2015).

- Cause of Action: If an abortion is performed or induced and the abortion provider does not have admitting privileges in a hospital within 30 miles of the location where the abortion is to be performed, the abortion provider can be subject to civil liability.⁷²⁹
- Standing:
 - mother;
 - maternal grandparents/mother's guardian.
- Standard: unspecified.

⁷²² Wis. Stat. Ann. §253.10.

⁷²³ *Jandre v. Wisconsin Injured Patients and Fams. Comp. Fund*, 813 N.W.2d 627, 649 (Wis. 2012) (explaining negligence is the proper standard of liability for informed consent).

⁷²⁴ Wis. Stat. Ann. §253.10.

⁷²⁵ Wis. Stat. Ann. § 893.54(1m)(a).

⁷²⁶ Wis. Stat. Ann. § 895.037.

⁷²⁷ *Id.*

⁷²⁸ Wis. Stat. Ann. § 893.54(1m)(a).

⁷²⁹ Wis. Stat. Ann. §253.095.

- Remedies:
 - Damages, including damages for personal injury and emotional and psychological distress; and
 - Not less than \$1,000 nor more than \$10,000 in punitive damages.⁷³⁰
- Statute of Limitations: three years.⁷³¹

WYOMING

- No provisions for civil liability

⁷³⁰ Id.

⁷³¹ Wis. Stat. Ann. § 893.54(1m)(a).