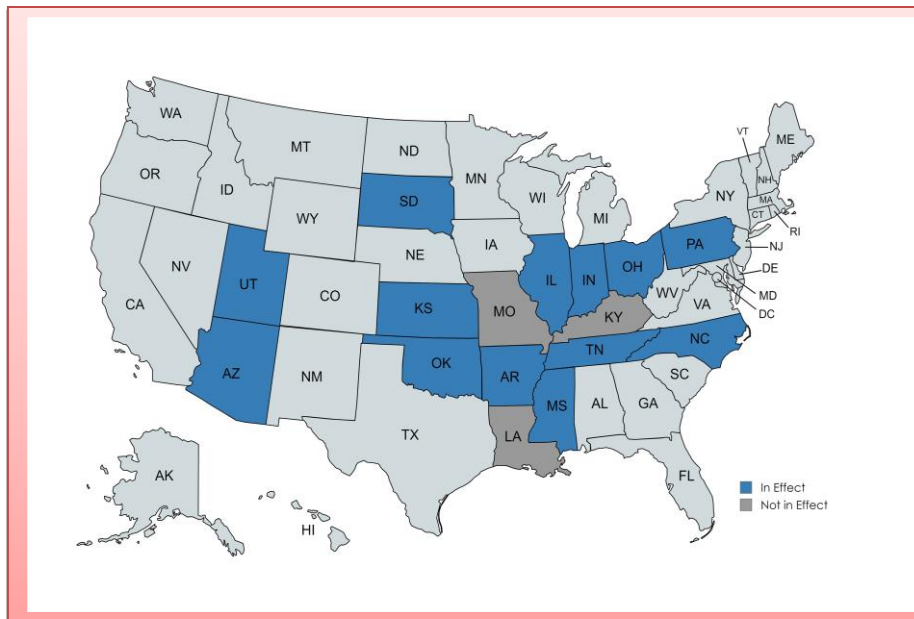


# State Anti-Discrimination Abortion Laws

February 14, 2024

Anti-discrimination laws protect unborn babies from being aborted on account of their sex, race, and/or disability.

Currently, sixteen (16) states have enacted laws protecting unborn children from discrimination based on their sex, race, and/or disability. Thirteen (13) states protect the unborn from being aborted due to their sex; seven (7) states protect the unborn from being aborted on due to their race; twelve (12) states protect the unborn from being aborted due to a condition like Down syndrome or a disability.



## State Laws (in order of enactment)

1. Illinois - 1975\*
2. Penn. - 1982
3. Oklahoma - 2010
4. Arizona – 2011, 2021
5. Kansas - 2013
6. N. Carolina – 2013 & 2023
7. S. Dakota – 2014, 2021
8. Indiana - 2016
9. Louisiana – 2016\*\*
10. Ohio - 2017
11. Arkansas – 2017, 2019
12. Kentucky - 2019\*\*
13. Utah - 2019
14. Missouri- 2019\*\*
15. Mississippi - 2020
16. Tennessee – 2020

\*“Enjoined only to extent that it subjects physicians to criminal liability for performing certain pre-viability abortions.” Per consent decree, 1993

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**State Anti-Discrimination Abortion Laws  
(alphabetical by state)**

STATE	INFORMATION	STATUS
<b>Arizona</b> (2011) A.R.S. § 13-3603.02	Cannot discriminate based on sex or race.	In effect. This law was challenged, but the 9 <sup>th</sup> Circuit Court of Appeals dismissed the challenge.
<b>Arizona</b> (2021) Ariz. Rev. Stat. § 36-2157	Cannot discriminate based on a “genetic abnormality.”	In effect during litigation.  The Ninth Circuit Court of Appeals reverses and remands district court decision for lack of standing. The panel expressed no opinion on the merits. <i>Issacson v. Mayes</i> , No. 23-15234 (9th Cir. 2023).
<b>Arkansas</b> (2017) A.C.A. § 20-16-1904	Cannot discriminate based on sex.	In effect.
<b>Arkansas</b> (2019) Ark. Code Ann. §§ 20-16-2101 to 20-16-2107	Cannot discriminate based on a Down syndrome diagnosis. Exceptions include life/health of the mother, rape and/or incest. Also, should the act be held invalid with respect to pre-viable unborn children, the law will then apply to post viable babies.	In effect.
<b>Illinois</b> (1975) 720 ILCS 510/6 (8)	Cannot discriminate based on sex.	A 1993 consent agreement declared the law only enforceable on viable unborn children.
<b>Indiana</b> (2016) Burns Ind. Code Ann. § 16-34-4	Cannot discriminate based on race, color, national origin, ancestry, sex, or diagnosis or potential diagnoses of Down syndrome or other disability.	In effect. In light of <i>Dobbs</i> , the U.S. District court vacates its own judgement in <i>Planned Parenthood of Indiana and Kentucky, Inc. et al v. Commissioner, Indiana State Department of Health et al</i> . Case No. 1:16-cv-00763-TWP-DML (U.S. District Court, Southern District of Indiana, July 18, 2022).

STATE	INFORMATION	STATUS
<b>Kansas</b> (2013) K.S.A. § 65-6726	Cannot discriminate based on sex.	In effect.
<b>Kentucky</b> (2019) Ky. Rev. Stat. § § 311.710 to 311.820	Cannot discriminate based on sex, race, color, national origin, a diagnosis or potential diagnosis of Down syndrome or any other disability.	Not in effect. Temporary restraining order issued in: <i>EMW Women’s Medical Center v. Beshear</i> , No. 3:19-cv-178-DJH (W. D. Ky. Mar. 15, 2019).
<b>Louisiana</b> (2016) La. Rev. Stat. Ann. § 40:1061.1.1	Cannot discriminate on babies greater than 20 weeks post-fertilization age based on diagnosis or potential diagnoses. Cannot discriminate on babies less than 20 weeks post-fertilization based on diagnosis or potential diagnoses unless the abortionist provides the mother with information on resources and services. Directs the Department of Health and Hospitals to produce information on services and resources on their website.	Not in effect. State stipulated not to enforce the law pending challenge.
<b>Mississippi</b> (2020) Miss. Code Ann. §§ 41-41-401 to 41-41-419	Cannot discriminate based on sex, race, or presence or presumed presence of a “genetic abnormality”.	Signed by Governor July 1, 2020. Effective immediately.
<b>Missouri</b> (2019) Mo. Rev. Stat. § 188.038	Cannot discriminate based on sex, race, or because of a prenatal diagnosis, test, or screening indicating Down syndrome or the potential of Down syndrome in an unborn child.	Not in effect. Temporary injunction in: <i>Reprod. Health Servs. of Planned Parenthood of the St. Louis Region, Inc. v. Parson</i> , 408 F. Supp. 3d 1049 (W.D. Mo. 2019).
<b>North Carolina</b> (2013) N.C. Gen. Stat. § 90-21.121	Cannot discriminate based on race, sex or the presence of Down Syndrome.	In effect.
<b>North Dakota</b> (2013) N.D. Cent. Code, § 14-02.1-04.1	<i>Cannot discriminate based on sex or diagnosis or potential diagnoses of a “genetic abnormality”.</i>	<i>This law was repealed by 2023 N.D. SB 2150.</i>
<b>Ohio</b> (2017) ORC Ann. §§2919.10, 2919.101, 3701.79	Cannot discriminate based on a Down syndrome diagnosis. The law requires statistical reporting.	In effect. The 6 <sup>th</sup> Circuit Court of Appeals ruled en banc to vacate a preliminary injunction allowing Ohio to enforce their law: <i>Preterm-Cleveland v. McCloud</i> , 994 F.3d 512 (6th Cir. 2021).
<b>Oklahoma</b> (2010) 63 Okl. St. § 1-731.2	Cannot discriminate based on sex.	In effect.

STATE	INFORMATION	STATUS
<b>Pennsylvania</b> (1982) 18 Pa.C.S. § 3204 (c)	Cannot discriminate based on sex.	In effect.
<b>South Dakota</b> (2014) S.D. Codified Laws § 34-23A-63-64	Cannot discriminate based on sex.	In effect.
<b>South Dakota</b> (2021)	Cannot discriminate based on Down syndrome.	In effect.
<b>Tennessee</b> (2020) Tenn. Code Ann. § 39-15-217	Cannot discriminate based on race, sex, or a prenatal diagnosis, test, or screening indicating Down syndrome or the potential for Down syndrome in the unborn child.	In effect. The 6 <sup>th</sup> Circuit granted a partial stay in the previous injunction. <i>Mem. Ctr. for Reprod. Health v. Slattery</i> , No. 20-5969, 2022 U.S. App. LEXIS 2982 (6th Cir. Feb. 2, 2022).
<b>West Virginia</b> (2022) <i>W. Va. Code § 16-2Q-1</i>	<i>Cannot discriminate based on disability, except in a medical emergency or fatal fetal condition. The law requires statistical reporting. Patient shall be provided educational information from the state Bureau of Public Health if prenatal testing confirms a disability of the unborn child.</i>	<i>This law was rendered ineffective with the passage of the Unborn Child Protection Act W. Va. Code § 16-2R-1 et seq.</i>
<b>Utah</b> (2019) Utah Code Ann. §76-7-302.4	Cannot discriminate based on a diagnosis or potential diagnosis of Down syndrome.	In effect.

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<sup>i</sup> During the 2023 legislative session, this law was amended to include in utero protection from discrimination on the account of race and the presence of Down Syndrome.