



NORTH DAKOTA

NORTH DAKOTA AT A GLANCE

EXISTENCE AND STATUS OF ABORTION BAN	STATE CONSTITUTIONAL PROTECTION OF ABORTION RIGHTS	STATUTORY PROTECTION OF ABORTION RIGHTS	OTHER FACTORS
No ban	None established	None	Statutory public policy language protects life of unborn; highly vulnerable to enactment of new ban



Existence and Status of Abortion Ban: No abortion ban. The legislature repealed its pre-*Roe* ban.

State Constitutional Protection of Abortion Rights: None established.

Statutory Protection of Abortion Rights: None.

Other Factors: The legislature has declared its intent to protect every “unborn” human life,¹²⁷ and the state has a long record of restricting abortion.¹²⁸ In addition, both the legislature and governor are currently anti-choice. Therefore, North Dakota is highly vulnerable to enactment of a new ban if *Roe* is overturned.

Conclusion: North Dakota does not have a ban currently on the books, but is likely to ban abortion if *Roe* is overruled.

Legislative Session in North Dakota: Jan. 4 – late April, 2005

Source: National Conference of State Legislators (NCSL) website
<http://www.ncsl.org/programs/legman/about/sess2005.htm>

¹²⁷ “The purpose of this chapter is to protect unborn human life and maternal health within present constitutional limits. It reaffirms the tradition of the state of North Dakota to protect every human life whether unborn or aged, healthy or sick.” *Id.* § 14-02.1-01.

¹²⁸ For example, the state still has a provision on the books requiring written spousal consent for a post-viability abortion unless the woman’s life or health is at risk, or she is separated from her husband. N.D. CENT. CODE § 14-02.1-03. This provision is currently unenforceable under *Planned Parenthood v. Casey*, 505 U.S. 833, 895-98 (1992) (spousal notification requirement is unconstitutional) and *Planned Parenthood v. Danforth*, 428 U.S. 52 (1976) (striking down spousal consent requirement). The Legislature has also enacted mandatory delay/biased counseling requirements, parental consent requirements, a physician-only law, a hospitalization requirement for abortions performed post 12 weeks, and record keeping requirements. N.D. CENT. CODE § 14-02.1-01 – 02.1-12.