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## **Commissioned Paper: State Statutes Regarding Fetal Research, Fetal Personhood, Fetal Homicide and Child Abuse/Neglect & Substance Abuse**

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### **INTRODUCTION**

This paper provides an overview of statutes from the fifty states and the District of Columbia (D.C.) that may be relevant to the conduct of biomedical research with pregnant women, in effect as of January 1, 2024. Specifically, it covers statutes that implicate research involving a fetus (excluding statutes solely applicable to embryonic stem cell research), statutes focused on child endangerment that might be applicable to a fetus, and those implicating fetal personhood and fetal homicide. The table does not show state statutes that do not fit neatly into these categories but may have implications for research involving pregnant and lactating women. The table also does not include any relevant federal statutes. The table cites judicial decisions and attorney general's (AG) opinions in which the listed statutes are interpreted. The sheer breadth of the topics is not conducive to comprehensiveness, and we may not have identified all relevant statutes, cases, and AG opinions. The research methodology supporting the attached table is described in detail below.

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## RESEARCH METHODS

To conduct our review, we consulted legal research databases (Westlaw and Lexis), secondary sources (e.g., peer-reviewed literature, law review articles), and internet sources (i.e., news articles, reports, state legislation trackers, and state surveys) to identify relevant state statutes and case law interpreting those statutes. We prepared a table that consolidated and synthesized the information we discovered on this topic. The table is organized by state and divided into subtopics: (1) Fetal Research; (2) Fetal Personhood; (3) Fetal Homicide; and (4) Child Abuse/Neglect & Substance Abuse. The table summarizes enacted state statutes and related case law and AG opinions as of January 2024, excluding any currently proposed legislation.

### (1) *Fetal Research*

To address the possible effect of state laws on clinical studies involving pregnant women, we searched the legal databases for state statutes that explicitly prohibit or limit research on pregnant women and/or fetuses/embryos. Our search was limited to state statutes that use the terms “fetus” (and its variations, e.g. “fetal), “embryo” (and its variations, e.g. “embryonic”), and “pregnant” (and its variations, e.g. “pregnancy”) in conjunction with the term “research.” Where applicable, we identified relevant exceptions to these statutes, including for medical treatment, and the requirements for maternal consent.<sup>1</sup>

### (2) *Fetal Personhood*

Fetal personhood laws encompass state statutes that grant explicit legal rights to fetuses. Many of these laws define “human being” or “person” (either throughout a state’s legal code or specifically in its criminal statutes) to include fetuses or the “unborn.” In conducting our search, we used a broad definition of “fetal personhood” to include statutes that describe embryos and/or fetuses as persons or unborn children. Due to the fast-moving political environment surrounding the adoption of state fetal personhood laws, we primarily consulted secondary sources, including news reports and online legislation trackers in addition to searching within the legal databases. To validate our findings, we conducted searches within the legal databases and identified relevant statutes using the terms “unborn child” and “fetus” (and its variations, e.g. “fetal”).

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<sup>1</sup> We did not find any references to paternal consent in any of the statutes pertaining to research with a fetus.

In states without an explicit fetal personhood law, we searched for related case law to assess whether “person” or “human being” in the state’s criminal code has been determined to include fetuses or the unborn. We also searched the legal databases for relevant attorney general opinions.

### (3) *Fetal Homicide*

Fetal homicide laws include general state homicide statutes that are applicable to fetuses, as well as laws criminalizing feticide as a separate crime. To identify fetal homicide laws, we relied on a report, *State Laws on Fetal Homicide and Penalty-enhancement for Crimes Against Pregnant Women*, published by the National Conference of State Legislatures.<sup>2</sup> Relying primarily on the NCSL report’s research methodology, we conducted an additional search of the legal research databases, using terms such as “fetal,” “homicide” and “feticide” (with variations) to identify fetal homicide laws enacted after the publication of the report.

### (4) *Child Abuse/Neglect & Substance Abuse*

This category encompasses two distinct types of conduct. “Child abuse” and “child neglect” laws penalize acts or omissions that harm a child’s health or welfare. If state law classifies fetuses as children, child abuse could be found in research that involves a pregnant participant ingesting or otherwise using an experimental substance that is determined to have caused physical injury to a fetus, and child neglect could be alleged by characterizing the research as a denial of appropriate care or an exposure to harmful conditions. The “substance abuse” provisions in the table involve criminalizing the use (abuse) of an illegal substance (occasionally alcohol use as well) by a pregnant woman; in some states, such an act is prosecuted as child abuse/neglect. To identify statutes on child abuse/neglect and substance abuse, we searched the legal research databases for “child abuse,” “child welfare,” or “child neglect.” We did not necessarily distinguish between civil and criminal actions. For each relevant statute, we searched the legal research databases for case law and attorney general opinions involving pregnant individuals, along with whether a “fetus” or an “unborn” person is included in the definition of the term “child.”

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<sup>2</sup> National Conference of State Legislatures. *Research and Policy: State Laws on Fetal Homicide and Penalty-enhancement for Crimes Against Pregnant Women* (NCSL, May 1, 2018). <https://www.ncsl.org/research/health/fetal-homicide-state-laws.aspx>. [<https://perma.cc/6YSM-22NX>] (accessed February 20, 2024).

**TABLE C-1** State Statutes and Relevant Case Law and AG Opinions as of January 1, 2024

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
<b>Alabama</b>	<p>ALA. CODE § 26-23F-5(c)</p> <p>“No person shall use an unborn infant, living or deceased, in research or experimentation.”</p> <p>ALA. CODE § 26-23F-3(12)</p> <p>An “unborn infant” is “a human being in utero at any stage of development regardless of viability.”</p> <p>Additionally, “no person shall knowingly accept compensation or payment for the sale, transfer, distribution, acceptance, use, or attempted use of the fetal organs, tissue, or bodily remains of a deceased unborn infant for research, therapy, transplantation, or experimentation.”</p>	<p>ALA. CODE § 26-23H-3(7)</p> <p>An “unborn child” is “a human being, specifically including an unborn child in utero at any stage of development, regardless of viability.”</p> <p>ALA. CONST. ART. I, § 36.06</p> <p>“[I]t is the public policy of this state to recognize and support the sanctity of unborn life and the rights of unborn children, including the right to life.”</p>	<p>ALA. CODE § 13A-6-1</p> <p>The homicide statute defines “person” to “include an unborn child in utero at any stage of development, regardless of viability.”</p>	<p>ALA. CODE § 26-15-3.2 – 3.3</p> <p>It is a felony to expose a child to “a controlled substance, chemical substance, or drug paraphernalia. . . . It is an affirmative defense . . . that the controlled substance was provided by lawful prescription for the child, and that it was administered to the child in accordance with the prescription instructions provided with the controlled substance.”</p> <p>The law is not violated “if the responsible person was the mother of the unborn child, and she was, or there is a good faith belief that she was, taking that medication pursuant to a lawful prescription” or, in the case of a “non-prescription FDA approved medication or substance . . . as directed or recommended by a physician or a health care provider.”</p>

“No institution, entity, or individual shall knowingly provide any compensation or payment to any other person, organization, or entity for the removal, transfer, storage, processing, preservation, quality control, implantation, transportation, distribution, disposal, or other manner of disposition of the bodily remains of a deceased unborn infant for research, therapy, transplantation, experimentation, or any other prohibited purpose under this chapter.”

**Alaska**

None found

ALASKA STAT. ANN.  
§ 11.81.900 (66)

An “unborn child” is “a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.”

ALASKA STAT. ANN. § 11.41.150 ;  
ALASKA STAT. ANN. § 11.41.160 ;  
ALASKA STAT. ANN. § 11.41.170

“[M]urder of an unborn child,”  
“manslaughter of an unborn child,”  
and “criminally negligent homicide of an unborn child” are felonies.

*Hicks v. State*, 153 So. 3d 53 (Ala. 2014) (holding that ingestion of cocaine while pregnant constitutes child endangerment under ALA. CODE § 26-15-3-2).

*Ex parte Ankom*, 152 So. 3d 397 (Ala. 2013) (holding that the term “child” includes an “unborn child”).

ALASKA STAT. ANN.  
§ 47.17.290

“Child abuse or neglect means the physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person under circumstances that indicate that the child’s health or welfare is harmed or threatened thereby.”

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Arizona	None found	<p>ARIZ. REV. STAT. ANN. § 1-219</p> <p>"[A]n unborn child at every stage of development [is granted] all rights, privileges and immunities available to other persons."</p> <p><i>Isaacson v. Brnovich</i>, 610 F. Supp. 3d 1243 (D. Ariz. 2022) (temporarily enjoining Arizona from enforcing ARIZ. REV. STAT. ANN. § 1-219, as applied to abortion care that is otherwise permissible under state law, until ongoing litigation is resolved).</p> <p>ARIZ. STAT. ANN. § 36-2151</p> <p>Arizona defines an "unborn child" as "the offspring of human beings from conception until birth," and defines "conception" as "the fusion of a human spermatozoon with a human ovum."</p>	<p>ARIZ. REV. STAT. ANN. § 13-1105</p> <p>"A person commits first-degree murder if intending or knowing that the person's conduct will cause death, the person causes the death of another person, including an unborn child, with premeditation . . . [t]his section applies to an unborn child in the womb at any stage of its development." Exceptions include cases where the person is performing a lawful abortion with consent, providing medical treatment to the pregnant woman or unborn child, or is the unborn child's mother.</p>	<p>ARIZ. REV. STAT. ANN. § 13-3623</p> <p>"Under circumstances likely to produce death or serious physical injury, any person who causes a child . . . to suffer physical injury . . . is guilty of . . . a felony. . ."</p> <p>"Child" is defined as an individual under the age of 18.</p> <p><i>Reinesio v. Superior Ct. of State In &amp; For Cnty. of Navajo</i>, 182 Ariz. 190, 894 P.2d 733 (Ct. App. 1995) (holding that Arizona may not prosecute a woman for child abuse based on prenatal conduct, such as use of heroin, that causes injury to her child post-birth).</p>

**Arkansas**

ARK. CODE ANN. § 20-17-802

“A person shall not perform any biomedical or behavioral research on: (1) A fetus born alive as the result of a legal abortion unless the research is for the exclusive benefit of the fetus so born; or (2) A fetus born dead as the result of a legal abortion or on any fetal tissue produced by the abortion.”

“A person shall not buy, sell, give, exchange, or barter or offer to buy, sell, give, exchange, or barter any fetus born dead as a result of a legal abortion or any organ, member, or tissue of fetal material resulting from a legal abortion.”

ARK. CONST. AMEND. LXVIII,

§ 2

“The policy of Arkansas is to protect the life of every unborn child from conception until birth, to the extent permitted by the Federal Constitution.”

ARK. CODE ANN. § 5-1-102

(13)(B)(i-iii)

“i. (a) As used in §§5-10-101 – 5-10-105 and 5-4-604, “person” also includes an unborn child in utero at any stage of development. (b) “Unborn child” means offspring of human beings from conception until birth.

ii. This subdivision (13)(B) does not apply to: (a) An act that causes the death of an unborn child in utero if the act was committed during a legal abortion to which the woman consented, including an abortion performed to remove an ectopic pregnancy or other nonviable pregnancy when the embryo is not going to develop further . . . (b) An act that is committed pursuant to a usual and customary standard of medical practice during diagnostic testing or therapeutic treatment; (c) An act that is committed in the course of medical research, experimental medicine, or an act deemed necessary to save the life or preserve the health of the woman . . . [a]ssisted reproduction technology activity, procedure, or treatment . . . or [a]n act occurring before transfer to the uterus of the woman of an embryo created through in vitro fertilization.”

ARK. CODE ANN. § 12-18-103

14(B)(i)(a)-(b)

“Child or juvenile means an individual who is from birth to eighteen (18) years of age.”

Child neglect includes: “(a) Causing a child to be born with an illegal substance present in the child’s bodily fluids or bodily substances as a result of the pregnant mother’s knowingly using an illegal substance before the birth of the child; or (b) At the time of the birth of a child, the presence of an illegal substance in the mother’s bodily fluids or bodily substances as a result of the pregnant mother’s knowingly using an illegal substance before the birth of the child.”

“Illegal substance means a drug that is prohibited to be used or possessed without a prescription.”

**TABLE C-1 Continued**

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>"A person shall not possess either a fetus born dead as a result of a legal abortion or any organ, member, or tissue of fetal material resulting from a legal abortion. This provision does not apply to: (1) Physicians conducting a legal abortion or pathologist examining the outcome of a legal abortion; (2) Employees, agents, or servants of a physician performing a legal abortion or pathologist involved in a pathological examination post a legal abortion; (3) Staff, faculty, students, or governing body of higher or secondary education institutions within the scope of relevant courses and research; (4) Licensed physicians, employees, agents, and servants engaged in medical research; (5) Licensed physicians conducting standard autopsy examinations."</p>		<p>"... (iii) Nothing in this subdivision (13)(B) shall be construed to allow the charging or conviction of a woman with any criminal offense in the death of her own unborn child in utero."                       ARK. CODE ANN. § 5-10-101 to 5-10-105                       Causing "the death of a person" is capital murder, murder in the first degree, murder in the second degree, manslaughter, or negligent homicide.</p>	



**California**

CAL. HEALTH & SAFETY CODE  
§ 123440

None found

“It is unlawful for any person to use any aborted product of human conception, other than fetal remains, for any type of scientific or laboratory research or for any other kind of experimentation or study, except to protect or preserve the life and health of the fetus. “Fetal remains,” as used in this section, means a lifeless product of conception regardless of the duration of pregnancy. A fetus shall not be deemed to be lifeless for the purposes of this section, unless there is an absence of a discernible heartbeat.”

CAL. PENAL CODE § 187(a)

“Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.”  
The statute “shall not apply to any person who commits an act that results in the death of a fetus if . . . (1) The act complied with the former Therapeutic Abortion Act . . . or the Reproductive Privacy Act, (2) The act was committed by a holder of a physician’s and surgeon’s certificate . . . in a case where, to a medical certainty, the result of a childbirth would be death of the person pregnant with the fetus or where the pregnant person’s death from childbirth, although not medically certain, would be substantially certain or more likely than not, [or] (3) It was an act or omission by the person pregnant with the fetus or was solicited, aided, abetted, or consented to by the person pregnant with the fetus.”

CAL. PENAL CODE § 273a

It is a crime for “[a]ny person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered.”

*Reyes v. Superior Ct.*, 75 Cal. App. 3d 214, (Cal Ct. App. 1977) (holding that the term “child” as used in the statute does not include “an unborn child or fetus”).

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Colorado	<p>COLO. REV. STAT. ANN. § 25-2-111.5</p> <p>“No physician or institution that performs procedures for the induced termination of pregnancy shall transfer such tissue for valuable consideration to any organization or person that conducts research using fetal tissue or that transplants fetal tissue for therapeutic purposes.”</p>	None found	None found	<p>COLO. REV. STAT. ANN. § 18-6-401</p> <p>“A person commits child abuse if such person causes an injury to a child’s life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child’s life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child. . . . Child means a person under the age of sixteen years.”</p> <p><i>People v. Jones</i>, 464 P.3d 735 (Colo. 2020) (holding that a “person,” as the term is used in the state’s child abuse statute, does not include a fetus who suffers injuries in utero but is later born alive).</p>

Connecticut

None found

None found

*State v. Courchesne*, 998 A.2d 1 (Conn. 2010) (affirming a murder conviction for the death of an infant who was born alive but died due to deprivation of oxygen in utero caused by stab wounds sustained by infant's mother).

CONN. GEN. STAT. ANN.  
§ 46b-120 (1), (4) & (5)

"Child means any person under eighteen years of age who has not been legally emancipated. . . ."  
"A child may be found neglected who . . . (A) has been abandoned, (B) is being denied proper care . . . or (C) is being permitted to live under conditions . . . injurious to the well-being of the child."

"A child may be found abused who . . . has been inflicted with physical injury. . . ."

CONN. GEN. STAT. ANN.  
§ 45a-717(g)(2)(b)

A "court may [terminate] parental rights . . . if it finds . . . the child has been denied, by reason of an act or acts of parental commission or omission . . . the care . . . necessary for the child's physical . . . well-being."

*In re Valerie D.*, 613 A.2d 748 (Conn. 1992) (holding that § 45a-717 does not permit termination of parental rights based on mother's prenatal conduct, in this case, injecting heroin hours before labor).

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Delaware	None found	None found	None found	<p>DEL. CODE ANN. tit. 11, § 1100.</p> <p>“(1) “Abuse” means causing any physical injury to a child through unjustified force . . . torture, negligent treatment, sexual abuse, exploitation, maltreatment, mistreatment or any means other than accident.”</p> <p>(2) “Child” shall mean means any individual less than 18 years of age.”</p>
District of Columbia	<p>D.C. CODE ANN. § 7-2086.01</p> <p>“The District shall not . . . penalize a person for . . . any act or omission by an individual during the individual’s pregnancy based on the potential or actual impact on the individual’s health or pregnancy . . .”</p>	None found	None found	<p>D.C. CODE ANN. § 4-1341.01</p> <p>“(1) “Child” means a person under 18 years of age.</p> <p>(2) “Child abuse” means harm or threatened harm to a child’s health or welfare by a person responsible for the child’s health or welfare, which occurs through the intentional infliction of physical or emotional injury . . . (3) “Child neglect” means harm to a child’s health or welfare which occurs through the failure to provide adequate food, clothing, shelter, education, or medical care.”</p>

**Florida**

FLA. STAT. ANN. § 390.0111 (6) None found

“No person shall use any live fetus or live, premature infant for any type of scientific, research, laboratory, or other kind of experimentation either prior to or subsequent to any termination of pregnancy procedure except as necessary to protect or preserve the life and health of such fetus or premature infant.”

FLA. STAT. ANN. § 775.021 (5)

“Whoever commits . . . a criminal offense . . . and thereby causes the death of, or bodily injury to, an unborn child commits a separate offense if the provision or statute does not otherwise specifically provide a separate offense for such death or injury to an unborn child. . . . The punishment . . . is the same as the punishment provided . . . had the injury or death occurred to the mother of the unborn child. . . . This subsection does not permit the prosecution: 1. Of any person for conduct relating to an abortion for which the consent of the pregnant woman . . . has been obtained . . . ; 2. Of a person for providing medical treatment of the pregnant woman or her unborn child; or 3. Of a woman with respect to her unborn child.”

FLA. STAT. ANN. § 827.03

““Child abuse” means: 1. Intentional infliction of physical or mental injury upon a child; 2. An intentional act that could reasonably be expected to result in physical or mental injury to a child; or 3. Active encouragement of any person to commit [such] an act.”

““[U]nborn child” means a member of the species

*Homo sapiens*, at any stage of development, who is carried in the womb.”

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Georgia	None found	GA. CODE ANN. § 1-2-1(b), (e) (as amended by § 3 of the Living Infants Fairness and Equality ("LIFE") Act, H.B. 481 (Ga. 2019)).  "Natural person" means any human being including an unborn child. . . . "Detectable human heartbeat" means embryonic or fetal cardiac activity or the steady and repetitive rhythmic contraction of the heart within the gestational sac. . . . "Unborn child" means a member of the species <i>Homo sapiens</i> at any stage of development who is carried in the womb."  <i>SisterSong Women of Color Reprod. Just. Collective v. Kemp</i> , 472 F. Supp. 3d 1297 (N.D. Ga. 2020) declared the LIFE Act unconstitutional and permanently enjoined its enforcement on the	GA. CODE ANN. § 16-5-80.  "[T]he term "unborn child" means a member of the species <i>homo sapiens</i> at any stage of development who is carried in the womb. . . . A person commits the offense of feticide if he or she willfully and without legal justification causes the death of an unborn child by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, or if he or she, when in the commission of a felony, causes the death of an unborn child."  "Voluntary manslaughter of an unborn child" occurs if a "person causes the death of an unborn child under circumstances which would otherwise be feticide and if such person acts solely as the result of a sudden, violent, and irresistible passion resulting from serious provocation sufficient to excite such passion in a reasonable person; provided, however, that, if	GA. CODE ANN. § 16-5-70  A person commits the offense of cruelty to children when such person "(a) . . . willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized . . . (b) . . . maliciously causes a child under the age of 18 a cruel or excessive physical or mental pain. (c) . . . with criminal negligence causes a child under the age of 18 a cruel or excessive physical or mental pain."  GA. CODE ANN. § 51-1-46(d)(1) & (2)(B)  "A person injured by an individual drug abuser may bring an action . . . for damages against a person who participated in illegal marketing of the controlled substance used by the individual abuser. . . . If a

ground that the U.S. Supreme Court in *Roe v. Wade* had concluded that “person” includes only postnatal children.

That judgment was reversed on appeal in *SisterSong Women of Color Reprod. Just. Collective v. Kemp*, 40 F.4th 1320 (11th Cir. 2022), on the ground that the U.S. Supreme Court had subsequently decided *Dobbs v. Jackson Women’s Health Organization* 597 U.S. 215 (2022), overturning *Roe v. Wade*.

there should have been an interval between the provocation and the killing sufficient for the voice of reason and humanity to be heard, of which the jury in all cases shall be the judge, the killing shall be attributed to deliberate revenge and be punished as feticide.”

Prosecution in not permitted under §16-5-80 “for any medical treatment of the pregnant woman or her unborn child,” of “any woman with respect to her unborn child,” or “for conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained” or “is implied by law.”

plaintiff . . . proves that the defendant participated in illegal marketing of a market area controlled by substance actually used by the individual abuser who injured the plaintiff, the defendant is presumed to have injured the plaintiff and to have acted willfully and wantonly if the plaintiff is one of the following: (A) A parent, legal guardian, child, spouse, or sibling of the individual abuser;

(B) A child whose mother was an individual abuser while the child was in utero.”

A “market area controlled substance” is defined as “a specified controlled substance or marijuana.”

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Hawaii	None found	None found	None found	HAW. REV. STAT. ANN. § 587A-4  "“Child” means a person who is born alive and is less than eighteen years of age.” The law applies against persons who inflict “damage or injury to a child’s physical or psychological health or welfare” including providing the child “with dangerous, harmful, or detrimental drugs . . . except when a child’s family administers drugs to the child as directed or prescribed by a practitioner.”
Idaho	IDAHO CODE ANN. § 39-9303 (10) IDAHO CODE ANN. § 18-604 (5)  “Unborn infant” has the same meaning as “fetus” and “unborn child,” which each mean “an individual organism of the species Homo sapiens from fertilization until live birth.”	IDAHO CODE ANN. § 32-102  “A child conceived, but not yet born, is to be deemed an existing person so far as may be necessary for its interests, in the event of its subsequent birth.”	IDAHO CODE ANN. § 18-4001  “Murder is the unlawful killing of a human being including, but not limited to, a human embryo or fetus . . . which results in the death of a human being.”	IDAHO CODE ANN. § 18-1501  “Any person who . . . willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health



IDAHO CODE ANN.  
§ 39-9306

Under Idaho's Unborn Infants Dignity Act,  
“(1) . . . no person shall knowingly sell, transfer, distribute, donate, accept, use or attempt to use the body or bodily remains of an aborted infant. . . .  
(2) . . . no person shall knowingly aid or abet any such sale, transfer, distribution, other unlawful disposition, acceptance, use or attempted use of the body or bodily remains of an aborted infant. . . .  
(3) . . . no person or public institution operating in Idaho shall knowingly use an unborn infant or the bodily remains . . . of an aborted infant . . . in animal or human research, experimentation or study, or for transplantation, except: (a) For diagnostic or remedial procedures that have the purpose of promoting the life or health

IDAHO CODE ANN.  
§ 39-9302 (1)(a)

“Deceased unborn infants deserve the same respect and dignity as other deceased human beings.”

IDAHO CODE ANN.  
§ 18-8801 ; § 18-604; § 18-502

“Fetus” and “unborn child” each mean “an individual organism of the species *Homo sapiens* from fertilization until live birth.”

of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered” commits a crime punishable by imprisonment.

IDAHO CODE ANN.  
§ 16-1602

Under Idaho's Child Protective Act, “‘‘ abused’’ means any case in which a child has been the victim of conduct or omission resulting in skin bruising, bleeding, malnutrition, burns, fracture of any bone, head injury, soft tissue swelling, failure to thrive or death, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.”

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>of the unborn infant or the unborn infant's mother . . . (4) . . . no person shall knowingly experiment upon an unborn infant who is intended to be aborted unless the experimentation is therapeutic to the unborn infant."</p>			<p>"Child" means an individual who is under 18.</p> <p>A 1991 opinion by the Idaho Attorney General contends that the state has "a compelling interest in protecting potential human life from gestational drug abuse and in further protecting a child's right to be born with a sound mind and body. In the instance of known gestational drug abuse the state's compelling interest will override the woman's interest in personal privacy, bodily integrity and parental autonomy and permit some degree of state intervention." 1991 Idaho Op. Atty. Gen. 5, Op. Atty. Gen., 91-1 (Feb. 1, 1991), 1991 WL 495720.</p>

**Illinois**

410 ILL. COMP. STAT. ANN. 110/45	None found	720 ILL. COMP. STAT. ANN. §§5/9-1.2, 5/9-2.1, 5/9-3.2.	325 ILL. COMP. STAT. ANN. 5/3
<p>"A person may not knowingly, for valuable consideration, purchase or sell embryonic or cadaveric fetal tissue for research purposes. . . . [T]he giving or receiving of reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of the tissue does not constitute purchase or sale. This Section does not prohibit reimbursement for removal, storage, or transportation of embryonic or cadaveric fetal tissue for research purposes."</p>	<p>An "unborn child" is "any individual of the human species from the implantation of an embryo until birth," and causing the death of an unborn child at any stage of pre-natal development can qualify as intentional homicide, voluntary manslaughter, involuntary manslaughter, or reckless homicide. Intentional homicide, voluntary manslaughter, and involuntary manslaughter, and reckless homicide do not apply when a pregnant woman consents to an abortion that results in the death of her unborn child, nor does they apply to acts that "were committed pursuant to customary standards of medical practice during diagnostic testing or therapeutic treatment."</p>	<p>"Child" means any person under the age of 18 years."</p> <p>Child abuse involves creating "a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function; committing or allowing to be committed any sex offense; torture, excessive corporal punishment, female genital mutilation against the child; giving child access to controlled substances."</p>	

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Indiana	<p>IND. CODE ANN. § 35-46-5-1.5</p> <p>“‘[F]etal tissue’ includes tissue, organs, or any other part of an aborted fetus. . . . A person who intentionally acquires, receives, sells, or transfers fetal tissue commits unlawful transfer of fetal tissue, a Level 5 felony.”</p>	<p>IND. CODE ANN. § 16-34-2-3</p> <p>“Any fetus born alive shall be treated as a person under the law, and a birth certificate shall be issued certifying the child’s birth even though the child may subsequently die, in which event a death certificate shall be issued. Failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible persons to Indiana laws governing homicide, manslaughter, and civil liability for wrongful death and medical malpractice.”</p>	<p>IND. CODE ANN. § 35-42-1-1, IND. CODE ANN. § 35-42-1-3, IND. CODE ANN. 35-42-1-4</p> <p>A person who “kills a fetus in any stage of development” commits murder, voluntary manslaughter, or involuntary manslaughter. These sections do not apply to lawful abortions.</p> <p>IND. CODE ANN. § 35-42-1-6</p> <p>“A person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide, a Level 3 felony.”</p> <p>“This section does not apply to (1) the pregnant mother whose pregnancy is terminated; (2) a person who in good faith provides medical treatment to a pregnant woman that results in the accidental or unintentional termination of the pregnancy; or (3) a physician licensed under IC 25-22.5 who, upon the request of a pregnant woman, performs a medical procedure to terminate her pregnancy, even if the procedure is not authorized under IC 16-34-2-1.”</p>	<p>IND. CODE ANN. § 34-23-2-1</p> <p>The definition of “child” “includes a fetus that has attained viability.” An action for “wrongful death” can be brought against the person whose wrongful act or omission caused the injury or death of a child.” The law excludes lawful abortions.</p>

IOWA CODE ANN. § 146D.1	<p>"A person shall not knowingly acquire, provide, receive, otherwise transfer, or use a fetal body part in this state, regardless of whether the acquisition, provision, receipt, transfer, or use is for valuable consideration." This section does not apply to "diagnostic or remedial tests, procedures, or observations which have the sole purpose of determining the life or health of the fetus in order to provide that information to the pregnant woman or to preserve the life or health of the fetus or pregnant woman; . . . the pathological study of body tissue, including genetic testing, for diagnostic or forensic purposes; [or] a fetal body part if the fetal body part results from a spontaneous termination of pregnancy or stillbirth and is willingly donated for the purpose of medical research."</p>	IOWA CODE ANN. § 146B.1	<p>"Unborn child" is defined as an "individual organism of the species homo sapiens from fertilization until live birth."</p>	IOWA CODE ANN. § 707.7	<p>"Any person who intentionally terminates a human pregnancy with the knowledge and voluntary consent of the pregnant person, after the end of the second trimester . . . where death of the fetus results commits feticide. Any person who intentionally terminates a human pregnancy, with the knowledge and voluntary consent of the pregnant person, after the end of the second trimester . . . where death of the fetus does not result commits attempted feticide. . . . This section shall not apply to a physician licensed in this state to practice medicine or surgery . . . when in the best clinical judgment of the physician the termination is performed to preserve the life or health of the pregnant person or of the fetus and every reasonable medical effort not inconsistent with preserving the life of the pregnant person is made to preserve the life of a viable fetus."</p>	IOWA CODE ANN. § 232.68	<p>"Child" is defined as any person under 18.</p> <p>Child abuse means "any non-accidental physical injury or . . . mental injury to child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range . . . commission of a sexual offense . . . failure . . . to provide for the adequate food, shelter, clothing, medical or mental health treatment . . . necessary for the child's health and welfare. . . . An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child."</p>
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TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>The term “fetal body part” means a cell, tissue, organ, or other part of a fetus that is terminated by an abortion.</p>			
	<p>“Fetal body part” does not include: (1) Cultured cells or cell lines derived from a spontaneous termination of pregnancy or stillbirth and willingly donated for the purposes of medical research. (2) A cell, tissue, organ, or other part of a fetus that is terminated by an abortion that occurred prior to July 1, 2018. (3) All cells and tissues external to the fetal body proper.”</p>			

**Kansas**

KAN. STAT. ANN. § 65-67a01 (d)	KAN. STAT. ANN. § 65-6732 “(1) The life of each human being begins at fertilization; (2) unborn children have interests in life, health and well-being that should be protected . . . the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges and immunities available to other persons, citizens and residents of this state, subject only to the constitution of the United States, and decisional interpretations thereof by the United States supreme court and specific provisions to the contrary in the Kansas constitution and the Kansas Statutes Annotated.”	KAN. STAT. ANN. § 21-5401-5406; 5413 & 5419 For the purposes of the Kansas statutes on first degree murder, second degree murder, capital murder, voluntary manslaughter, involuntary manslaughter, and vehicular homicide, “‘person’ and ‘human being’ also mean an unborn child.”	KAN. STAT. ANN. § 21-5601 “Endangering a child is knowingly and unreasonably permitting a child under the age of 18 years to be placed in a situation in which the child’s life, body, or health may be endangered.”
KAN. STAT. ANN. § 65-67a02 “Nothing in this act shall be construed as either permitting or prohibiting the use of fetal tissue for any type of scientific, research, laboratory or other kind of experimentation either prior to or subsequent to any abortion or stillbirth.”	KAN. STAT. ANN. § 21-5401-5406; 5413 & 5419 Section 5419 does not apply to “(1) Any act committed by the mother of the unborn child; (2) any medical procedure, including abortion, performed by a physician or other licensed medical professional at the request of the pregnant woman or her legal guardian; or (3) the lawful dispensation or administration of lawfully prescribed medication.”	KAN. STAT. ANN. § 21-5602 Child abuse includes causing “great bodily harm [or] disability.”	KAN. STAT. ANN. § 38-2202 Child neglect “means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child or presenting a likelihood of harm, that are not solely due to financial inability. . . . Neglect . . .

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
KAN. STAT. ANN. § 65-67a06 (b)	"No person shall offer or accept any valuable consideration for the fetal organs or tissue resulting from an abortion. Nothing in this subsection shall prohibit . . . payment for a pathological examination, autopsy or postmortem examination of the fetal remains."	"As used in this section, "[f]ertilization" means the fusion of a human spermatozoon with a human ovum."  "Nothing in this section shall be construed as creating a cause of action against a woman for indirectly harming her unborn child by failing to properly care for herself or by failing to follow any particular program of prenatal care."	include[s] . . . failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening."	
<b>Kentucky</b>	None found	KY. REV. STAT. ANN. § 311.710-820.  "Fetus" means a human being from fertilization until birth. . . . "Human being" means any member of the species homo sapiens from fertilization until death."	KY. REV. STAT. ANN. § 507A.020  "A person is guilty of fetal homicide in the first degree" when they intentionally "cause the death of an unborn child. . . . Including . . . the operation of a motor vehicle under circumstances manifesting extreme indifference to human life."	KY. REV. STAT. ANN. § 600.020  An "abused or neglected child" is one whose health or welfare is harmed or threatened with harm.  "Child" means any person under 18.  KY. REV. STAT. ANN. 214.160
				Allows for blood testing of pregnant women and newborns "to determine



whether there is evidence of" exposure to "alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Health and Family Services, if the attending person has reason to believe, based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy. . . . [A]ny positive toxicology finding shall be evaluated . . . for abuse or neglect . . ."

## Louisiana

L.A. STAT. ANN. § 14:87.2

"Human experimentation is the use of any infant who is born alive . . . for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of the live born human being, or the conduct, on a human embryo or fetus in utero, of any experimentation or study except to preserve the life or to improve the health of the human embryo or fetus."

L.A. STAT. ANN. - CIV. CODE  
Art. 26

"An unborn child shall be considered as a natural person for whatever relates to its interests from the moment of conception. If the child is born dead, it shall be considered never to have existed as a person, except for purposes of actions resulting from its wrongful death."

L.A. STAT. ANN. § 14:32.5

Feticide is defined as "the killing of an unborn child by the act, procurement, or culpable omission of a person other than the mother of the unborn child." The offense of feticide shall not include acts which cause the death of an unborn child if those acts were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency as defined in R.S. 40:1061.23. Nor shall the offense

L.A. STAT. ANN. - CHILD. CODE  
Art. 603(2), (6) (18), (24)

"'Abuse' means . . . acts that seriously endanger the physical, mental, or emotional health, welfare, and safety of the child."

"'Child' means a person under eighteen years of age."

"'Neglect' means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>"Whoever commits the crime of human experimentation on an infant born alive shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both."</p>	<p>L.A. STAT. ANN. § 40:1061.1.2(2)(a)</p> <p>Under Louisiana's Pain-Capable Unborn Child Protection Act, "it is the purpose of the state to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain. . . . "Unborn child" or "fetus" each mean an individual organism of the species homo sapiens from fertilization until live birth."</p>	<p>of feticide include acts which are "committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment."</p>	<p>food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health, welfare, and safety is substantially threatened or impaired. Neglect includes prenatal neglect."</p> <p>"'Prenatal Neglect' means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance . . . or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or functioning."</p>

**Maine**

ME. REV. STAT. tit. 22, § 1593 None found

"1. Prohibition. A person may not use, transfer, distribute or give away a live human fetus, whether intrauterine or extrauterine, or any product of conception considered live born, for scientific experimentation or for any form of experimentation.  
2. Consenting, aiding or assisting. A person may not consent to violating subsection 1 or aid or assist another in violating subsection 1."

None found

ME. REV. STAT. tit. 22, § 4002

"'Abuse or neglect' means a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation . . . or deprivation of essential needs." "Child" is defined as any person under 18.

ME. REV. STAT. tit. 22, § 4004-B

The state shall "act to protect infants born identified as being affected by substance use or withdrawal symptoms resulting from prenatal drug exposure, whether the prenatal exposure was to legal or illegal drugs, or having a fetal alcohol spectrum disorder, regardless of whether the infant is abused or neglected."

*continued*

**TABLE C-1 Continued**

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Maryland	None found	None found	<p data-bbox="268 525 285 873">Md. CODE ANN., CRIM. LAW § 2-103</p> <p data-bbox="315 525 603 873">“A prosecution may be instituted for murder or manslaughter of a viable fetus,” if the person prosecuted “intended to cause the death of the viable fetus, intended to cause serious physical injury to the viable fetus, or wantonly or recklessly disregarded the likelihood that the person’s actions would cause the death of or serious physical injury to the viable fetus.”</p>	<p data-bbox="268 234 285 499">Md. CODE ANN., FAM. LAW § 5-701</p> <p data-bbox="338 208 544 499">“‘Abuse’ means the physical or mental injury of a child under circumstances that indicate that the child’s health or welfare is harmed or at substantial risk of being harmed.” “Child” is defined as any individual under 18.</p>
			<p data-bbox="626 525 934 873">“Nothing in this section applies to or infringes on a woman’s right to terminate a pregnancy; . . . subjects a physician or other licensed medical professional to liability for fetal death that occurs in the course of administering lawful medical care; applies to an act or failure to act of a pregnant woman with regard to her own fetus; shall be construed to confer personhood or any rights on the fetus.”</p>	

<b>Massachusetts</b>	MASS. GEN. LAWS ANN. ch. 112, § 12J	None found	MASS. GEN. LAWS ANN. ch. 265, § 13L
Massachusetts prohibits scientific experimentation on live human fetuses, with certain exceptions.			"Child" is defined as any person under 18.
(a) No person shall use any live human fetus whether before or after expulsion from its mother's womb, for scientific, laboratory, research or other experimentation.			Under the Criminal Code, "whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury . . . to a child . . . shall be punished by imprisonment."
This section shall not prohibit procedures incident to the study of a human fetus while it is in its mother's womb or a neonate; provided that in the best medical judgment of the physician, made at the time of the study, the procedures do not substantially jeopardize the life or health of the fetus or neonate; and provided further that, in the case of a fetus, the fetus is not the subject of a planned abortion.			Commonwealth v. Ronchi, 202 N.E.3d 499 (Mass. 2023) (holding that the death of a viable fetus resulting from homicide of pregnant woman is homicide even if the fetus was not directly injured)
In any criminal proceeding, a fetus shall be conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the study, that she was not planning an abortion."			Commonwealth v. Lawrence, 536 N.E.2d 571 (Mass. 1989) (extending liability for death of a viable fetus to charge of involuntary manslaughter)
			Commonwealth v. Cass, 467 N.E.2d 1324 (Mass. 1984) (holding that a viable fetus is a person for vehicular homicide statute)

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>This provision does "not prohibit or regulate diagnostic or remedial procedures the purpose of which is: (i) to determine the life or health of the fetus or neonate involved; (ii) to preserve the life or health of the fetus or neonate involved or the mother involved; (iii) to improve the chances of a viable birth for a fetus with a congenital or other fetal conditions that would otherwise substantially impair or jeopardize the fetus's health or viability; or (iv) research approved by an institutional review board applying federal regulations for the protection of fetuses and neonates, that are conducted for the purpose of developing, comparing or improving diagnostic or therapeutic fetal or neonatal interventions to improve the viability or quality of life of fetuses, neonates and children."</p>			

A fetus is a live fetus “when, in the best medical judgment of a physician, it shows evidence of life as determined by the same medical standards as are used in determining evidence of life in a spontaneously-aborted fetus at approximately the same stage of gestational development.”

MICH. COMP. LAWS ANN. § 333.2685

None found

MICH. COMP. LAWS ANN. § 750.322  
 “The willful killing of an unborn quick child by any injury to the mother of such child, which would be murder if it resulted in the death of such mother, shall be deemed manslaughter.”

MICH. COMP. LAWS ANN. § 750.136b

“A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical harm or serious mental harm to a child.”

MICH. COMP. LAWS ANN. § 600.2922a  
 “A person who commits a wrongful or negligent act against a pregnant individual is liable for damages if the act results in a miscarriage or stillbirth by that individual, or physical injury to or the death of the embryo or fetus. . . . This section does not apply to . . . (a) An act committed by the pregnant individual,

“Child” is defined as a “person who is less than eighteen years of age.”

*People v. Jones*, 317 Mich. App. 416, 894 N.W.2d 723 (Mich. Ct. App. 2016) (holding that “a fetus is not a child for purposes of . . . the child abuse statute” and that the statute therefore does not reach prenatal drug use).

## Michigan

“A person shall not use a live human embryo, fetus, or neonate for ‘nontherapeutic research’ if, in the best judgment of the person conducting the research, based upon the available knowledge or information at the approximate time of the research, the research substantially jeopardizes the life or health of the embryo, fetus, or neonate. Nontherapeutic research shall not in any case be performed on an embryo or fetus known by the person conducting the research to be the subject

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	of a planned abortion being performed for any purpose other than to protect the life of the mother."		(b) A medical procedure performed by a physician or other licensed health professional within the scope of his or her practice and with the pregnant individual's consent or the consent of an individual who may lawfully provide consent on her behalf or without consent as necessitated by a medical emergency. . . . (c) The lawful dispensation, administration, or prescription of medication."	
	MICH. COMP. LAWS ANN. § 333.2692			
	The term "nontherapeutic research" means "scientific or laboratory research, or other kind of experimentation or investigation not designed to improve the health of the research subject."			
	MICH. COMP. LAWS ANN. § 333.2688(1)			
	"Research may not knowingly be performed upon a dead embryo, fetus, or neonate unless the consent of the mother has first been obtained."			



**Minnesota**

MINN. STAT. ANN.  
§ 145.421- 145.422

None found

MINN. STAT. ANN. § 609.378

“Human conceptus” is defined as “any human organism, conceived either in the human body or produced in an artificial environment other than the human body, from fertilization through the first 265 days thereafter.”

A person who “causes the death of an unborn child” at any stage of pre-natal development is guilty of murder or manslaughter of varying degrees.

A parent is guilty of child neglect if they “willfully deprive a child . . . of healthcare . . . when the deprivation harms or is likely to harm the child’s physical, mental, or emotional health.” “Child” is defined as any person under 18.

“Subdivision 1. Penalty. Whoever uses or permits the use of a living human conceptus for any type of scientific, laboratory research or other experimentation except to protect the life or health of the conceptus, or except as herein provided, shall be guilty of a gross misdemeanor.

MINN. STAT. ANN. §609.2114

“A person is guilty of criminal vehicular operation resulting in death to an unborn child . . . if the person causes the death of an unborn child as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of: . . .

alcohol . . . a controlled substance . . . a cannabis product . . . any combination of those elements;” or [driving] “in a negligent manner while under the influence of an intoxicating substance.”

Subd. 2. Permitted acts. The use of a living human conceptus for research or experimentation which verifiable scientific evidence has shown to be harmless to the conceptus shall be permitted.”

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>MINN. STAT. ANN. § 137.47</p> <p>"A researcher at the University of Minnesota must obtain approval from the ["Fetal Tissue Research Committee" or "FTR"] before conducting research using fetal tissue. The FTR must consider whether alternatives to fetal tissue would be sufficient for the research. If the proposed research involves aborted fetal tissue, the researcher must provide a written narrative justifying the use of aborted fetal tissue and discussing whether alternatives to aborted fetal tissue, including non-aborted fetal tissue, can be used."</p>			
<b>Mississippi</b>	None found	Mississippi includes fetal personhood language throughout its abortion laws.	Miss. CODE ANN. § 97-3-37 For purposes of criminal offenses against the person, "the term 'human being' includes an unborn child at every stage of gestation from conception until live birth, and the term 'unborn child'	Miss. CODE ANN. § 43-21-105 "Abused child" means a child whose parent, guardian, or custodian . . . has caused or allowed to be caused upon the child . . . non-accidental physical injury or other maltreatment."

““Human being” means an individual member of the species *Homo sapiens*, from and after the point of conception.”

means a member of the species *homo sapiens*, at any stage of development, who is carried in the womb.”

““Neglected child” means a child whose parent, guardian, or custodian . . . neglects or refuses . . . to provide . . . proper and necessary care or support . . . or medical, surgical, or other care necessary for his well-being.”

A “child” is a person who has not reached his eighteenth birthday.

MISS. CODE ANN. § 97-5-39 (4)(a)

A parent is guilty of child endangerment if they “knowingly cause[] or permit[] the child to be present where any person is selling, manufacturing, or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance.”

A 2007 opinion by the Mississippi Attorney General states that this provision of the statute is “referencing a child living outside his mother’s womb” and “does not apply to an unborn child being present in the mother’s womb.” 2007 WL 1725165; Miss. A.G. Op. 2007-00182 (Apr. 16, 2007)

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Missouri	Mo. ANN. STAT. § 188.037 Under Missouri law, "no person shall use any fetus or child aborted alive for any type of scientific, research, laboratory or other kind of experimentation either prior to or subsequent to any abortion procedure except as necessary to protect or preserve the life and health of such fetus or child aborted alive."	Mo. ANN. STAT. § 1.205 "1. The general assembly of this state finds that: (1) The life of each human being begins at conception; (2) Unborn children have protectable interests in life, health, and well-being; (3) The natural parents of unborn children have protectable interests in the life, health, and well-being of their unborn child. 2. Effective January 1, 1988, the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state, subject only to the Constitution of the United States, and decisional interpretations thereof by the United States Supreme Court and specific provisions to the contrary in the statutes and constitution of this state.	Mo. ANN. STAT. § 565.300 "3. A person commits the offense of infanticide if he or she causes the death of a living infant with the purpose to cause said death by an overt act performed when the infant is partially born or born. . . . 5. A physician using procedures consistent with the usual and customary standards of medical practice to save the life of the mother during pregnancy or birth or to save the life of any unborn or partially born child of the same pregnancy shall not be criminally responsible under this section. In no event shall the mother be criminally responsible pursuant to this section for the acts of the physician if the physician is not held criminally responsible pursuant to this section. 6. This section shall not apply to any person who performs or attempts to perform a legal abortion if the act that causes the death is performed prior to the child being partially born, even though the death of the child occurs as a result of the abortion after the child is partially born."	Mo. ANN. STAT. § 568.060 "'Abuse' [is] the infliction of physical, sexual, or mental injury against a child by any person eighteen years of age or older." Mo. ANN. STAT. § 568.045 -050 "A person commits the offense of endangering the welfare of a child in the first degree if he or she . . . [k]nowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years of age" and "in the second degree if he or she . . . [w]ith criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years of age."

3. As used in this section, the term “unborn children” or “unborn child” shall include all unborn child or children or the offspring of human beings from the moment of conception until birth at every stage of biological development.

4. Nothing in this section shall be interpreted as creating a cause of action against a woman for indirectly harming her unborn child by failing to properly care for herself or by failing to follow any particular program of prenatal care.”

MO. ANN. STAT. § 188.010(1)

“[I]t is the intention of the general assembly of the state of Missouri to: (1) Defend the right to life of all humans, born and unborn . . . .”

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Montana	None found	<p>MONT. CODE ANN. § 41-1-103</p> <p>"A child conceived but not yet born is an existing person, so far as may be necessary for its interests in the event of its subsequent birth."</p>	<p>MONT. CODE ANN. § 45-5-102</p> <p>"(1) A person commits the offense of deliberate homicide if . . . (c) the person purposely or knowingly causes the death of a fetus of another with knowledge that the woman is pregnant."</p> <p>MONT. CODE ANN. § 45-5-116</p> <p>Under the homicide statutes, "fetus" means an organism of the species <i>Homo sapiens</i> from 8 weeks of development until complete expulsion or extraction from a woman's body."</p> <p>A deliberate homicide charge "may not be brought against: (a) a person for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which the consent is implied by law; (b) a person for any medical treatment of the pregnant woman or her fetus; or (c) a woman with respect to her fetus."</p>	<p>MONT. CODE ANN. § 41-3-102</p> <p>"(7)(a) "Child abuse or neglect" means (i) actual physical or psychological harm to a child; [or] (ii) substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare."</p> <p>"(6) "Child" . . . means any person under 18 years of age."</p>

<b>Nebraska</b>	None found	None found	NEB. REV. STAT. ANN. § 28-391(1)	NEB. REV. STAT. ANN. § 28-707
			<p>"A person commits murder of an unborn child in the first degree if he or she in committing an act or engaging in conduct that causes the death of an unborn child, intends, with deliberate and premeditated malice, to kill the unborn child or the mother of the unborn child with knowledge of the pregnancy."</p>	<p>"A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be . . . [p]laced in a situation that endangers his or her life or physical or mental health . . ."</p>
<b>Nevada</b>	None found	None found	NEB. REV. STAT. ANN. § 200.210	NEB. REV. STAT. ANN. § 432B.020
			<p>"A person who willfully kills an unborn quick child, by any injury committed upon the mother of the child, commits manslaughter and shall be punished for a category B felony . . ."</p>	<p>"Abuse or neglect of a child means [p]hysical or mental injury of a nonaccidental nature" or "[n]egligent treatment or maltreatment" of a child" caused or allowed by a person responsible for the welfare of the child . . ."</p>
				NEB. REV. STAT. ANN. § 432B.040
				<p>"Child" is defined as any person under 18.</p>
				<p><i>Sheriff v. Encoe</i>, 885 P.2d 596 (Nev. 1994) (holding that the child endangerment statute "does not apply to pregnant woman's ingestion of illegal substances and resulting transmission of these substances to child through the umbilical cord").</p>

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
New Hampshire	None found	None found	<p>N.H. REV. STAT. § 630:1-a</p> <p>Under the state's homicide statutes, "the meaning of "another" shall include a fetus" except the homicide statutes do not "apply to (1) Any act committed by the pregnant woman; (2) Any act committed at the request or direction of the pregnant woman or for the benefit of the pregnant woman; (3) Any act performed by a physician or other medical professional in the course of such physicians' or medical professional's professional duties; or (4) Any act taken in furtherance of the lawful dispensation or administration of prescription or nonprescription medication. . . ."</p>	<p>N.H. REV. STAT. ANN. § 169-C:3</p> <p>Under New Hampshire's Child Protection Act, "[c]hild means any person who has not reached his eighteenth birthday."</p> <p>The definition of "'abused child" means any child who has been . . . intentionally physically injured; or . . . [p]hysically injured by other than accidental means."</p>



New Jersey

None found

N.J. STAT. ANN. § 2C:11-2

*State in Interest of A.W.S.*, 440 A.2d 1144 (N.J. Super. App. Div. 1981) (holding that an unborn fetus is not a “human being” within meaning of criminal homicide provision of Code of Criminal Justice).

N.J. STAT. ANN. § 9:6-1

“Cruelty to a child shall consist in any of the following acts: . . . (b) inflicting upon a child unnecessary suffering or pain, either mental or physical; . . . (d) any willful act of omission or commission whereby unnecessary suffering or pain, either mental or physical, is caused or permitted to be inflicted on a child; (e) or exposing a child to unnecessary hardship, fatigue or mental or physical strains that may tend to injure the health or physical or moral well-being of such child.”

*NJ Division of Youth & Family Services v. L.V.*, 889 A.2d 1153 (Ch. Div. 2005) (recognizing that the right of a mother to make decisions about what medications she will take during her pregnancy is part of her constitutional right to privacy and left solely to her discretion, and holding that the refusal by HIV+ mother to take recommended medication during pregnancy

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
<b>New Mexico</b>	N.M. STAT. ANN. § 24-9A-2 <p>“A. No woman, known to be pregnant according to generally accepted medical standards, shall be involved as a subject in any clinical research activity unless:  (1) the purpose of the activity is to meet the health needs of the mother or the fetus and the fetus will be placed at risk only to the minimum extent necessary to meet such needs; or  (2) there is no significant risk to the fetus.  B. An activity permitted under Subsection A of this section may be conducted only if the mother is legally</p>	None found	None found	to reduce risk of transferring the virus to fetus did not constitute act of abuse or neglect because mother had constitutional right to refuse such treatment, even at risk to unborn child). N.M. STAT. ANN. § 30-6-1 Child “means a person who is less than eighteen years of age . . .” “Abuse of a child consists of a person knowingly, intentionally, or negligently, and without justifiable cause, causing or permitting a child to be: placed in a situation that may endanger the child’s life or health . . .” <i>State v. Mondragon</i> , 203 P.3d 105 (N.M. Ct. App. 2008) (holding that fetus is not a child for purposes of child abuse statute, and finding infliction of injuries on a fetus insufficient to support

competent and has given her informed consent after having been fully informed of the possible impact on fetus.”

N.M. STAT. ANN. § 24-9A-3

“A. No fetus shall be involved as a subject in any clinical research activity unless the purpose of the activity is to meet the health needs of the particular fetus and the fetus will be placed at risk only to the minimum extent necessary to meet such needs or no significant risk to the fetus is imposed by the research activity.

B. An activity permitted under Subsection A of this section shall be conducted only if the mother is legally competent and has given her informed consent.”

N.M. STAT. ANN. § 24-9A-5

“A. No clinical research activity involving fetuses, live-born infants or pregnant women shall be conducted unless:

(1) appropriate studies on animals and nonpregnant human beings have been completed;

a charge of child abuse resulting in death, even though the death occurred after mother gave birth to a live child).

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>(2) anyone engaged in conducting the research activity will have no part in:</p> <p>(a) any decisions as to the timing, method and procedures used to terminate the pregnancy; and (b) determining the viability of the fetus at the termination of the pregnancy; and</p> <p>(3) no procedural changes which may cause significant risk to the fetus or the pregnant woman will be introduced into the procedure for terminating the pregnancy solely in the interest of the research activity.</p>			
	<p>B. No inducements, monetary or otherwise, shall be offered to any woman to terminate her pregnancy for the purpose of subjecting her fetus or live-born infant to clinical research activity.</p>			

C. No consent to involve a pregnant woman, fetus or infant as a subject in clinical research activity shall be valid unless the pregnant woman or the parent or guardian of the infant has been fully informed of the following:

- (1) a fair explanation of the procedures to be followed and their purposes, including identification of any procedures which are experimental;
- (2) a description of any attendant discomforts and risks reasonably to be expected;
- (3) a description of any benefits reasonably to be expected; (4) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;
- (5) an offer to answer any inquiries concerning the procedure; and
- (6) an instruction that the person who gave the consent is free to withdraw his consent and to discontinue participation in the project or activity at any time without prejudice to the subject."

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
New York	None found	None found	N.Y. PENAL LAW §125.00 NY's homicide laws do not include a specific statutory provision for fetal homicide.	N.Y. PENAL LAW § 260.10 "A person is guilty of endangering the welfare of a child when: . . . He or she knowingly acts in a way likely to harm the physical, mental, or moral welfare of child less than seventeen years of age . . ."
North Carolina	None found	None found	N.C. GEN. STAT. ANN. § 14-23-2. "(a) A person who unlawfully causes the death of an unborn child is guilty of the separate offense of murder of an unborn child if the person does any one of the following: (1) Willfully and maliciously commits an act with the intent to cause the death of the unborn child.	<i>People v. Morabito</i> , 580 N.Y.S 843 (City Ct. 1992) (holding that an unborn child does not constitute a "child" under the child endangerment statute in case where mother ingested cocaine while pregnant). N.C. GEN. STAT. ANN. § 14-318.4 "Child abuse" includes a "parent or other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious physical injury upon or to the child" or "whose willful act or grossly negligent omission in the care of the child shows a reckless disregard for human life."

(2) Causes the death of the unborn child in perpetration or attempted perpetration of murder in the any of the criminal offenses set forth under G.S. 14-17 [murder in the first or second degree].

(3) Commits an act causing the death of the unborn child that is inherently dangerous to human life and is done so recklessly and wantonly that it reflects disregard of life."

**North  
Dakota**

N.D. CENT. CODE ANN.  
§ 14-02.2-01

"A person may not use any live human fetus, whether before or after expulsion from its mother's womb, for scientific, laboratory, research, or other kind of experimentation. This section does not prohibit procedures incident to the study of a human fetus while it is in its mother's womb, provided that in the best medical judgment of the physician, made at the time of the study, the procedures do not substantially jeopardize the life or health of the fetus,

N.D. CENT. CODE ANN.  
§ 14-10-15

"A child conceived but not born is to be deemed an existing person so far as may be necessary for its interests in the event of its subsequent birth."  
*Hopkins v. McBane*, 359 N.W.2d 862 (N.D. 1984) (holding that the stillbirth of a viable child constitutes "death of a person" for purposes of applying the wrongful death statute).

N.D. CENT. CODE § 12.1-17.1-02

"1. A person is guilty of murder of an unborn child, a class AA felony, if the person:  
a. Intentionally or knowingly causes the death of an unborn child;  
b. Causes the death of an unborn child under circumstances manifesting extreme indifference to the value of the life of the unborn child or the pregnant woman; . . ."

N.D. CENT. CODE ANN.  
§ 19-03.1-22.2

"1.b. "Child" means an individual who is under the age of eighteen years. . . .  
2. . . .[A] person who knowingly or intentionally causes or permits a child . . . to be exposed to, to ingest or inhale, or to have contact with a controlled substance, chemical substance, or drug paraphernalia . . . is guilty of a Class C felony . . ."

*State v. Stegull*, 828 N.W.2d 526 (N.D. 2015) (holding that an unborn fetus was not a "child" within meaning of endangerment of child,

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>and provided the fetus is not the subject of a planned abortion. In any criminal proceeding the fetus is conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the study, that the mother was not planning an abortion.”</p>			<p>and thus, defendant was not criminally liable for harm to fetus, later born alive, from ingestion of methamphetamine while pregnant).</p>
	<p>N.D CENT. CODE ANN. § 14-02.2-02</p>			<p><i>State v. Geiser</i>, 763 N.W.2d 469 (N.D. 2009) (holding that an unborn child is not a “child” under the statute defining crime of endangerment of a child or vulnerable adult).</p>
	<p>“An experimentation may not knowingly be performed upon a dead fetus resulting from an occurrence other than an induced abortion unless the consent of the mother has first been obtained; provided, however, that the consent is not required in the case of a routine pathological study. In any criminal proceeding, consent is conclusively presumed</p>			



to have been granted for the purposes of this section by a written statement, signed by the mother who is at least eighteen years of age, to the effect that she consents to the use of her fetus for scientific, laboratory, research, or other kind of experimentation or study. Such written consent constitutes lawful authorization for the transfer of the dead fetus. . . . A person may not use a fetus or fetal organs or tissue resulting from an induced abortion in animal or human research, experimentation, or study, or for animal or human transplantation except for diagnostic or remedial procedures, the purpose of which is to determine the life or health of the fetus or to preserve the life or health of the fetus or mother, or pathological study. . . . For purposes of this section, the word "fetus" includes also an embryo or neonate."

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Ohio	None found	<p>OHIO REV. CODE ANN. § 2901.01</p> <p>Ohio's criminal code, with some exceptions, defines "person" as including an "unborn human who is viable" which is further defined as follows:</p> <p>"(B)(1)(c)(i) "Unborn human" means an individual organism of the species <i>Homo sapiens</i> from fertilization until live birth.</p> <p>(ii) "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support."</p>	<p>OHIO REV. CODE ANN. § 2901.01 (B)(1)(a)(ii)</p> <p>"Person" is defined in the state's homicide offenses as including an "unborn human who is viable."</p> <p>OHIO REV. CODE ANN. § 2903.09</p> <p>"Unlawful termination of another's pregnancy" means causing the death of an unborn member of the species <i>Homo sapiens</i>, who is or was carried in the womb of another, as a result of injuries inflicted during the period that begins with fertilization and that continues unless and until live birth occurs . . ."</p> <p>This definition shall not be construed as prohibiting any pregnant woman or her physician from performing an abortion with the actual consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman."</p>	<p>OHIO REV. CODE ANN. § 2925.02(A)(5)</p> <p>"No person shall knowingly . . . [b]y any means, furnish or administer a controlled substance to a pregnant woman or induce or cause a pregnant woman to use a controlled substance, when the offender knows that the woman is pregnant or is reckless in that regard."</p> <p>OHIO REV. CODE ANN. § 2919.22 (A)</p> <p>"No person, who is the parent . . . of a child under eighteen years of age . . . shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support."</p> <p><i>State v. Gray</i>, 584 N.E.2d 710 (Ohio 1991) (holding that a parent may not be prosecuted for child endangerment under 2919.22(A) for substance abuse occurring before the birth of the child).</p>

OHIO REV. CODE ANN. § 2151.031

"[A]n "abused child" includes any child who . . . is endangered . . . [or] [e]xhibits evidence of any physical or mental injuries or death, inflicted by other than accidental means . . ."

*In re Ruiz*, 500 N.E.2d 935 (Ohio Com. Pl. 1986) (stating that the definition of "abused child" includes a viable unborn child for purposes of the statute).

OKLA. STAT. ANN. tit. 21, § 843.5

"Child neglect" means the "willful or malicious neglect . . . of a child under eighteen (18) years of age by a person responsible for a child's health, safety or welfare."

*State v. Allen*, 492 P.3d 27 (Okla. Crim. App. 2021) (holding that an unborn child constitutes a "child" for purposes of child neglect statute in case where mother ingested methamphetamine while pregnant).

OKLA. STAT. ANN. tit. 21 § 691

"A. "Homicide" is the killing of one human being by another."

B. . . . "Human being" includes an unborn child [as defined in Oklahoma abortion statutes].

C. Homicide shall not include: . . . 2. Acts which are committed pursuant to the usual and customary standards of medical practice during diagnostic testing or therapeutic treatment. . . . D. Under no circumstances shall the mother of the unborn child be prosecuted for causing the death of the unborn child unless the mother has committed a crime that caused the death of the unborn child."

None found

None found

Oklahoma

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Oregon	None found	None found	<p>OR. REV. STAT. ANN. §163.005</p> <p>“Human being” in the homicide statute is defined as a “person who has been born and was alive at the time of the criminal act.”</p>	<p>OR. REV. STAT. ANN. § 12.117</p> <p>(2) . . . “[C]hild abuse” means any of the following:                      (a) Intentional conduct by an adult that results in: (A) Any physical injury to a child; or (B) Any mental injury to a child which results in observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child . . . .”</p> <p>OR. REV. STAT. ANN. § 475.910</p> <p>“ . . . [I]t is unlawful for any person to intentionally apply a controlled substance to the body of another person by injection, inhalation, ingestion or any other means if the other person is under age 18 years of age.”</p> <p><i>Oregon v. Cervantes</i>, 223 P.3d 425 (Or. App. 2009) (holding that a mother’s ingestion of methamphetamine while pregnant did not cause reckless endangerment to “another person” because a fetus not yet born is not a person).</p>

**Pennsylvania**

18 PA. STAT. AND CONS. STAT. ANN. § 3216

“(a) Any person who knowingly performs any type of nontherapeutic experimentation or nontherapeutic medical procedure (except an abortion as defined in this chapter) upon any unborn child, or upon any child born alive during the course of an abortion, commits a felony. . . . “Nontherapeutic” means that which is not intended to preserve the life or health of the child upon whom it is performed. . . . “No fetal tissue or organs may be procured or used without the written consent of the mother. No consideration of any kind for such consent may be offered or given. Further, if the tissue or organs are being derived from abortion, such consent shall be valid only if obtained after the decision to abort has been made. . . .”

18 PA. STAT. AND CONS. STAT. ANN. § 3202

“(c) In every relevant civil or criminal proceeding in which it is possible to do so without violating the Federal Constitution, the common and statutory law of Pennsylvania shall be construed so as to extend to the unborn the equal protection of the laws and to further the public policy of this Commonwealth encouraging childbirth over abortion.”

18 PA. STAT. AND CONS. STAT. ANN. § 2603

“An individual commits criminal homicide of an unborn child if the individual intentionally, knowingly, recklessly or negligently causes the death of an unborn child in violation of section 2604 (relating to murder of unborn child) or 2605 (relating to voluntary manslaughter of unborn child).”

23 PA. STAT. AND CONS. STAT. ANN. § 6303

“Child” is defined in PA Child Protective Services Law child as “[a]n individual under 18 years of age.”

*Interest of L.J.B.*, 199 A.3d 868 (Pa. 2018) (holding that “child,” as defined by the statute, does not include a fetus or unborn child, and mother was not perpetrator of child abuse for using opioids while pregnant).

**TABLE C-1 Continued**

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>"All persons who participate in the procurement, use or transplantation of fetal tissue or organs . . . shall be informed as to whether the particular tissue or organ involved was procured as a result of either: (i) stillbirth; (ii) miscarriage; (iii) ectopic pregnancy; (iv) abortion; or (v) any other means . . . (c) Nothing in this section shall be construed to condone or prohibit the performance of diagnostic tests while the unborn child is in utero . . ."</p>	None found	None found	<p>40 R.I. GEN. LAWS ANN. § 40-11-2</p> <p>"(1) "Abused or neglected child" means a child whose physical or mental health or welfare is harmed, or threatened with harm, when his or her parent or other person responsible</p>
<p><b>Rhode Island</b></p>	<p>R.I. GEN. LAWS ANN. § 11-54-1</p> <p>"(a) No person shall use any live human fetus, whether before or after expulsion from its mother's womb, for scientific, laboratory research, or other kind of experimentation.</p>	None found	None found	<p>40 R.I. GEN. LAWS ANN. § 40-11-2</p> <p>"(1) "Abused or neglected child" means a child whose physical or mental health or welfare is harmed, or threatened with harm, when his or her parent or other person responsible</p>

This section shall not prohibit procedures incident to the study of a human fetus while it is in its mother's womb, provided that in the best medical judgment of the physician, made at the time of the study, the procedures do not substantially jeopardize the life or health of the fetus, and provided the fetus is not the subject of a planned abortion. In any criminal proceeding the fetus shall be conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the study that she was not planning an abortion. . . ."

"(b) This section shall not prohibit or regulate diagnostic or remedial procedures, the purpose of which is to determine or to preserve the life or health of the fetus involved or the mother involved."

for his or her welfare:  
"[i]nflicts, or allows to be inflicted, upon the child physical or mental injury . . . or . . . [c]reates, or allows to be created, a substantial risk of physical or mental injury to the child."

(2) "'Child' means a person under the age of . . . 18."

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
	<p>“No experimentation may knowingly be performed upon a dead fetus unless the consent of its mother has first been obtained, provided, that such consent shall not be required in the case of a routine pathological study. In any criminal proceeding, consent shall be conclusively presumed to have been granted for the purposes of this section by a written statement, signed by the mother, who is at least eighteen (18) years of age, to the effect that she consents to the use of her fetus for scientific, laboratory, research, or other kind of experimentation or study; that written consent shall constitute lawful authorization for the transfer of the dead fetus.”</p>			



None found

None found

S.C. CODE ANN. § 16-3-1083

“(A)(1) A person who commits a violent crime . . . that causes the death of, or bodily injury to, a child who is in utero at the time that the violent crime was committed, is guilty of a separate offense. . . .  
(2)(a) the punishment for a separate offense . . . is the same as the punishment provided for that criminal offense had the death or bodily injury occurred to the unborn child’s mother.

(B) Nothing in this section may be construed to permit the prosecution under this section: (1) of a person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;  
(2) of a person for any medical treatment of the pregnant woman or her unborn child; or  
(3) of a woman with respect to her unborn child.” (C) . . . [T]he term “unborn child” means a “child in utero,” and the term “child in utero” or “child who is in utero” means a member of the species *homo sapiens*, at any stage of development, who is carried in the womb.”

S.C. CODE ANN. § 63-5-70

“(A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child [as defined in the statute] to:

(1) place the child at unreasonable risk of harm affecting the child’s life, physical or mental health, or safety; (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered.”

*Whitner v. State*, S.E.2d 777

(S.C. 1997) (holding that a viable fetus is a “child” within meaning of child abuse and endangerment statute, and mother could be charged under statute for ingesting crack cocaine during third trimester of pregnancy, causing baby to be born with cocaine metabolites in its system).

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
South Dakota	S.D. CODIFIED LAWS § 34-14-17 <p>“No person may knowingly conduct nontherapeutic research that subjects a human embryo to substantial risk of injury or death. No person may sell or transfer a human embryo with the knowledge that the embryo will be subjected to nontherapeutic research.”</p>	S.D. CODIFIED LAWS § 21-5-1 <p><i>Wiersma v. Maple Leaf Farms</i>, 543 N.W.2d 787 (S.D. 2002) (holding that “South Dakota’s wrongful death statute . . . authorizes a remedy when a third party wrongfully ends their child’s life before birth. Parents may seek redress regardless of whether their unborn child was viable”).</p>	S.D. CODIFIED LAWS § 22-16-1 <p>“Homicide is the killing of one human being, including an unborn child, by another.”</p> <p>S.D. CODIFIED LAWS, § 22-16-1.1  <p>“Homicide is fetal homicide if the person knew, or reasonably should have known, that a woman bearing an unborn child was pregnant and caused the death of the unborn child without lawful justification and if the person:            (1) Intended to cause the death of or do serious bodily injury to the pregnant woman or the unborn child; or            (2) Knew that the acts taken would cause death or serious bodily injury to the pregnant woman or her unborn child; or            (3) If perpetrated without any design to effect death by a person engaged in the commission of any felony. . . .            This section does not apply to acts which cause the death of an unborn child if those acts were committed during any abortion, lawful or unlawful, to which the pregnant woman consented.”</p></p>	S.D. CODIFIED LAWS § 26-8A-2 <p>“[T]he term abused or neglected child means a child . . . (6) Who is threatened with substantial harm; [or] (9) Who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug/ substance not lawfully prescribed by a practitioner . . .”</p> <p>S.D. CODIFIED LAWS § 26-1-2  <p>“A child conceived, but not born, is to be deemed an existing person so far as may be necessary for its interests in the event of its subsequent birth.”</p></p>

**Tennessee**

TENN. CODE ANN. § 39-15-208	TENN. CODE ANN. § 39-15-214	TENN. CODE ANN. § 39-13-214	TENN. CODE ANN. § 39-15-401
"It is unlawful for any person, agency, corporation, partnership or association to engage in medical experiments, research, or the taking of photographs upon an aborted fetus without the prior knowledge and written consent of the mother(,)"	"The general assembly finds: . . . (5) At conception, a new and genetically distinct human being is formed; (6) The state has a legitimate, substantial, and compelling interest in protecting the rights of all human beings, including the fundamental and absolute right of unborn human beings to life, liberty, and all rights protected by the Fourteenth and Ninth Amendments to the United States Constitution."	TN criminal homicide statutes define "another" and "another person" [to] include a human embryo or fetus at any stage of gestation in utero, when any such term refers to the victim of any act made criminal by this part . . . [which does not] apply to "any act or omission by a pregnant woman with respect to an embryo or fetus with which she is pregnant, or to any lawful medical or surgical procedure to which a pregnant woman consents, performed by a health care professional who is licensed to perform such procedure."	TN's child abuse statute criminalizes "knowingly, other than by accidental means, treat[ing] a child under eighteen (18) years of age in such a manner as to inflict injury" . . . or to abuse or neglect a child "so as to adversely affect the child's health and welfare."  Under a 1995 AG opinion, the term "child" does <i>not</i> include a fetus, and use of cocaine by a pregnant woman cannot be considered child abuse or aggravated child abuse under this statute. Tenn. Op. Att'y. Gen. No. 95-023 (Mar. 27, 1995).
			TENN. CODE ANN. § 39-13-107  Tennessee's "assaultive offenses" (assault, aggravated assault, reckless endangerment) statutes that define "individuals" and "another person" to "include a human embryo or fetus at any state of gestation in utero, when any such term refers to the victim of any

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
				<p>act made criminal under this section. . . . [This does not apply] to any act or omission by a pregnant woman with respect to an embryo or fetus with which she is pregnant, or to any lawful medical or surgical procedure to which a pregnant woman consents, performed by a healthcare professional who is licensed to perform such procedure."</p>
				<p>A 2008 AG opinion states that "A pregnant mother who ingests an illegal drug, thereby injuring her viable fetus, can be criminally liable for assault if she intentionally, knowingly, or recklessly causes bodily injury; aggravated assault if she intentionally, knowingly, or recklessly causes serious bodily injury; or reckless endangerment if she places the fetus in imminent danger of death or serious bodily injury." Tenn. Op. Att'y Gen., No. 08-114 (May 21, 2008).</p>

TEX. PENAL CODE ANN.  
§ 1.07 (26)

Under the Texas Penal Code, ““Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization to birth.”

TEX. PENAL CODE ANN. § 1.07

Under the Texas Penal Code, ““Individual” means a human being who is alive, including “an unborn child at every stage of gestation from fertilization until birth.”

TEX. HEALTH & SAFETY CODE  
ANN. § 481.122

“(a) A person commits an offense if the person knowingly delivers a controlled substance . . . to a person: (1) who is a child; . . . (d) In this section, “child” means a person younger than 18 years of age.”

*Ward v. State*, 188 S.W.3d 874 (Tex. App. 2006) (holding that a mother’s ingestion of cocaine that entered the unborn child’s body through the umbilical cord did not constitute an “actual transfer” of a controlled substance under the statute because there was no evidence that the unborn child actually “handled, touched, manipulated, or otherwise exercised physical possession over the drug”).

TEX. PENAL CODE ANN. § 22.12

Texas’ Assaultive Offenses statutes (including injuries to children and child endangerment) “does not apply to conduct charged as having been committed against . . . an unborn child if the conduct is: (1) committed

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
				<p>by the mother of the unborn child, (2) a lawful medical procedure performed by a physician or other healthcare provider with the requisite consent, (3) a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent as part of an assisted reproduction . . . , or (4) the dispensation of a drug in accordance with law or administration of a drug prescription."</p>
				<p>TEX. PENAL CODE ANN. § 22.04</p>
				<p>"(a) A person commits an [assaultive] offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, . . . (1) serious bodily injury; (2) serious mental deficiency, impairment, or injury; or (3) bodily injury. . . . (c) In this section: (1) "Child" means a person 14 years of age or younger."</p>

**Utah**

UTAH CODE ANN. § 76-7-310	UTAH CODE ANN. § 76-7-301.1 (1)	UTAH CODE ANN. § 76-5-112.5
"Live unborn children may not be used for experimentation, but when advisable, in the best medical judgment of the physician, may be tested for genetic defects."	"It is the finding and policy of the Legislature, reflecting and reasserting the provisions of Article I, Sections 1 and 7, Utah Constitution, which recognize that life founded on inherent and inalienable rights is entitled to protection of law and due process; and that unborn children have inherent and inalienable rights that are entitled to protection by the state of Utah pursuant to the provisions of the Utah Constitution."	"(1)(a)(ii) "Child" means an individual who is under 18 years old." "(2) An actor commits endangerment of a child . . . if the actor knowingly or intentionally causes or permits a child . . . to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia."

UTAH CODE ANN. § 76-5-201

"(1)(a) (ii) "Criminal homicide" means an act causing the death of another human being, including an unborn child at any stage of the unborn child's development. . . .  
(3)[A]n actor is not guilty of criminal homicide if:  
(a) the death of an unborn child is caused by an abortion;  
(b) the sole reason for the death of an unborn child is that the actor: (i) refused to consent to: (A) medical treatment; or (B) a cesarean section; or (ii) failed to follow medical advice; or  
(c) a woman causes the death of her own unborn child, and the death: (i) is caused by a criminally negligent act or reckless act of the woman; and (ii) is not caused by an intentional or knowing act of the woman."

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Vermont	None found	None found	Vt. STAT. ANN. tit. 13 §2301 <i>State v. Oliver</i> , 563 A.2d 1002 (Vt. 1989) (holding that a viable fetus who is not born alive does not meet the definition of person under statute imposing criminal penalties for negligent operation of a motor vehicle that results in the death of any "person").	Vt. STAT. ANN. tit. 13 §1304 “(a) A person over age 16 years of age, having the custody, charge or care of a child, who willfully assaults, ill treats, neglects, or abandons or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his or her health shall be imprisoned . . . or fined or both.”
Virginia	V.A. CODE ANN. § 32.1-162.19 “B. No human research shall be conducted or authorized by such institution or agency unless the committee has reviewed and approved the proposed human research project giving consideration to . . . (vi) when some or all of the	None found	V.A. CODE ANN. § 18.2-32.2 “Any person who unlawfully, willfully, deliberately and maliciously kills the fetus of another is guilty of a felony.”	V.A. CODE ANN. § 18.2-371.1 “B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life is guilty of a . . . felony.”



subjects are likely to be incapable of making an informed decision regarding consent or are otherwise vulnerable to coercion or undue influence, such as . . . pregnant women . . . whether additional safeguards have been included in the study to protect the rights and welfare of these subjects. . . .”

None found

None found

WASH. REV. CODE ANN. § 9A.32.060

“(1) A person is guilty of manslaughter in the first degree when: . . . (b) He or she intentionally and unlawfully kills an unborn quick child by inflicting any injury upon the mother of such child.”

WASH. REV. CODE  
§ 9A.42.010 (4)

“‘Child’ means a person under eighteen years of age.”

WASH. REV. CODE ANN.  
§ 9A.42.020(1)

“A parent of a child, the person entrusted with the physical custody of a child or dependent person is guilty of criminal mistreatment in the first degree if he or she, with criminal negligence, . . . causes great bodily harm to a child or dependent person . . . by withholding any of the basic necessities of life.”

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
				<p>WASH. REV. CODE ANN. § 9A.42.030(1)</p> <p>"A parent of a child . . . is guilty of criminal mistreatment in the second degree if he or she with criminal negligence, . . . either (a) creates an imminent and substantial risk of death or great bodily harm by withholding any of the basic necessities of life, or (b) causes substantial bodily harm by withholding any of the basic necessities of life."</p> <p><i>State v. Dunn</i>, 916 P.2d 952 (Wash. Ct. App., 1996) (citing WASH. REV. CODE ANN. § 9A.42.030(1)(a) and holding that where mother and newborn child tested positive for cocaine, "the State failed to establish that [the] unborn child was a "child" for the purposes of the criminal mistreatment statute" and that "the State failed to allege that [the mother] withheld a basic necessity of life").</p>

WASH. REV. CODE ANN.  
§ 9A.42.100

"A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, including their salts, isomers, and salts of isomers, that are being used in the manufacture of methamphetamine, including its salts, isomers, and salts of isomers."

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
West Virginia	None found	W. Va. Code ANN. § 61-2-30 “(c) . . . [A] pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims” of certain crimes of violence against the person including: first and second degree murder, voluntary manslaughter, attempt to kill or injure by poison, stalking and harassment, wanton endangerment involving the use of firearm, assault during commission of attempt to commit a felony, domestic violence, and DUIs. “(d) The provisions of this section do not apply to . . . “[a]cts or omissions of a pregnant woman with respect to the embryos or fetus she is carrying” nor to “acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services . . .”	W. Va. Code ANN § 61-2-30 “(a) This section may be known and cited as the Unborn Victims of Violence Act. (b) For the purposes of this article, the following definitions shall apply: <i>Provided</i> , That these definitions only apply for purposes of prosecution of unlawful acts under this section and may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for purposes of argument in a civil cause of action, unless there has been a criminal conviction under this section. (1) “Embryo” means the developing human in its early stages. The embryonic period commences at fertilization and continues to the end of the embryonic period and the beginning of the fetal period, which occurs eight weeks after fertilization or ten weeks after the onset of the last menstrual period. (2) “Fetus” means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.”	W. Va. Code ANN. § 49-1-201 “Abused child” includes “[a] child whose health or welfare is being harmed or threatened by: a parent, guardian, or custodian who knowingly or intentionally inflicts, attempts to inflict, or knowingly allows another person to inflict, physical injury or mental or emotional injury upon the child . . .” “Neglected child” includes “a child . . . [w]hose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child’s parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care, or education, when that refusal, failure, or inability is not due primarily to a lack of financial means on the part of the parent, guardian, or custodian; . . .”

“(c) . . . [A] pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims” of certain crimes of violence against the person including: first and second degree murder, voluntary manslaughter, attempt to kill or injure by poison, stalking and harassment, wanton endangerment involving the use of firearm, assault during commission of attempt to commit a felony, domestic violence, and DUIs.

“(d) The provisions of this section do not apply to . . . “[a]cts or omissions of a pregnant woman with respect to the embryos or fetus she is carrying” nor to “acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services . . .”

*In re A.L.C.M.*, 801 S.E.2d 260 (W.Va. 2017) (holding that “when a child is born alive, the presence of illegal drugs in a child’s system at birth constitutes sufficient evidence that the child is an abused and/or neglected child, as those terms are defined by W. Va. Code § 49-4-601. [Footnote: “[W]e find our recent decision in *State v. Louk*, 237 W.Va. 200, 786 S.E.2d 219 (2016), to be distinguishable insofar as it decided matters regarding W. Va. Code § 61-8D-4a (1997) (Repl. Vol. 2014), a criminal statute, whereas the case *sub judice* arises in the context of abuse and neglect proceedings governed by W. Va. Code § 49-1-101 *et seq.*”]).

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Wisconsin	None found	None found	<p>Wis. STAT. ANN. § 940.04</p> <p>“(1) Any person, other than the mother, who intentionally destroys the life of an unborn child is guilty of a . . . felony . . . (2) Any person, other than the mother, who does either of the following is guilty of a . . . felony:</p> <p>(a) Intentionally destroys the life of an unborn quick child; or (b) Causes the death of the mother by an act done with intent to destroy the life of an unborn child. . . .”</p> <p>“(5) This section does not apply to therapeutic abortion which: (a) Is performed by a physician; and</p> <p>(b) Is necessary, or is advised by 2 other physicians as necessary, to save the life of the mother; and</p> <p>(c) Unless an emergency prevents, is performed in a licensed maternity hospital.”</p> <p>“(6) In this section ‘Unborn child’ means a human being from the time of conception until it is born alive.”</p>	<p>Wis. STAT. ANN. § 940.195</p> <p>Wis. STAT. ANN. § 939.75</p> <p>An individual that “causes substantial bodily harm to an unborn child by an act done with the intent to cause bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another is guilty of a . . . felony.” This provision does not apply to an “act that is committed in accordance with the usual and customary standards of medical practice during diagnostic testing or therapeutic treatment performed by, or under the supervision of a physician. . . .” It also does not apply to an “act by a woman who is pregnant with an unborn child that results in the death of or great bodily harm, substantial bodily harm, or bodily harm to that unborn child.”</p>

Wis. STAT. ANN. § 939.25

WI defines “criminal negligence” as including “ordinary negligence to a high degree, consisting of conduct that the actor should realize creates a substantial and unreasonable risk of death or great bodily harm to an unborn child, to the woman who is pregnant with that unborn child, or to another.”

Wis. STAT. ANN. § 939.24

WI defines “criminal recklessness” as including conduct where an “actor creates an unreasonable and substantial risk of death or great bodily harm to an unborn child, to the woman who is pregnant with that unborn child or to another and the actor is aware of that risk.”

*continued*

TABLE C-1 Continued

State	Fetal Research	Fetal Personhood	Fetal Homicide	Child Abuse/Neglect & Substance Abuse
Wyoming	None found	<p>WYO. STAT. ANN. § 6-1-104 (xviii)</p> <p>“Unborn child means a member of the species homo sapiens, at any state of development, who is carried in a womb.”</p>	<p>WYO. STAT. ANN. § 6-2-104</p> <p>“A person is guilty of murder in the second degree of an unborn child if: (i) The person purposely and maliciously, but without premeditation, kills or attempts to kill any human being; (ii) The human being was pregnant with an unborn child; and (iii) The unborn child dies as a result of the person's actions.”</p>	<p>WYO. STAT. ANN. § 6-2-503</p> <p>“A person is guilty of child abuse, a felony punishable by imprisonment for not more than ten (10) years” if that actor “intentionally or recklessly” inflicts physical injury, mental injury, or torture or cruel confinement upon a child under age 16 (if inflicted by a person who is not responsible for the child's welfare) or upon a child under age 18 (if inflicted by a person who is responsible for the child's welfare).</p> <p>WYO. STAT. ANN. § 6-4-403</p> <p>“No parent . . . shall knowingly or with criminal negligence cause, permit or contribute to the endangering of a child's life or health by violating a duty of care, protection or support.”</p>



“(b) No person shall knowingly . . . sell, give or otherwise furnish a child any drug prohibited by law without a physician’s prescription.”

“‘Child’ means any person under the age of sixteen (16) years.”

*continued*

