

STATE LEGAL SNAPSHOT

Delaware

Abortion law, status, and enforcement — one-page reference

As of Jul 12, 2026

Research completed Jul 12, 2026

Confidence: high



Abortion is protected by statute, legal at every stage of pregnancy — no gestational limit, currently available.

GESTATIONAL LIMIT	None	✓ AVAILABLE	Yes	✓ MOTHER EXEMPT	Yes	FETAL HOMICIDE LAW	Yes	PERSONHOOD LANGUAGE	No
✓ TELEHEALTH	Allowed	WAITING PERIOD	None	RAPE / INCEST EXCEPTION	N/A	PARENTAL INVOLVEMENT	Notification only	✓ SHIELD STATE	Yes
MEDICAID	Broader than Hyde	CIVIL BOUNTY LAW	No	PENDING CHANGE	See below				

§ Jurisdiction overview

Abortion is legal in Delaware until viability, with post-viability exceptions for life, health, and fatal fetal anomalies.

24 Del. C. § 1790(a) · 83 Del. Laws c. 298 (HB 31, 2021)

☒ Fetal personhood & the internal contradiction

Delaware's law exhibits a tension — though a relatively mild one compared to other jurisdictions — between its treatment of the unborn in different contexts. The abortion statute (24 Del. C. § 1790) permits abortion freely before viability, treating the decision as one between the patient and provider. Yet the wrongful-death case law (*Worgan v. Greggo & Ferrara*, 1956) allows civil damages for the death of a viable fetus, and the criminal code (11 Del. C. §§ 605–606) enhances penalties for third parties who cause the 'unlawful termination' of a pregnancy during an assault on the woman.

11 Del. C. § 606(a)

MINORS

Minors under 16 must have at least 24 hours' notice given to one parent, grandparent, or licensed mental health professional before an abortion; judicial bypass available.

SPOUSAL / PATERNAL RIGHTS

Delaware has never had — or has repealed — any law requiring spousal or paternal consent or notice for abortion.

☒ Penalties in effect

ACTOR	OFFENSE	PENALTY
Physician (or other provider) — parental notice violation	Class A misdemeanor for intentionally performing abortion on unemancipated minor with knowing or reckless failure to comply with notice requirements	Up to 1 year incarceration at Level V, fine up to \$2,300
Provider — born-alive violation	Class A misdemeanor for knowingly violating duties to an infant born alive following an abortion	Up to 1 year incarceration at Level V, fine up to \$2,300
Third party — abuse of pregnant female (second degree)	Class C felony for recklessly causing unlawful termination of pregnancy during commission of assault or violent felony without her consent	Class C felony — up to 15 years
Third party — abuse of pregnant female (first degree)	Class B felony for intentionally causing unlawful termination of pregnancy during commission of assault or violent felony without her consent	Class B felony — 2 to 25 years
Pregnant woman	None — no criminal statute applies; former 11 Del. C. § 652 repealed by HB 31 (2021)	None

☒ Recent changes

- Jan 2026

Texas Attorney General Ken Paxton filed a lawsuit against Delaware nurse practitioner Debra Lynch (*Her Safe Harbor*) for allegedly mailing abortion pills to Texas residents, testing the extraterritorial reach of Delaware's shield law.

- Mar 2025

HB 46, which would have required parental consent (not just notification) for minors under 16 seeking abortion, failed to advance in committee.
- Mar 2025

SB 5, the first leg of a constitutional amendment to enshrine reproductive freedom in the Delaware Constitution, passed the Senate 15-6 but did not advance in the House during the 2025 legislative session.
- Sep 2024

Governor Carney signed HB 110, requiring all health benefit plans (Medicaid, private insurance, and state employee plans) to cover abortion services without cost-sharing up to \$750 per year, effective January 2025 for public plans and January 2026 for private plans.
- Aug 2022

Attorney General Kathy Jennings launched the Attorney General's Abortion Legal Helpline, providing free legal information and resources to Delawareans and out-of-state visitors seeking abortion care.
- Jun 2022

Governor Carney signed HB 455 (83 Del. Laws c.
- Sep 2021

HB 31 repealed the pre-Roe criminal abortion ban (11 Del. C.

⌵ Pending changes to watch

Texas v. Lynch (Texas state court)
Litigation · Filed January 27, 2026, in Texas state court against Delaware NP Debra Lynch.
A Texas judgment against Lynch could create a conflict between state court systems, testing the Full Faith and Credit Clause reach of shield laws and potentially reaching the U.S. Supreme Court.

SB 251 — Pain-Capable Unborn Child Protection Act (153rd General Assembly)
Legislation · Introduced by Republican lawmakers in the 153rd General Assembly (2025–2026).
If enacted, would prohibit abortion at 20 weeks post-fertilization (~22 weeks gestational age) with exceptions for life, physical health, rape, and incest. Would repeal and replace the current viability-based framework.

SB 5 — Constitutional Amendment on Reproductive Freedom
Legislation · Passed Senate (15-6) on March 11, 2025. Failed to pass House in the 2025 session.
If enacted over two legislative sessions, would amend Article I of the Delaware Constitution to guarantee 'reproductive freedom,' defined as the right to make decisions about all matters relating to pregnancy, childbirth, prenatal and postnatal care, contraception, sterilization, abortion, miscarriage, and infertility.

⌵ Key authorities

Termination of Human Pregnancy Act 24 Del. C. §§ 1790–1795
The core authorization statute — affirmatively permits abortion before viability and establishes post-viability exceptions.

Parental Notice of Abortion Act 24 Del. C. §§ 1780–1789B
Establishes the 24-hour parental notice requirement for minors under 16, judicial bypass, the coercion prohibition, and the only criminal penalty for abortion-related conduct.

Reproductive Health Shield Law 83 Del. Laws c. 327 (codified at 10 Del. C. §§ 3926A–3929, 11 Del. C. § 2506, and amendments to Titles 18 and 24)
Comprehensive interstate shield protecting providers, patients, and helpers; blocks out-of-state subpoenas, extradition, and professional discipline.

HB 31 (Repeal of Criminal Abortion Ban) 83 Del. Laws c. 298 (2021)
Repealed the pre-Roe criminal abortion statutes (11 Del. C. §§ 651–654), removing the pregnant woman's criminal exposure.

HB 110 (Insurance Coverage Mandate) 152nd General Assembly, HB 110 (2024)
Requires Medicaid, private insurance, and state employee plans to cover abortion without cost-sharing up to \$750/year.

Generated from the structured legal focused deep-research record for DE (research completed 2026-07-12). This snapshot condenses a much larger sourced dataset — full citations, quoted statutory text, and plain-language explanations are in the full Delaware survey. This document has not been reviewed by a lawyer and should not be used as legal advice.