

STATE LEGAL SNAPSHOT

South Dakota

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

As of Jul 12, 2026

Research completed Jul 12, 2026

Confidence: high



Abortion is banned at every stage of pregnancy — not currently available.

GESTATIONAL LIMIT	Total ban	AVAILABLE	No	✓ MOTHER EXEMPT	Yes	FETAL HOMICIDE LAW	Yes	PERSONHOOD LANGUAGE	Yes
TELEHEALTH	Not allowed	WAITING PERIOD	72 hours	RAPE / INCEST EXCEPTION	No	PARENTAL INVOLVEMENT	Notification only		
SHIELD STATE	No	MEDICAID	Hyde only	CIVIL BOUNTY LAW	No	PENDING CHANGE	See below		

§ Jurisdiction overview

South Dakota enforces a near-total abortion ban with an exception solely to preserve the pregnant woman's life; all other abortions are Class 6 felonies.

S.D. Codified Laws § 22-17-5.1 · S.D. Codified Laws § 22-17-5.2

☒ Fetal personhood & the internal contradiction

South Dakota's legal treatment of the unborn contains a deep and carefully constructed internal contradiction. The Legislature has declared that the unborn child is 'a whole, separate, unique, living human being' whose life is terminated by abortion (SDCL § 34-23A-1.2). The murder statute defines 'human being' to 'include an unborn child' (SDCL § 22-16-4(1)), and the fetal homicide law (SDCL § 22-16-1.1) makes killing an unborn child a Class B felony carrying mandatory life imprisonment. The wrongful death statute (SDCL § 21-5-1) provides civil recovery for the death of an unborn child.

S.D. Codified Laws § 22-16-1.1 · S.D. Codified Laws § 22-16-4 · S.D. Codified Laws § 34-23A-1.2

MINORS

A physician must give 48 hours' written notice to a parent or guardian before performing an abortion on an unemancipated minor, unless a medical emergency exists or the minor obtains a judicial waiver.

SPOUSAL / PATERNAL RIGHTS

South Dakota has no statute requiring spousal or paternal consent or notice for an abortion; the only third-party involvement requirement is parental notice for minors.

☒ Penalties in effect

ACTOR	OFFENSE	PENALTY
Physician performing unlawful abortion	Unlawful abortion (SDCL § 22-17-5.1)	Class 6 felony: 2 years imprisonment, \$4,000 fine, or both; presumptive probation eligible under SDCL § 22-6-11; conviction reported to Board of Medical and Osteopathic Examiners
Any person dispensing or advertising abortion-inducing items	Dispensing or advertising abortion-inducing articles (SDCL § 22-17-5.3)	Class 6 felony: 2 years imprisonment, \$4,000 fine, or both; plus civil penalty up to \$10,000 per violation sought by Attorney General
Physician performing partial-birth abortion	Partial-birth abortion (SDCL § 34-23A-27)	Class 6 felony: 2 years imprisonment, \$4,000 fine, or both; woman exempt from prosecution (SDCL § 34-23A-31)
Physician violating informed consent	Informed consent violation (SDCL § 34-23A-10.2)	Class 2 misdemeanor: 30 days imprisonment, \$500 fine, or both; conviction reported to Board of Medical and Osteopathic Examiners; woman exempt
Third party causing death of unborn child (non-abortion)	Fetal homicide (SDCL § 22-16-1.1)	Class B felony: mandatory life imprisonment, \$50,000 fine possible; abortion exemption applies

Recent changes

Jun 2026	Federal judge hears arguments in <i>Mayday Health v. Jackley</i> ; decision pending.
May 2026	<i>Mayday Health</i> files federal lawsuit (<i>Mayday Health v.</i>
Mar 2026	Governor Larry Rhoden signs three anti-abortion bills into law: HB 1257 (amending abortion definition to carve out miscarriage, ectopic pregnancy, and removal of deceased unborn child), HB 1274 (creating new felony and civil penalties for dispensing/advertising abortion-inducing items, codified at SDCL § 22-17-5.3), and HB 1313 (requiring prenatal development videos in public schools).
Mar 2026	Attorney General Marty Jackley reaches settlement with <i>Mayday Health</i> requiring removal of abortion pill information advertisements from South Dakota gas stations.
Nov 2024	South Dakota voters reject Constitutional Amendment G (Right to Abortion Initiative), which would have created a state constitutional right to abortion using a trimester framework.
Jul 2024	SDCL § 34-23A-94 enacted (SL 2024, ch 142), requiring the Department of Health to create an educational video and materials by September 1, 2024 explaining the state's abortion law, the life exception, and medical conditions that may threaten a pregnant woman's life.
Mar 2023	SDCL § 22-17-5.2 enacted (SL 2023, ch 69), expressly exempting women who undergo unlawful abortions from criminal liability.

Pending changes to watch

Mayday Health v. Jackley Litigation · Pending in U.S. District Court for the District of South Dakota; oral argument held June 25, 2026; awaiting decision If <i>Mayday Health</i> prevails, the advertising and potentially the dispensing provisions of SDCL § 22-17-5.3 could be enjoined as unconstitutional under the First Amendment, limiting South Dakota's ability to prosecute out-of-state actors for providing information about abortion pills.
Potential 2027 legislative session abortion-related bills Legislation · Speculative; 2027 session convenes January 2027 Following the 2026 legislative session's three-bill package, additional restrictions are possible in 2027, including possible attempts to enact an abortion trafficking statute (criminalizing assistance with out-of-state travel for minors), further restrictions on medication abortion, or enhanced penalties.

Key authorities

Trigger Ban (Procurement of Abortion Prohibited) S.D. Codified Laws § 22-17-5.1 The primary operative ban: makes performing or procuring an unlawful abortion a Class 6 felony with a sole exception to preserve the life of the pregnant woman.
Mother Exemption from Criminal Liability S.D. Codified Laws § 22-17-5.2 Expressly exempts the pregnant woman from criminal liability for undergoing an unlawful abortion, added in 2023.
2026 Abortion Pill Dispensing and Advertising Ban S.D. Codified Laws § 22-17-5.3 Creates a distinct Class 6 felony and civil penalties up to \$10,000 for dispensing or advertising abortion-inducing items; subject to pending First Amendment challenge.
Definition of Abortion (2026 Amended) S.D. Codified Laws § 34-23A-1 Defines the scope of what constitutes an abortion under South Dakota law; 2026 amendment carved out miscarriage, ectopic pregnancy, and removal of deceased unborn child.
Fetal Homicide Statute S.D. Codified Laws § 22-16-1.1 Makes killing an unborn child a Class B felony (mandatory life imprisonment) but expressly excludes abortions, lawful or unlawful, to which the pregnant woman consented.

Generated from the structured legal focused deep-research record for SD (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 South Dakota survey. This document has not been reviewed by a lawyer and should not be used as legal advice.