



## PRENATAL LAWS

# Down Syndrome Information Acts<sup>1</sup>

## STATES AND TERRITORIES

On October 8, 2008, the “Prenatally and Postnatally Diagnosed Conditions Awareness Act”<sup>2</sup> was signed into law “to increase the provision of scientifically sound information and support services to patients receiving a positive diagnosis for Down syndrome or other prenatally and postnatally diagnosed conditions.” Unfortunately, the federal law was never funded; therefore, several states have proposed and/or passed similar legislation. The Center for Dignity in Healthcare for People with Disabilities (CDHPD) designed this fact sheet as a resource for people to quickly find the Down syndrome information dissemination requirements in their state’s statutes and, where statutes do not exist, their state’s legislative history.

### ALABAMA

**No Down Syndrome Information Act.**

### ALASKA

**No Down Syndrome Information Act.**

### ARIZONA

**No Down Syndrome Information Act.**

### ARKANSAS

**No Down Syndrome Information Act.**

Notes: *Other relevant statutes:* S.B. 2, 92nd Gen. Assemb. (Ark. 2019) (enacted); ARK. CODE ANN. § 20-16-2103 (2020). Prohibition – Down Syndrome.

- (a) A physician shall not intentionally perform or attempt to perform an abortion with the knowledge that a pregnant woman is seeking an abortion solely on the basis of:
- (1) A test result indicating Down Syndrome in an unborn child;
  - (2) A prenatal diagnosis of Down Syndrome in an unborn child; or
  - (3) Any other reason to believe that an unborn child has Down Syndrome.

### CALIFORNIA

**No Down Syndrome Information Act.**

### COLORADO

**No Down Syndrome Information Act.**

### CONNECTICUT

**No Down Syndrome Information Act.**

### DELAWARE

DEL. CODE. ANN. tit. 16, § 801B (2019-2020). “Provision of information relating to Down Syndrome” requires genetic counseling to parents who receive a prenatal or postnatal diagnosis of Down syndrome, evidence-based information, and contact information for support services.

### DISTRICT OF COLUMBIA

**No Down Syndrome Information Act.**

### FLORIDA

FLA. STAT. ANN. § 383.141 (LexisNexis 2020). “Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council” requires that when a developmental disability is diagnosed based on a prenatal test, the patient shall receive information about the nature of the developmental disability, the accuracy of the test, and contact information for support services. *Id.*

### GEORGIA

**No Down Syndrome Information Act.**

<sup>1</sup> Down Syndrome is capitalized in the title of the document and appears throughout the document as the title “Down Syndrome Information Act.” The “s” in syndrome may be capitalized throughout this document depending on each state’s statute.

<sup>2</sup> <https://www.govtrack.us/congress/bills/110/s1810>

**GUAM**

**No Down Syndrome Information Act.**

**HAWAII**

**No Down Syndrome Information Act.**

*But see* HAW. REV. STAT. ANN. §§ 321-331 (LexisNexis 2020). “Prenatal health care; authority,” the Department of Health<sup>3</sup> is granted authority to adopt rules pursuant “to ensure that all pregnant women in this State are offered appropriate information, quality testing, diagnostic services, and follow-up services concerning neural tube defects and other disorders amenable to prenatal diagnosis. . . Nothing in this section shall be construed to mean that prenatal screening and testing are mandatory.” *Id.*

Notes: H.R. 24, 2015 Reg. Sess. (Haw. 2015); House Resolution Urging the Department of Health to require that medical care professionals provide information on prenatal screening and testing for Down syndrome to all pregnant women. Measure Deferred March 24, 2016.

**IDAHO**

**No Down Syndrome Information Act.**

**ILLINOIS**

Under the Down Syndrome Information and Awareness Act, 410 ILL. COMP. STAT. ANN. 511/1 – 511/15 (LexisNexis 2020), the Department of Public Health is required to make available up-to-date, evidence-based written information about Down syndrome that is culturally and linguistically appropriate for a woman receiving a positive prenatal diagnosis of Down syndrome and for the family of a child receiving a postnatal diagnosis of Down syndrome.

**INDIANA**

Under the IND. CODE ANN. §§ 16-35-9.2-1 – 16-35-9.2-3 (LexisNexis 2020), “Down Syndrome and Other Conditions Diagnosed Prenatally,” “the state department shall identify current, evidence based, written information that concerns the prenatal diagnosis of Down syndrome and any other condition diagnosed prenatally” and “when a positive result from a test for Down syndrome or any other condition diagnosed prenatally is received, a health care facility or health care provider shall provide to the expectant parent or the parent of the child diagnosed with Down syndrome or any other condition diagnosed prenatally the written information approved and made available by the state department.”

**IOWA**

**No Down Syndrome Information Act.**

**KANSAS**

KAN. STAT. ANN. § 65-1,259 (2020). “Prenatal and postnatal diagnosed conditions awareness programs” authorizes the secretary of the Department of Health and Environment to oversee activities, including the awarding of grants to establish information and support systems for women and spouses of women who receive a diagnosis of Down syndrome or other prenatally or postnatally diagnosed conditions for their child.

**KENTUCKY**

Under KY. REV. STAT. ANN. § 211.192 (LexisNexis 2020), “Information to be provided concerning Down syndrome and spina bifida; by whom; when,” “[t]he Cabinet for Health and Family Services *shall* make available to any person who renders prenatal care, postnatal care, or genetic counseling to parents who receive a prenatal or postnatal diagnosis of Down syndrome or spina bifida and to any person who has received a positive test result from a test for Down syndrome or spina bifida” up-to-date written information and contact information for support programs (emphasis added).

**LOUISIANA**

Under LA. STAT. ANN. § 40:1109.2 (2020), “Public information concerning Down syndrome,” “the Department of Health and Hospitals shall identify current evidence-based” information and provide the information to healthcare facilities and healthcare providers that furnish prenatal care, postnatal care, or genetic counseling to expectant parents who receive a prenatal test result for Down syndrome and parents of a child diagnosed with Down syndrome. Additionally, “C. (1) Upon receipt of a positive result from a test for Down syndrome, a healthcare facility or healthcare provider shall provide to the expectant parent or the parent of the child diagnosed with Down syndrome the written information provided or made available by the department pursuant to Subsection B of this Section. (2) All information . . . shall not engage in discrimination based on disability or genetic variation by explicitly or implicitly presenting pregnancy termination as a neutral or acceptable option when a prenatal test indicates a probability or diagnosis that the unborn child has Down syndrome or any other health condition.” *Id.*

<sup>3</sup> Although they may not be capitalized in the statute, to be consistent throughout the document, the phrases “Department of Health” and “Department of Public Health” have been capitalized throughout this document.

**MAINE**

Under ME. REV. STAT. ANN. tit. 22, § 1642 (2020), “Down syndrome,” “The Department of Human Services shall establish, maintain and operate an information service for Down syndrome. . . . A hospital, physician, health care provider or certified nurse midwife who renders prenatal care or postnatal care or a genetic counselor who renders prenatal or postnatal genetic counseling shall, upon receipt of a positive test result from a prenatal or postnatal test for Down syndrome, offer the expectant or new parent information provided by the department” including up-to-date evidence-based information and contact information regarding support services and resource centers.

**MARYLAND**

Under MD. CODE ANN., HEALTH-GEN. §§ 20-1501, 20-1502 (LexisNexis 2020), the Maryland Department of Health is required to identify up-to-date and evidence-based information about Down syndrome and make the information available on the Department’s website. The Department is required to provide the information “(b)(1) to health care facilities and health care providers that provide prenatal care, postnatal care, or genetic counseling to expectant parents who receive a prenatal test result for Down syndrome and parents of a child diagnosed with Down syndrome.” *Id.* “(c)(1) On receipt of a positive test result from a test for Down syndrome, a health care facility or health care provider may provide to the expectant parent who receives a prenatal test result for Down syndrome or the parent of the child diagnosed with Down syndrome the written information provided or made available by the Department.” *Id.*

**MASSACHUSETTS**

Under MASS. ANN. LAWS ch. 111, § 70H (LexisNexis 2020), “Down Syndrome Test – Information for Parents,” the Department of Public Health “shall make available to a person who renders prenatal care, postnatal care or genetic counseling to parents who receive a prenatal or postnatal diagnosis of Down Syndrome,” up-to-date, evidence-based information about Down Syndrome, and contact information for programs and support services. And “[t]he department may also make such information available to any other person who has received a positive test result from a test for Down Syndrome.” *Id.*

**MICHIGAN**

**No Down Syndrome Information Act.**

Notes: H.B. 5509, 2016 Leg. Sess. (Mich. 2016), Synopsis: “Requires provision of information regarding Down Syndrome to certain patients by directing the patient to the department’s website and requires the department to include certain information on its website.” Failed upon introduction.

**MINNESOTA**

Under MINN. STAT. § 145.471 (2020), “Prenatal Trisomy Diagnosis Awareness Act,” the Commissioner of Health shall make available “up-to-date and evidence-based information about the trisomy conditions that has been reviewed by medical experts and national trisomy organizations” and post the information on the Department of Health website. And “[a] health care practitioner who orders tests for a pregnant woman to screen for trisomy conditions shall provide [this] information . . . to the pregnant woman if the test reveals a positive result for any of the trisomy conditions.” *Id.*

**MISSISSIPPI**

**No Down Syndrome Information Act.**

**MISSOURI**

Under MO. REV. STAT. § 191.923 (2020), “Prenatally diagnosed conditions, patient to be provided information – definitions – clearinghouse of information to be established,” “[t]he general assembly of the state of Missouri hereby finds and declares that pregnant women who choose to undergo prenatal screening should have access to timely and informative counseling about the conditions being tested for, the accuracy of such tests, and resources for obtaining support services for such conditions.” *Id.*

**MONTANA**

**No Down Syndrome Information Act.**

**NEBRASKA**

Under the Down Syndrome Diagnosis Information and Support Act, NEB. REV. STAT. ANN. § 71-4101 (LexisNexis 2020), “Department; duties; Down syndrome organization; include information on website,” the Division of Public Health of the Department of Health and Human Services is required to make up-to-date information available about Down syndrome, contact information and support services and post the information on their website.

NEVADA

**No Down Syndrome Information Act.**

NEW HAMPSHIRE

**No Down Syndrome Information Act.**

NEW JERSEY

Under N.J. REV. STAT. §§ 26:2-194 (2020), “Information available relative to Down syndrome,” “The Department of Health shall make available on the department’s Internet website, to any person who renders prenatal care, postnatal care, or genetic counseling of parents who receive a prenatal or postnatal diagnosis of Down syndrome” up-to-date, evidence-based information, and information for support services. Under N.J. REV. STAT. § 25:2-195 (2020), “Provision of information upon positive test result for Down syndrome,” “Any physician, health care provider, nurse midwife, or genetic counselor who renders prenatal care, postnatal care, or genetic counseling shall, upon receipt of a positive test result from a test for Down syndrome, provide the expectant or new parent with the information that is provided by the Department of Health.”

NEW MEXICO

**No Down Syndrome Information Act.**

NEW YORK

**No Down Syndrome Information Act.**

Notes: S.B. 7345, 2017-2018 Leg. Sess. (N.Y. 2018), failed in 1st Committee; Purpose: “To require information on Down syndrome be provided to a pregnant woman, parent, or expectant parent of any infant or fetus diagnosed with Down syndrome.” S.B. 197, 2019-2020 Leg. Sess. (N.Y. 2019); Purpose: “To require information on Down syndrome be provided to a pregnant woman, parent, or expectant parent of any infant or fetus diagnosed with Down syndrome.”

NORTH CAROLINA

**No Down Syndrome Information Act.**

NORTH DAKOTA

**No Down Syndrome Information Act.**

Notes: Under N.D. CENT. CODE § 14-02.1-02 (2020), “Definitions,” “‘Genetic abnormality’ means any defect, disease, or disorder that is inherited genetically. The term includes any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, or any other type of physical or mental disability, abnormality, or disease.” And under N.D. CENT. CODE, § 14-02.1-04.1 (2020), “Prohibition – Sex-selective abortion – Abortion for genetic abnormality – Penalty,” “a physician may not intentionally perform or attempt to perform an abortion with knowledge that the pregnant woman is seeking the abortion solely [b]ecause the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.”

NORTHERN MARIANAS

**No Down Syndrome Information Act.**

OHIO

Under OHIO REV. CODE ANN. § 3701.69 (LexisNexis 2020), “Down syndrome information sheet distribution,” the Department of Health is required to create a Down syndrome information sheet with evidence-based, up-to-date information and provide the information on its website. “(B) If a patient under the care of any of the following health care professionals or facilities receives either a test result indicating Down syndrome or a prenatal or postnatal diagnosis of Down syndrome, the health care professional or facility shall provide to the patient or the patient’s representative a copy of the information sheet.” *Id.*

OKLAHOMA

**No Down Syndrome Information Act.**

Notes: S.B. 9, 2015 Reg. Sess. (Okla. 2015), “An Act relating to genetic counseling . . .” Failed in 1st Chamber.

OREGON

**No Down Syndrome Information Act.**



**PENNSYLVANIA**

Down Syndrome Prenatal and Postnatal Education Act, 35 PA. CONS. STAT. §§ 6241 – 6244 (2020). Under 35 PA. CONS. STAT. § 6243 (2020), “Dissemination of information on Down syndrome,” “A health care practitioner that administers, or causes to be administered, a test for Down syndrome to an expectant or new parent shall, upon receiving a test result that is positive for Down syndrome, provide the expectant or new parent with educational information made available by [the Department of Health of the Commonwealth]” website. The Department is required to maintain up-to-date, evidenced-based information about Down syndrome including contact information for programs and support services.

**PUERTO RICO**

**No Down Syndrome Information Act.**

**RHODE ISLAND**

**No Down Syndrome Information Act.**

**SOUTH CAROLINA**

**No Down Syndrome Information Act.**

**SOUTH DAKOTA**

**No Down Syndrome Information Act.**

Notes: H.B. 1155, Reg. Sess. (S.D. 2015); Passed House Committee on State Affairs to Senate Committee on Health and Human Services, February 9, 2015; Tabled February 20, 2015; “An Act to require that information be provided to a pregnant mother whose child tests positive for Down syndrome.”

**TENNESSEE**

Under the Down Syndrome Information Act of 2018, TENN. CODE ANN. §§ 68-1-1301 - 68-1-1304 (2020), the Department of Health is required to make available online up-to-date, evidence-based information about Down syndrome, including information and support programs. This information may be made available on this department’s website. Healthcare providers may make this information available to expectant or new parents.

**TEXAS**

Under Texas’ “Information Regarding Down Syndrome,” TEX. HEALTH & SAFETY CODE ANN. §§ 161.651 – 161.653 (LexisNexis 2020), the Department of State Health Services is required to make available current evidence-based information regarding Down syndrome on the department’s website and may make it available in writing to health care providers. Health care providers are required to provide the information to “expectant parents who receive a prenatal test result indicating a probability or diagnosis that the unborn child has Down syndrome; or a parent of a child who receives: a test result indicating a probability or diagnosis that the child has Down syndrome; or a diagnosis of Down syndrome.” *Id.*

**UTAH**

Under UTAH CODE ANN. § 26-10-14 (LexisNexis 2020), “Down syndrome diagnosis – Information and support,” the Department of Health “*shall* provide contact information for state and national Down syndrome organizations that are nonprofit and that provide information and support services for parents, including first-call programs and information hotlines specific to Down syndrome, resource centers or clearinghouses, and other education and support programs for Down syndrome.” The department is required to post this information on its website and create an informational support sheet. “Upon request, the department shall provide a health care facility or health care provider a copy of the informational support sheet . . . to give to a pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn child has or may have Down syndrome.” *Id.*

**VERMONT**

**No Down Syndrome Information Act.**

**VIRGIN ISLANDS**

**No Down Syndrome Information Act.**

**VIRGINIA**

**No Down Syndrome Information Act.**

However, under VA. CODE ANN. § 54.1-2403.01 (2020). “Routine component of prenatal care,” “[a]s a routine component of prenatal care, every practitioner . . . who renders prenatal care . . . upon receipt of a positive test result from a prenatal test for Down syndrome or other prenatally diagnosed conditions performed on a patient, the health care provider involved may provide the patient with information about the Virginia Department of Health genetics program website and shall provide the patient with up-to-date, scientific written information concerning the life expectancy, clinical course, and intellectual and functional development and treatment options for an unborn child diagnosed with or child born with Down syndrome or other prenatally diagnosed conditions.”

**WASHINGTON**

Under WASH. REV. CODE ANN. § 43.70.738 (LexisNexis 2020), “Down syndrome resources – Development,” the Department of Health is required to develop up-to-date, evidence-based information about Down syndrome, including support services. “(2) The department shall make the information described in this section available to any person who renders prenatal care, postnatal care, or genetic counseling to expectant parents receiving a positive prenatal diagnosis or to the parents of a child receiving a postnatal diagnosis of Down syndrome.” *Id.*

Under WASH. REV. CODE ANN. § 18.46.150 (LexisNexis 2020), “Down syndrome – Parent information,” “A birthing center that provides a parent with a positive prenatal or postnatal diagnosis of Down syndrome shall provide the parent with the information prepared by the department under [WASH. REV. CODE ANN. §] 43.70.738 at the time the birthing center provides the parent with the Down syndrome diagnosis.”

**WEST VIRGINIA**

**No Down Syndrome Information Act.**

**WISCONSIN**

**No Down Syndrome Information Act.**

**WYOMING**

**No Down Syndrome Information Act.**