



Prenatal Nondiscrimination Act

KEY POINTS

Prenatal Nondiscrimination Acts prohibit anyone from knowingly aborting the unborn child of a woman who sought the abortion solely on the basis of an **inherent characteristic**, such as a child's race, sex, or prenatal diagnosis.

An estimated **67** percent of women in the United States who receive a prenatal diagnosis of Down syndrome choose abortion.

Race, sex, or prenatal diagnosis should never be a **death sentence** for an unborn child.

Family Research Council recommends and supports prenatal nondiscrimination acts (PRENDAs). Although modern scientific advancements, such as genetic testing and ultrasounds, have made it easier to heal various medical conditions afflicting unborn children and emerging technologies, such as noninvasive prenatal testing, have made it possible to identify an unborn child's sex earlier than ever before, these developments have also increased the potential for discriminatory abortions. To prevent such injustices from happening, many state legislatures have passed PRENDAs, which prohibit abortions sought on account of an inherent characteristic or prenatal diagnosis. PRENDAs are a commonsense means of promoting a culture in which all human life is valued.

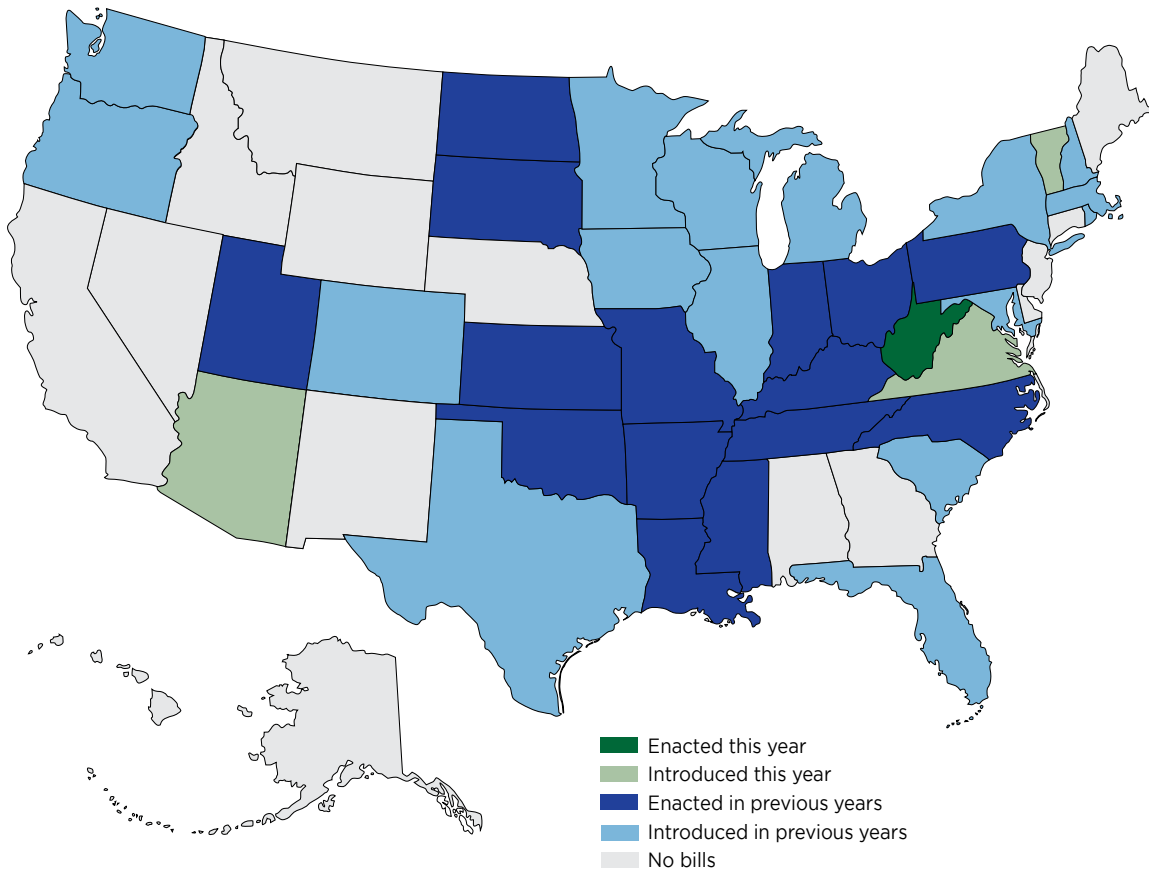
PRENDAs prohibit anyone from knowingly aborting the unborn child of a woman who sought the abortion solely on the basis of an inherent characteristic (such as the child's race or sex) or a prenatal diagnosis (such as a genetic or chromosomal abnormality, *e.g.*, Down syndrome).

Eugenics and abortion have a long-shared history in the United States. This is perhaps most evident in the founding of America's foremost abortion business, Planned Parenthood. Its founder Margaret Sanger embraced eugenic theory and believed birth control to be the "greatest and most truly eugenic method."¹ She wrote in her book *Woman and the New Race*, "Birth control itself, often denounced as a violation of natural law, is nothing more or less than the facilitation of weeding out the unfit, of preventing the birth of defectives or of those who will become defectives."² Dr. Alan Guttmacher, the namesake of leading abortion research organization the Guttmacher Institute, served as vice president of the American Eugenics Society and president of Planned Parenthood from 1962-1974. Planned Parenthood first offered abortions in 1970, during Guttmacher's tenure. In 2019, U.S. Supreme Court Justice Clarence Thomas penned a lengthy opinion in *Box v. Planned Parenthood* in which he cited abortion's eugenic roots and its continued eugenic potential.

Much like other pro-life bills, support for PRENDAs has been gaining momentum in recent years. From 2013 to 2020, an average of 10 state-level PRENDAs were introduced each year. In 2021, a record-high 31 were introduced. Two of these were enacted (in Arizona and South Dakota). A total of 17 states have enacted some version of these protections, the most recent being West Virginia in 2022. The past four years have seen more PRENDAs enacted (seven) than in all the preceding years combined.

Legislative Intent: Discriminatory abortions are being performed in many parts of the world, including the United States. Evidence suggests that babies who are prenatally diagnosed with a disability are the most common victims of discriminatory abortions

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in Western countries. A study published in 2012 revealed that an estimated 67 percent of women in the United States who receive a prenatal diagnosis of Down syndrome choose abortion.³ Unfortunately, sex-selective abortion is occurring in the United States as well, especially within some ethnic groups with a preference for male children. A study conducted by Columbia University economists Douglas Almond and Lena Edlund found “evidence of sex selection, most likely at the prenatal stage” among U.S.-born children of Chinese, Korean, and Asian Indian parents.⁴ Race, sex, or prenatal diagnosis should never be a death sentence for an unborn child.

PRENDAs seek to protect unborn children by prohibiting discriminatory abortions and imposing a penalty against those who fail to comply. These bills generally only implicate the abortion provider and indemnify the mother (*i.e.*, absolve her of legal liability) for seeking or obtaining a violating abortion, as it is never the goal of these bills to target women. Lastly, PRENDAs create a civil cause of action for the mother, father, and/or grandparents of the unborn child against a physician who performs an abortion in violation of the law.

Key Provisions:

Prohibits abortions sought solely on the basis of sex, race, national origin, or diagnosis of disability.

Provides a penalty for noncompliance.

Indemnifies the mother.

Creates a civil cause of action.

1. Margaret Sanger, *The Pivot of Civilization* (New York: Brentano's, 1922), 189.

2. Margaret Sanger, *Woman and the New Race* (New York: Brentano's, 1920), 229.

3. Jaime L. Natoli, Deborah L. Ackerman, Suzanne McDermott, and Janice G. Edwards, “Prenatal diagnosis of Down syndrome: a systematic review of termination rates (1995-2011),” *Prenatal Diagnosis* 32, No. 2 (2012): 142-153, Accessed September 16, 2021, <https://doi.org/10.1002/pd.2910>

4. Douglas Almond and Lena Edlund, “Son-Biased Sex Ratios in the 2000 United States Census,” *Proceedings of the National Academy of Sciences* 105, no. 15 (2008): 5681-82, accessed April 14, 2021, <https://doi.org/10.1073/pnas.0800703105>