

REFERENCE TITLE: **abortion; public funding prohibition; taxes.**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1265

Introduced by
Senators Barto, Bundgaard, Pearce R, Smith, Yarbrough; Representatives
Kavanagh, Yee; Senators Allen, Antenori, Biggs, Crandall, Gould, Gray,
Griffin, Klein, McComish, Murphy, Pierce S; Representatives Forese,
Goodale, Judd, Mesnard

AN ACT

**AMENDING SECTIONS 35-196.02 AND 43-1088, ARIZONA REVISED STATUTES; RELATING
TO FUNDING FOR ABORTIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 35-196.02, Arizona Revised Statutes, is amended to read:

35-196.02. Use of public funds or insurance for abortion prohibited; exception

A. Notwithstanding any provisions of law to the contrary, no public funds nor tax monies of this state or any political subdivision of this state nor any federal funds passing through the state treasury or the treasury of any political subdivision of this state may be expended for payment to any person or entity WHO PROVIDES, PAYS FOR, PROMOTES, PROVIDES COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS OR for the performance of any abortion unless an abortion is necessary to save the life of the woman having the abortion.

B. Notwithstanding any other law, public monies or tax monies of this state or any political subdivision of this state shall not be expended directly or indirectly to pay the costs, premiums or charges associated with a health insurance policy, contract or plan that provides coverage, benefits or services related to the performance of any abortion unless an abortion is necessary to either:

1. Save the life of the woman having the abortion.

2. Avert substantial and irreversible impairment of a major bodily function of the woman having the abortion.

C. NOTWITHSTANDING ANY OTHER LAW, PUBLIC MONIES OR TAX MONIES OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY FEDERAL FUNDS PASSING THROUGH THE STATE TREASURY OR THE TREASURY OF ANY POLITICAL SUBDIVISION OF THIS STATE OR MONIES PAID BY STUDENTS AS PART OF TUITION OR FEES TO A STATE UNIVERSITY OR A COMMUNITY COLLEGE SHALL NOT BE EXPENDED OR ALLOCATED FOR TRAINING TO PERFORM ABORTIONS.

~~C.~~ D. This section does not prohibit the state from complying with the requirements of federal law in title XIX and title XXI of the social security act.

Sec. 2. Section 43-1088, Arizona Revised Statutes, is amended to read:

43-1088. Credit for contribution to qualifying charitable organizations; definitions

A. A credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~H~~ I during the taxable year to a qualifying charitable organization not to exceed:

1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

D. The credit allowed by this section:

1. Is allowed only if the taxpayer itemizes deductions pursuant to section 43-1042 for the taxable year.

2. Is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

F. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

G. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(a) Receive temporary assistance for needy families benefits.

(b) Are low income residents of this state.

(c) Are chronically ill or physically disabled children.

3. A statement that the organization plans to continue spending at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low income residents of this state or who are chronically ill or physically disabled children.

4. A STATEMENT THAT THE ORGANIZATION DOES NOT PROVIDE, PAY FOR, PROMOTE, PROVIDE COVERAGE OF OR PROVIDE REFERRALS FOR ABORTIONS AND DOES NOT FINANCIALLY SUPPORT ANY OTHER ENTITY THAT PROVIDES, PAYS FOR, PROMOTES, PROVIDES COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS.

H. The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification

1 from the organization. The department shall compile and make available to
2 the public a list of the qualifying charitable organizations.

3 I. For the purposes of this section:

4 1. "Chronically ill or physically disabled children" has the same
5 meaning prescribed in section 36-262.

6 2. "Low income residents" means persons whose household income is less
7 than one hundred fifty per cent of the federal poverty level.

8 3. "Qualifying charitable organization" means a charitable
9 organization that is exempt from federal income taxation under section
10 501(c)(3) of the internal revenue code or is a designated community action
11 agency that receives community services block grant program monies pursuant
12 to 42 United States Code section 9901. The organization must spend at least
13 fifty per cent of its budget on services to residents of this state who
14 receive temporary assistance for needy families benefits or low income
15 residents of this state and their households or to chronically ill or
16 physically disabled children who are residents of this state. Taxpayers
17 choosing to make donations through an umbrella charitable organization that
18 collects donations on behalf of member charities shall designate that the
19 donation be directed to a member charitable organization that would qualify
20 under this section on a stand-alone basis. QUALIFYING CHARITABLE
21 ORGANIZATION DOES NOT INCLUDE ANY ENTITY THAT PROVIDES, PAYS FOR, PROMOTES,
22 PROVIDES COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS OR THAT FINANCIALLY
23 SUPPORTS ANY OTHER ENTITY THAT PROVIDES, PAYS FOR, PROMOTES, PROVIDES
24 COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS.

25 4. "Services" means cash assistance, medical care, child care, food,
26 clothing, shelter, job placement and job training services or any other
27 assistance that is reasonably necessary to meet immediate basic needs and
28 that is provided and used in this state.