

REFERENCE TITLE: **abortion; criminal classifications; civil actions**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# **HB 2597**

Introduced by  
Representative Meyer

**AN ACT**

**AMENDING SECTIONS 13-3603.01, 13-3603.02, 36-2152, 36-2153, 36-2158 AND 36-2159, ARIZONA REVISED STATUTES; RELATING TO ABORTION PENALTIES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-3603.01, Arizona Revised Statutes, is amended to  
3 read:

4 13-3603.01. Partial-birth abortions: definitions

5 A. ~~Any~~ A physician ~~who~~ SHALL NOT knowingly ~~performs~~ PERFORM a  
6 partial-birth abortion and thereby ~~kills~~ KILL a human fetus ~~is guilty of a~~  
7 ~~class 6 felony and shall be fined under this title or imprisoned not more~~  
8 ~~than two years, or both.~~

9 B. This section does not apply to a partial-birth abortion that is  
10 necessary to save the life of a mother whose life is endangered by a physical  
11 disorder, physical illness or physical injury, including a life-endangering  
12 physical condition caused by or arising from the pregnancy itself.

13 ~~C. The father of the fetus if married to the mother at the time she~~  
14 ~~receives a partial-birth abortion procedure and the maternal grandparents of~~  
15 ~~the fetus if the mother is not at least eighteen years of age at the time of~~  
16 ~~the partial-birth abortion may bring a civil action to obtain appropriate~~  
17 ~~relief unless the pregnancy resulted from the plaintiff's criminal conduct or~~  
18 ~~the plaintiff consented to the partial-birth abortion. Relief pursuant to~~  
19 ~~this subsection includes the following:~~

20 ~~1. Money damages for all injuries, psychological and physical,~~  
21 ~~resulting from the violation of this section.~~

22 ~~2. Statutory damages in an amount equal to three times the cost of the~~  
23 ~~partial-birth abortion.~~

24 ~~D.~~ C. This section shall not subject a woman upon whom a  
25 partial-birth abortion is performed to any criminal prosecution or civil  
26 liability.

27 ~~E.~~ D. A defendant who is accused of an offense under this section may  
28 seek a hearing before the Arizona medical board if the defendant is licensed  
29 pursuant to title 32, chapter 13 or the Arizona board of osteopathic  
30 examiners in medicine and surgery if the defendant is licensed pursuant to  
31 title 32, chapter 17 on whether the physician's conduct was necessary to save  
32 the life of the mother whose life was endangered by a physical disorder,  
33 physical illness or physical injury, including a life-endangering physical  
34 condition caused by or arising from the pregnancy itself. The findings on  
35 that issue are admissible, in the court's discretion, on that issue at the  
36 trial of the defendant. On a motion of the defendant, the court shall, in  
37 its discretion, delay the beginning of the trial for not more than thirty  
38 days to permit a hearing to take place.

39 ~~F.~~ E. For the purposes of this section:

40 1. "Partial-birth abortion" means an abortion in which the person  
41 performing the abortion does both of the following:

42 (a) Deliberately and intentionally vaginally delivers a living fetus  
43 until, in the case of a headfirst presentation, the entire fetal head is  
44 outside the body of the mother or, in the case of breech presentation, any  
45 part of the fetal trunk past the naval is outside the body of the mother for

the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

(b) Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

2. "Physician" means a doctor of medicine or a doctor of osteopathy who is licensed pursuant to title 32, chapter 13 or 17 or any other individual legally authorized by this state to perform abortions. Any individual who is not a physician or who is not otherwise legally authorized by this state to perform abortions but who nevertheless directly performs a partial-birth abortion shall be subject to this section.

Sec. 2. Section 13-3603.02, Arizona Revised Statutes, is amended to read:

13-3603.02. Abortion; sex and race selection; injunctive relief; definition

A. A person ~~who~~ SHALL NOT knowingly ~~does~~ DO any of the following ~~is guilty of a class 3 felony~~:

1. ~~Performs~~ PERFORM an abortion knowing that the abortion is sought based on the sex or race of the child or the race of a parent of that child.

2. ~~Uses~~ USE force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion.

3. ~~Solicits~~ SOLICIT or ~~accepts~~ ACCEPT monies to finance a sex-selection or race-selection abortion.

B. The attorney general or the county attorney may bring an action in superior court to enjoin the activity described in subsection A of this section.

~~C. The father of the unborn child who is married to the mother at the time she receives a sex selection or race selection abortion, or, if the mother has not attained eighteen years of age at the time of the abortion, the maternal grandparents of the unborn child, may bring a civil action on behalf of the unborn child to obtain appropriate relief with respect to a violation of subsection A of this section. The court may award reasonable attorney fees as part of the costs in an action brought pursuant to this subsection. For the purposes of this subsection, "appropriate relief" includes monetary damages for all injuries, whether psychological, physical or financial, including loss of companionship and support, resulting from the violation of subsection A of this section.~~

~~D. A physician, physician's assistant, nurse, counselor or other medical or mental health professional who knowingly does not report known violations of this section to appropriate law enforcement authorities shall be subject to a civil fine of not more than ten thousand dollars.~~

~~E.~~ C. A woman on whom a sex-selection or race-selection abortion is performed is not subject to criminal prosecution or civil liability for any violation of this section or for a conspiracy to violate this section.

1       ~~F.~~ D. For the purposes of this section, "abortion" has the same  
2 meaning prescribed in section 36-2151.

3       Sec. 3. Section 36-2152, Arizona Revised Statutes, is amended to read:  
4       36-2152. Parental consent; exception; hearings; time limits

5       A. In addition to the other requirements of this chapter, a person  
6 shall not knowingly perform an abortion on a pregnant unemancipated minor  
7 unless the attending physician has secured the written and notarized consent  
8 from one of the minor's parents or the minor's guardian or conservator or  
9 unless a judge of the superior court authorizes the physician to perform the  
10 abortion pursuant to subsection B of this section. Notwithstanding section  
11 41-319, the notarized statement of parental consent and the description of  
12 the document or notarial act recorded in the notary journal are confidential  
13 and are not public records.

14       B. A judge of the superior court, on petition or motion, and after an  
15 appropriate hearing, shall authorize a physician to perform the abortion if  
16 the judge determines that the pregnant minor is mature and capable of giving  
17 informed consent to the proposed abortion. If the judge determines that the  
18 pregnant minor is not mature or if the pregnant minor does not claim to be  
19 mature, the judge shall determine whether the performance of an abortion on  
20 her without the consent from one of her parents or her guardian or  
21 conservator would be in her best interests and shall authorize a physician to  
22 perform the abortion without consent if the judge concludes that the pregnant  
23 minor's best interests would be served.

24       C. If the pregnant minor claims to be mature at a proceeding held  
25 pursuant to subsection B of this section, the minor must prove by clear and  
26 convincing evidence that she is sufficiently mature and capable of giving  
27 informed consent without consulting her parent or legal guardian based on her  
28 experience level, perspective and judgment. In assessing the pregnant  
29 minor's experience level, the court may consider, among other relevant  
30 factors, the minor's age and experiences working outside the home, living  
31 away from home, traveling on her own, handling personal finances and making  
32 other significant decisions. In assessing the pregnant minor's perspective,  
33 the court may consider, among other relevant factors, what steps the minor  
34 took to explore her options and the extent to which she considered and  
35 weighed the potential consequences of each option. In assessing the pregnant  
36 minor's judgment, the court may consider, among other relevant factors, the  
37 minor's conduct since learning of her pregnancy and her intellectual ability  
38 to understand her options and to make an informed decision.

39       D. The pregnant minor may participate in the court proceedings on her  
40 own behalf. The court shall appoint a guardian ad litem for her. The court  
41 shall advise her that she has the right to court appointed counsel and, on  
42 her request, shall provide her with counsel unless she appears through  
43 private counsel or she knowingly and intelligently waives her right to  
44 counsel.

1 E. Proceedings in the court under this section are confidential and  
2 have precedence over other pending matters. Members of the public shall not  
3 inspect, obtain copies of or otherwise have access to records of court  
4 proceedings under this section unless authorized by law. A judge who  
5 conducts proceedings under this section shall make in writing specific  
6 factual findings and legal conclusions supporting the decision and shall  
7 order a confidential record of the evidence to be maintained, including the  
8 judge's own findings and conclusions. The minor may file the petition using  
9 a fictitious name. For THE purposes of this subsection, public does not  
10 include judges, clerks, administrators, professionals or other persons  
11 employed by or working under the supervision of the court or employees of  
12 other public agencies who are authorized by state or federal rule or law to  
13 inspect and copy closed court records.

14 F. The court shall hold the hearing and shall issue a ruling within  
15 forty-eight hours, excluding weekends and holidays, after the petition is  
16 filed. If the court fails to issue a ruling within this time period, the  
17 petition is deemed to have been granted and the consent requirement is  
18 waived.

19 G. An expedited confidential appeal is available to a pregnant minor  
20 for whom the court denies an order authorizing an abortion without parental  
21 consent. The appellate court shall hold the hearing and issue a ruling  
22 within forty-eight hours, excluding weekends and holidays, after the petition  
23 for appellate review is filed. Filing fees are not required of the pregnant  
24 minor at either the trial or the appellate level.

25 H. Parental consent or judicial authorization is not required under  
26 this section if either:

27 1. The pregnant minor certifies to the attending physician that the  
28 pregnancy resulted from sexual conduct with a minor by the minor's parent,  
29 stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or  
30 foster parent or by a person who lives in the same household with the minor  
31 and the minor's mother. The physician performing the abortion shall report  
32 the sexual conduct with a minor to the proper law enforcement officials  
33 pursuant to section 13-3620 and shall preserve and forward a sample of the  
34 fetal tissue to these officials for use in a criminal investigation.

35 2. The attending physician certifies in the pregnant minor's medical  
36 record that, on the basis of the physician's good faith clinical judgment,  
37 the pregnant minor has a condition that so complicates her medical condition  
38 as to necessitate the immediate abortion of her pregnancy to avert her death  
39 or for which a delay will create serious risk of substantial and irreversible  
40 impairment of major bodily function.

41 I. ~~A person who performs an abortion in violation of this section is~~  
42 ~~guilty of a class 1 misdemeanor.~~ A person is not subject to any liability  
43 under this section if the person establishes by written evidence that the  
44 person relied on evidence sufficient to convince a careful and prudent person

1 that the representations of the pregnant minor regarding information  
2 necessary to comply with this section are true.

3 ~~J. In addition to other remedies available under the common or~~  
4 ~~statutory law of this state, one or both of the minor's parents or the~~  
5 ~~minor's guardian may bring a civil action in the superior court in the county~~  
6 ~~in which the parents or the guardian resides to obtain appropriate relief for~~  
7 ~~a violation of this section, unless the pregnancy resulted from the criminal~~  
8 ~~conduct of the parent or guardian. The civil action may be based on a claim~~  
9 ~~that failure to obtain consent was a result of simple negligence, gross~~  
10 ~~negligence, wantonness, wilfulness, intention or any other legal standard of~~  
11 ~~care. The civil action may be brought against the person who performs the~~  
12 ~~abortion in violation of this section and any person who causes, aids or~~  
13 ~~assists a minor to obtain an abortion without meeting the requirements of~~  
14 ~~this section. Relief pursuant to this subsection includes the following:~~

15 ~~1. Money damages for all psychological, emotional and physical~~  
16 ~~injuries that result from the violation of this section.~~

17 ~~2. Statutory damages in an amount equal to five thousand dollars or~~  
18 ~~three times the cost of the abortion, whichever is greater.~~

19 ~~3. Reasonable attorney fees and costs.~~

20 ~~K. A civil action brought pursuant to this section must be initiated~~  
21 ~~within six years after the violation occurred.~~

22 ~~L.~~ J. The consent required by this section must be obtained on a form  
23 prescribed by the department of health services. At a minimum, the form  
24 must:

25 1. List the possible medical risks that may occur with any surgical,  
26 medical or diagnostic procedure, including the potential for infection, blood  
27 clots, hemorrhage, allergic reactions and death.

28 2. List the possible medical risks that may occur with a surgical  
29 abortion, including hemorrhage, uterine perforation, sterility, injury to the  
30 bowel or bladder, a possible hysterectomy as a result of a complication or  
31 injury during the procedure and failure to remove all products of conception  
32 that may result in an additional procedure.

33 3. List the possible medical risks that may occur with a medication  
34 abortion, including hemorrhage, infection, failure to remove all products of  
35 conception that may result in an additional procedure, sterility and the  
36 possible continuation of the pregnancy.

37 4. Require the pregnant minor's and the pregnant minor's parent's  
38 initials on each page of the form and a full signature on the final page of  
39 the form.

40 5. Include a space for the notary's signature and seal on the final  
41 page of the form.

42 ~~M.~~ K. The physician must maintain the form in the pregnant minor's  
43 records for seven years after the date of the procedure or five years after  
44 the date of the minor's maturity, whichever is longer.

1           Sec. 4. Section 36-2153, Arizona Revised Statutes, is amended to read:  
2           36-2153. Informed consent; requirements; information; signs

3           A. An abortion shall not be performed or induced without the voluntary  
4 and informed consent of the woman on whom the abortion is to be performed or  
5 induced. Except in the case of a medical emergency and in addition to the  
6 other requirements of this chapter, consent to an abortion is voluntary and  
7 informed only if all of the following are true:

8           1. At least twenty-four hours before the abortion, the physician who  
9 is to perform the abortion or the referring physician has informed the woman,  
10 orally and in person, of:

11           (a) The name of the physician who will perform the abortion.

12           (b) The nature of the proposed procedure or treatment.

13           (c) The immediate and long-term medical risks associated with the  
14 procedure that a reasonable patient would consider material to the decision  
15 of whether or not to undergo the abortion.

16           (d) Alternatives to the procedure or treatment that a reasonable  
17 patient would consider material to the decision of whether or not to undergo  
18 the abortion.

19           (e) The probable gestational age of the unborn child at the time the  
20 abortion is to be performed.

21           (f) The probable anatomical and physiological characteristics of the  
22 unborn child at the time the abortion is to be performed.

23           (g) The medical risks associated with carrying the child to term.

24           2. At least twenty-four hours before the abortion, the physician who  
25 is to perform the abortion, the referring physician or a qualified physician,  
26 physician assistant, nurse, psychologist or licensed behavioral health  
27 professional to whom the responsibility has been delegated by either  
28 physician has informed the woman, orally and in person, that:

29           (a) Medical assistance benefits may be available for prenatal care,  
30 childbirth and neonatal care.

31           (b) The father of the unborn child is liable to assist in the support  
32 of the child, even if he has offered to pay for the abortion. In the case of  
33 rape or incest, this information may be omitted.

34           (c) Public and private agencies and services are available to assist  
35 the woman during her pregnancy and after the birth of her child if she  
36 chooses not to have an abortion, whether she chooses to keep the child or  
37 place the child for adoption.

38           (d) It is unlawful for any person to coerce a woman to undergo an  
39 abortion.

40           (e) The woman is free to withhold or withdraw her consent to the  
41 abortion at any time without affecting her right to future care or treatment  
42 and without the loss of any state or federally funded benefits to which she  
43 might otherwise be entitled.

1 (f) The department of health services maintains a website that  
2 describes the unborn child and lists the agencies that offer alternatives to  
3 abortion.

4 (g) The woman has a right to review the website and that a printed  
5 copy of the materials on the website will be provided to her free of charge  
6 if she chooses to review these materials.

7 3. The information in paragraphs 1 and 2 of this subsection is  
8 provided to the woman individually and in a private room to protect her  
9 privacy and to ensure that the information focuses on her individual  
10 circumstances and that she has adequate opportunity to ask questions.

11 4. The woman certifies in writing before the abortion that the  
12 information required to be provided pursuant to paragraphs 1 and 2 of this  
13 subsection has been provided.

14 B. If a medical emergency compels the performance of an abortion, the  
15 physician shall inform the woman, before the abortion if possible, of the  
16 medical indications supporting the physician's judgment that an abortion is  
17 necessary to avert the woman's death or to avert substantial and irreversible  
18 impairment of a major bodily function.

19 C. The department of health services shall establish a website within  
20 ninety days after the effective date of this amendment to this section and  
21 shall annually update the website. The website must include a link to a  
22 printable version of all materials listed on the website. The materials must  
23 be written in an easily understood manner and printed in a typeface that is  
24 large enough to be clearly legible. The website must include all of the  
25 following materials:

26 1. Information that is organized geographically by location and that  
27 is designed to inform the woman about public and private agencies and  
28 services that are available to assist a woman through pregnancy, at  
29 childbirth and while her child is dependent, including adoption agencies.  
30 The materials shall include a comprehensive list of the agencies, a  
31 description of the services they offer and the manner in which these agencies  
32 may be contacted, including the agencies' telephone numbers and website  
33 addresses.

34 2. Information on the availability of medical assistance benefits for  
35 prenatal care, childbirth and neonatal care.

36 3. A statement that it is unlawful for any person to coerce a woman to  
37 undergo an abortion.

38 ~~4. A statement that any physician who performs an abortion on a woman~~  
39 ~~without obtaining the woman's voluntary and informed consent or without~~  
40 ~~affording her a private medical consultation may be liable to the woman for~~  
41 ~~damages in a civil action.~~

42 ~~5.~~ 4. A statement that the father of a child is liable to assist in  
43 the support of that child, even if the father has offered to pay for an  
44 abortion, and that the law allows adoptive parents to pay costs of prenatal  
45 care, childbirth and neonatal care.

1       ~~6-~~ 5. Information that is designed to inform the woman of the  
2 probable anatomical and physiological characteristics of the unborn child at  
3 two-week gestational increments from fertilization to full term, including  
4 pictures or drawings representing the development of unborn children at  
5 two-week gestational increments and any relevant information on the  
6 possibility of the unborn child's survival. The pictures or drawings must  
7 contain the dimensions of the unborn child and must be realistic and  
8 appropriate for each stage of pregnancy. The information provided pursuant  
9 to this paragraph must be objective, nonjudgmental and designed to convey  
10 only accurate scientific information about the unborn child at the various  
11 gestational ages.

12       ~~7-~~ 6. Objective information that describes the methods of abortion  
13 procedures commonly employed, the medical risks commonly associated with each  
14 procedure, the possible detrimental psychological effects of abortion and the  
15 medical risks commonly associated with carrying a child to term.

16       D. An individual who is not a physician shall not perform a surgical  
17 abortion.

18       E. A person shall not write or communicate a prescription for a drug  
19 or drugs to induce an abortion or require or obtain payment for a service  
20 provided to a patient who has inquired about an abortion or scheduled an  
21 abortion until the expiration of the twenty-four hour reflection period  
22 required by subsection A of this section.

23       F. A person shall not intimidate or coerce in any way any person to  
24 obtain an abortion. A parent, a guardian or any other person shall not  
25 coerce a minor to obtain an abortion. If a minor is denied financial support  
26 by the minor's parents, guardians or custodian due to the minor's refusal to  
27 have an abortion performed, the minor is deemed emancipated for the purposes  
28 of eligibility for public assistance benefits, except that the emancipated  
29 minor may not use these benefits to obtain an abortion.

30       G. An abortion clinic as defined in section 36-449.01 shall  
31 conspicuously post signs that are visible to all who enter the abortion  
32 clinic, that are clearly readable and that state it is unlawful for any  
33 person to force a woman to have an abortion and a woman who is being forced  
34 to have an abortion has the right to contact any local or state law  
35 enforcement or social service agency to receive protection from any actual or  
36 threatened physical, emotional or psychological abuse. The signs shall be  
37 posted in the waiting room, consultation rooms and procedure rooms.

38       H. A person shall not require a woman to obtain an abortion as a  
39 provision in a contract or as a condition of employment.

40       I. A physician who knowingly violates this section commits an act of  
41 unprofessional conduct and is subject to license suspension or revocation  
42 pursuant to title 32, chapter 13 or 17.

43       ~~J. In addition to other remedies available under the common or~~  
44 ~~statutory law of this state, any of the following may file a civil action to~~  
45 ~~obtain appropriate relief for a violation of this section:~~

~~1. A woman on whom an abortion has been performed without her informed consent as required by this section.~~

~~2. The father of the unborn child if married to the mother at the time she received the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.~~

~~3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from the plaintiff's criminal conduct.~~

~~K. A civil action filed pursuant to subsection J of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence, wantonness, wilfulness, intention or any other legal standard of care. Relief pursuant to subsection J of this section includes the following:~~

~~1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.~~

~~2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.~~

~~3. Reasonable attorney fees and costs.~~

~~L. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.~~

Sec. 5. Section 36-2158, Arizona Revised Statutes, is amended to read:

36-2158. Informed consent; fetal condition; website; unprofessional conduct; definitions

A. A person shall not perform or induce an abortion without first obtaining the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency and in addition to the other requirements of this chapter, consent to an abortion is voluntary and informed only if all of the following occur:

1. In the case of a woman seeking an abortion of her unborn child diagnosed with a lethal fetal condition, at least twenty-four hours before the abortion the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, that:

(a) Perinatal hospice services are available and the physician has offered this care as an alternative to abortion.

(b) The department of health services maintains a website that lists perinatal hospice programs that are available both in this state and nationally and that are organized geographically by location.

(c) The woman has a right to review the website and that a printed copy of the materials on the website will be provided to her free of charge if she chooses to review these materials.

2. In the case of a woman seeking an abortion of her unborn child diagnosed with a nonlethal fetal condition, at least twenty-four hours before the abortion the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person:

(a) Of up-to-date, evidence-based information concerning the range of outcomes for individuals living with the diagnosed condition, including physical, developmental, educational and psychosocial outcomes.

(b) That The department of health services maintains a website that lists information regarding support services, hotlines, resource centers or clearinghouses, national and local peer support groups and other education and support programs available to assist the woman and her unborn child, any national or local registries of families willing to adopt newborns with the nonlethal fetal condition and contact information for adoption agencies willing to place newborns with the nonlethal fetal condition with families willing to adopt.

(c) That the woman has a right to review the website and that a printed copy of the materials on the website will be provided to her free of charge if she chooses to review these materials.

3. The woman certifies in writing before the abortion that the information required to be provided pursuant to this subsection has been provided.

B. The department of health services shall establish a website ~~within ninety days after the effective date of this section~~ and shall annually update the website. The website shall include the information prescribed in subsection A, paragraph 1, subdivision (b) and paragraph 2, subdivision (b) of this section.

C. A physician who knowingly violates this section commits an act of unprofessional conduct and is subject to license suspension or revocation pursuant to title 32, chapter 13 or 17.

~~D. In addition to other remedies available under the common or statutory law of this state, any of the following individuals may file a civil action to obtain appropriate relief for a violation of this section:~~

~~1. A woman on whom an abortion has been performed without her informed consent as required by this section.~~

~~2. The father of the unborn child if the father is married to the mother at the time she received the abortion, unless the pregnancy resulted from the father's criminal conduct.~~

~~3. The maternal grandparents of the unborn child if the mother was not at least eighteen years of age at the time of the abortion, unless the pregnancy resulted from either of the maternal grandparent's criminal conduct.~~

~~E. A civil action filed pursuant to subsection D of this section shall be brought in the superior court in the county in which the woman on whom the abortion was performed resides and may be based on a claim that failure to obtain informed consent was a result of simple negligence, gross negligence,~~

~~wantonness, wilfulness, intention or any other legal standard of care.~~  
~~Relief pursuant to this subsection includes the following:~~

~~1. Money damages for all psychological, emotional and physical injuries resulting from the violation of this section.~~

~~2. Statutory damages in an amount equal to five thousand dollars or three times the cost of the abortion, whichever is greater.~~

~~3. Reasonable attorney fees and costs.~~

~~F. A civil action brought pursuant to this section must be initiated within six years after the violation occurred.~~

~~G.~~ D. For the purposes of this section:

1. "Lethal fetal condition" means a fetal condition that is diagnosed before birth and that will result, with reasonable certainty, in the death of the unborn child within three months after birth.

2. "Nonlethal fetal condition" means a fetal condition that is diagnosed before birth and that will not result in the death of the unborn child within three months after birth but may result in physical or mental disability or abnormality.

3. "Perinatal hospice" means comprehensive support to the pregnant woman and her family that includes supportive care from the time of diagnosis through the time of birth and death of the infant and through the postpartum period. Supportive care may include counseling and medical care by maternal-fetal medical specialists, obstetricians, neonatologists, anesthesia specialists, clergy, social workers and specialty nurses who are focused on alleviating fear and ensuring that the woman and her family experience the life and death of the child in a comfortable and supportive environment.

Sec. 6. Section 36-2159, Arizona Revised Statutes, is amended to read:

36-2159. Abortion: gestational age: unprofessional conduct

A. Except in a medical emergency, a person shall not perform, induce or attempt to perform or induce an abortion unless the physician or the referring physician has first made a determination of the probable gestational age of the unborn child. In making that determination, the physician or referring physician shall make any inquiries of the pregnant woman and perform or cause to be performed all medical examinations, imaging studies and tests as a reasonably prudent physician in the community, knowledgeable about the medical facts and conditions of both the woman and the unborn child involved, would consider necessary to perform and consider in making an accurate diagnosis with respect to gestational age.

B. Except in a medical emergency, a person shall not knowingly perform, induce or attempt to perform or induce an abortion on a pregnant woman if the probable gestational age of her unborn child has been determined to be at least twenty weeks.

~~C. A person who knowingly violates this section commits a class 1 misdemeanor.~~

1       ~~D.~~ C. A physician who knowingly violates this section commits an act  
2 of unprofessional conduct and is subject to license suspension or revocation  
3 pursuant to title 32, chapter 13 or 17.

4       ~~E. In addition to other remedies available under the common or~~  
5 ~~statutory law of this state, any of the following individuals may file a~~  
6 ~~civil action to obtain appropriate relief for a violation of this section:~~

7       ~~1. A woman on whom an abortion has been performed in violation of this~~  
8 ~~section.~~

9       ~~2. The father of the unborn child if the father is married to the~~  
10 ~~mother at the time she received the abortion, unless the pregnancy resulted~~  
11 ~~from the father's criminal conduct.~~

12       ~~3. The maternal grandparents of the unborn child if the mother was not~~  
13 ~~at least eighteen years of age at the time of the abortion, unless the~~  
14 ~~pregnancy resulted from either of the maternal grandparent's criminal~~  
15 ~~conduct.~~

16       ~~F. A civil action filed pursuant to subsection E D of this section~~  
17 ~~shall be brought in the superior court in the county in which the woman on~~  
18 ~~whom the abortion was performed resides. Relief pursuant to this subsection~~  
19 ~~includes the following:~~

20       ~~1. Money damages for all psychological, emotional and physical~~  
21 ~~injuries resulting from the violation of this section.~~

22       ~~2. Statutory damages in an amount equal to five thousand dollars or~~  
23 ~~three times the cost of the abortion, whichever is greater.~~

24       ~~3. Reasonable attorney fees and costs.~~

25       ~~G. A civil action brought pursuant to this section must be initiated~~  
26 ~~within six years after the violation occurred.~~

27       ~~H.~~ D. A woman on whom an abortion is performed or induced in  
28 violation of this section may not be prosecuted under this section or for  
29 conspiracy to commit a violation of this section.