

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

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2574

Introduced by
Representatives Meyer, Mendez, Steele, Senator Gallardo: Representatives
Alston, Quezada

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

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

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

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

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

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

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

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

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

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

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

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

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

42 ~~E. C.~~ C. A woman on whom a sex-selection or race-selection abortion is
43 performed is not subject to criminal prosecution or civil liability for any
44 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 2. In the case of a woman seeking an abortion of her unborn child
2 diagnosed with a nonlethal fetal condition, at least twenty-four hours before
3 the abortion the physician who is to perform the abortion or the referring
4 physician has informed the woman, orally and in person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 6. Section 36-2159, Arizona Revised Statutes, is amended to read:
27 36-2159. Abortion; gestational age; unprofessional conduct

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

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

42 ~~C. A person who knowingly violates this section commits a class 1~~
43 ~~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.