



HOUSE OF REPRESENTATIVES

SB 1474

human fetus; embryo; prohibited actions

Prime Sponsor: Senator Barto, LD 15

DP Committee on Judiciary

X Caucus and COW

House Engrossed

OVERVIEW

SB 1474 rewrites current statute relating to prohibitions on the use of a human fetus or embryo.

PROVISIONS

1. Repeals [A.R.S. § 36-2302](#) and replaces it with a new section outlining prohibitions on the use of a human fetus or embryo.
2. States a person may not use a human fetus or embryo or any part, organ or fluid of the fetus or embryo resulting from an abortion in animal or human research, experimentation or study or for transplantation, except for either of the following:
 - a. Diagnostic or remedial procedures for the purpose of determining the life or health of the human fetus or embryo or the mother; or
 - b. A pathological study.
3. Prohibits a person from experimenting on a human fetus or embryo prior to an abortion.
4. Stipulates a person may not perform or offer to perform an abortion for which part or all of the justification or reason is that the human fetus or embryo or any part, organ or fluid of the human fetus or embryo may be used for animal or human research, experimentation or study or for transplantation.
5. Prohibits a person from knowingly selling, transferring, distributing, giving, accepting, using or attempting to use any human fetus or embryo or any part, organ or fluid of the human fetus or embryo resulting from an abortion.
6. States a person may not aid or abet the sale, transfer, distribution, other unlawful disposition, acceptance, use or attempted use of a human fetus or embryo or any part, organ or fluid of the human fetus or embryo resulting from an abortion.
7. States that the physician-patient privilege does not prevent the production of documents or records relevant to an investigation of a violation.
 - a. All documents or records produced in an action brought must be inspected by the court in camera.
 - b. Before the release of documents or records to the requesting party, the court must remove patient names and other identifying information and substitute pseudonyms.
8. Permits the Director of the Department of Health Services to suspend or revoke the license of any health care institution if the owners, officers, agents or employees commit a violation.
9. Defines *abortion*, *experimentation* and *pathological study*.

SB 1474

10. Contains a construction and severability clause.

CURRENT LAW

[A.R.S. § 36-2302](#) prohibits knowingly using any human fetus or embryo, living or dead, or any parts, organs or fluids of any such fetus or embryo resulting from an induced abortion in any manner for any medical experimentation or scientific or medical investigative purposes:

- Except as strictly necessary to diagnose a disease or condition in the mother of the fetus or embryo, and
- Only if the abortion was performed because of such disease or condition.

The physician-patient privilege must not prevent the production of documents or records relevant to an investigation. All documents must be inspected by the court in camera, and before documents are released to a requesting party, the court must remove the names and other identifying information, if any, of the patients and substitute pseudonyms. Routine pathologic examinations are not prohibited by a medical examiner or hospital laboratory provided such examination is not a part of or in any way related to any medical or scientific experimentation.

In *Forbes v Woods*, an action was brought challenging the constitutionality of A.R.S. § 36-2302; the United States District Court for the District of Arizona found the statutes unconstitutionally vague on summary judgment and permanently enjoined the enforcement of A.R.S. § 36-2302 (*Forbes v Woods*, 71 F. Supp.2d 2015 (D. Ariz. 1999)). On appeal, Court of Appeals, Ninth Circuit affirmed the decision (*Forbes v. Napolitano*, C.A. 9 (Ariz.) 2000, 236 F.3d 1009).