

REFERENCE TITLE: **abortion; sex; race selection; prohibition**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2443

Introduced by
Representatives Montenegro, Barton, Burges, Gowan, Lesko, Seel, Stevens:
Forese, Smith D

AN ACT

AMENDING TITLE 13, CHAPTER 36, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3603.02; AMENDING TITLE 36, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2156; RELATING TO ABORTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 13, chapter 36, Arizona Revised Statutes, is amended
3 by adding section 13-3603.02, to read:

4 13-3603.02. Abortion; sex and race selection; injunctive and
5 civil relief; failure to report; classification;
6 definition

7 A. A PERSON WHO KNOWINGLY DOES ANY OF THE FOLLOWING IS GUILTY OF A
8 CLASS 3 FELONY:

9 1. PERFORMS AN ABORTION KNOWING THAT THE ABORTION IS SOUGHT BASED ON
10 THE SEX OR RACE OF THE CHILD OR THE RACE OF A PARENT OF THAT CHILD.

11 2. USES FORCE OR THE THREAT OF FORCE TO INTENTIONALLY INJURE OR
12 INTIMIDATE ANY PERSON FOR THE PURPOSE OF COERCING A SEX-SELECTION OR
13 RACE-SELECTION ABORTION.

14 3. SOLICITS OR ACCEPTS MONIES TO FINANCE A SEX-SELECTION OR
15 RACE-SELECTION ABORTION.

16 B. THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY MAY BRING AN ACTION IN
17 SUPERIOR COURT TO ENJOIN THE ACTIVITY DESCRIBED IN SUBSECTION A OF THIS
18 SECTION.

19 C. FOR THE PURPOSES OF TITLE VI, SECTION 601 OF THE CIVIL RIGHTS ACT
20 OF 1964, A VIOLATION OF SUBSECTION A OF THIS SECTION IS DISCRIMINATION
21 PROHIBITED BY THAT ACT.

22 D. THE FATHER OF THE UNBORN CHILD WHO IS MARRIED TO THE MOTHER AT THE
23 TIME SHE RECEIVES A SEX-SELECTION OR RACE-SELECTION ABORTION, OR, IF THE
24 MOTHER HAS NOT ATTAINED EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION,
25 THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD, MAY BRING A CIVIL ACTION ON
26 BEHALF OF THE UNBORN CHILD TO OBTAIN APPROPRIATE RELIEF WITH RESPECT TO A
27 VIOLATION OF SUBSECTION A OF THIS SECTION. THE COURT MAY AWARD REASONABLE
28 ATTORNEY FEES AS PART OF THE COSTS IN AN ACTION BROUGHT PURSUANT TO THIS
29 SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "APPROPRIATE RELIEF"
30 INCLUDES MONETARY DAMAGES FOR ALL INJURIES, WHETHER PSYCHOLOGICAL, PHYSICAL
31 OR FINANCIAL, INCLUDING LOSS OF COMPANIONSHIP AND SUPPORT, RESULTING FROM THE
32 VIOLATION OF SUBSECTION A OF THIS SECTION.

33 E. A PHYSICIAN, PHYSICIAN'S ASSISTANT, NURSE, COUNSELOR OR OTHER
34 MEDICAL OR MENTAL HEALTH PROFESSIONAL WHO KNOWINGLY DOES NOT REPORT KNOWN OR
35 SUSPECTED VIOLATIONS OF THIS SECTION TO APPROPRIATE LAW ENFORCEMENT
36 AUTHORITIES IS GUILTY OF A CLASS 6 FELONY.

37 F. A WOMAN ON WHOM A SEX-SELECTION OR RACE-SELECTION ABORTION IS
38 PERFORMED IS NOT SUBJECT TO CRIMINAL CIVIL LIABILITY FOR ANY VIOLATION OF
39 THIS SECTION OR FOR A CONSPIRACY TO VIOLATE THIS SECTION.

40 G. FOR THE PURPOSES OF THIS SECTION, "ABORTION" HAS THE SAME MEANING
41 PRESCRIBED IN SECTION 36-2151.

1 Sec. 2. Title 36, chapter 20, article 1, Arizona Revised Statutes, is
2 amended by adding section 36-2156, to read:

3 36-2156. Affidavit

4 A PERSON SHALL NOT KNOWINGLY PERFORM OR INDUCE AN ABORTION BEFORE THAT
5 PERSON COMPLETES AND SIGNS AN AFFIDAVIT THAT:

6 1. STATES THAT THE CHILD TO BE ABORTED IS NOT BEING ABORTED BECAUSE OF
7 THE CHILD'S SEX OR RACE.

8 2. IS SIGNED BY THE WOMAN ON WHOM THE ABORTION IS TO BE PERFORMED OR
9 INDUCED.

10 3. IS SIGNED BY THE PERSON PERFORMING OR INDUCING THE ABORTION.

11 Sec. 3. Construction

12 This act does not establish or recognize a right to an abortion and
13 does not make lawful an abortion that is currently unlawful.

14 Sec. 4. Severability

15 If a provision of this act or its application to any person or
16 circumstance is held invalid, the invalidity does not affect other provisions
17 or applications of the act that can be given effect without the invalid
18 provision or application, and to this end the provisions of this act are
19 severable.

20 Sec. 5. Short title

21 This act may be cited as the "Susan B. Anthony and Frederick Douglass
22 Prenatal Nondiscrimination Act of 2011".