

REFERENCE TITLE: **abortion; procedures; requirements; informed consent**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

## **HB 2838**

Introduced by

Representatives Yee, Kavanagh, Lesko, Montenegro, Pierce, Proud, Stevens,  
Senators Barto, Burges, Smith, Yarbrough; Representatives Barton,  
Crandell, Fann, Fillmore, Forese, Goodale, Gowan, Gray R, Harper, Judd,  
Mesnard, Olson, Urie, Vogt, Senators Allen, Driggs, Gray, Klein, McComish,  
Melvin, Murphy, Nelson

**AN ACT**

**AMENDING SECTIONS 36-449.01, 36-449.03, 36-2151, 36-2152, 36-2153 AND 36-2156, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2158 AND 36-2159; AMENDING SECTION 36-2163, ARIZONA REVISED STATUTES; 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. Section 36-449.01, Arizona Revised Statutes, is amended to  
3 read:

4 36-449.01. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Abortion" means the use of any means with the intent to terminate  
7 a woman's pregnancy for reasons other than to increase the probability of a  
8 live birth, to preserve the life or health of the child after a live birth,  
9 to terminate an ectopic pregnancy or to remove a dead fetus. Abortion does  
10 not include birth control devices or oral contraceptives.

11 2. "Abortion clinic" means a facility, other than a hospital, in which  
12 five or more first trimester abortions in any month or any second or third  
13 trimester abortions are performed.

14 3. "Director" means the director of the department of health services.

15 4. "MEDICATION ABORTION" MEANS THE USE OF ANY MEDICATION, DRUG OR  
16 OTHER SUBSTANCE THAT IS INTENDED TO CAUSE OR INDUCE AN ABORTION.

17 ~~4.~~ 5. "Perform" includes the initial administration of any  
18 medication, drug or other substance intended to cause or induce an abortion.

19 6. "SURGICAL ABORTION" HAS THE SAME MEANING PRESCRIBED IN SECTION  
20 36-2151.

21 ~~5.~~ 7. "Viable fetus" has the same meaning prescribed in section  
22 36-2301.01.

23 Sec. 2. Section 36-449.03, Arizona Revised Statutes, is amended to  
24 read:

25 36-449.03. Abortion clinics; rules; civil penalties

26 A. The director shall adopt rules for an abortion clinic's physical  
27 facilities. At a minimum these rules shall prescribe standards for:

28 1. Adequate private space that is specifically designated for  
29 interviewing, counseling and medical evaluations.

30 2. Dressing rooms for staff and patients.

31 3. Appropriate lavatory areas.

32 4. Areas for preprocedure hand washing.

33 5. Private procedure rooms.

34 6. Adequate lighting and ventilation for abortion procedures.

35 7. Surgical or gynecologic examination tables and other fixed  
36 equipment.

37 8. Postprocedure recovery rooms that are supervised, staffed and  
38 equipped to meet the patients' needs.

39 9. Emergency exits to accommodate a stretcher or gurney.

40 10. Areas for cleaning and sterilizing instruments.

41 11. Adequate areas for the secure storage of medical records and  
42 necessary equipment and supplies.

43 12. The display in the abortion clinic, in a place that is conspicuous  
44 to all patients, of the clinic's current license issued by the department.

1 B. The director shall adopt rules to prescribe abortion clinic  
2 supplies and equipment standards, including supplies and equipment that are  
3 required to be immediately available for use or in an emergency. At a  
4 minimum these rules shall:

5 1. Prescribe required equipment and supplies, including medications,  
6 required for the conduct, in an appropriate fashion, of any abortion  
7 procedure that the medical staff of the clinic anticipates performing and for  
8 monitoring the progress of each patient throughout the procedure and recovery  
9 period.

10 2. Require that the number or amount of equipment and supplies at the  
11 clinic is adequate at all times to assure sufficient quantities of clean and  
12 sterilized durable equipment and supplies to meet the needs of each patient.

13 3. Prescribe required equipment, supplies and medications that shall  
14 be available and ready for immediate use in an emergency and requirements for  
15 written protocols and procedures to be followed by staff in an emergency,  
16 such as the loss of electrical power.

17 4. Prescribe required equipment and supplies for required laboratory  
18 tests and requirements for protocols to calibrate and maintain laboratory  
19 equipment at the abortion clinic or operated by clinic staff.

20 5. Require ultrasound equipment ~~in those facilities that provide~~  
21 ~~abortions after twelve weeks' gestation.~~

22 6. Require that all equipment is safe for the patient and the staff,  
23 meets applicable federal standards and is checked annually to ensure safety  
24 and appropriate calibration.

25 C. The director shall adopt rules relating to abortion clinic  
26 personnel. At a minimum these rules shall require that:

27 1. The abortion clinic designate a medical director of the abortion  
28 clinic who is licensed pursuant to title 32, chapter 13, 17 or 29.

29 2. Physicians performing ~~surgery~~ ABORTIONS are licensed pursuant to  
30 title 32, chapter 13 or 17, demonstrate competence in the procedure involved  
31 and are acceptable to the medical director of the abortion clinic.

32 3. A physician ~~with admitting privileges at an accredited hospital in~~  
33 ~~this state~~ is available: —

34 (a) FOR A SURGICAL ABORTION WHO HAS ADMITTING PRIVILEGES AT A HEALTH  
35 CARE INSTITUTION THAT IS CLASSIFIED BY THE DIRECTOR AS A HOSPITAL PURSUANT TO  
36 SECTION 36-405, SUBSECTION B AND THAT IS WITHIN THIRTY MILES OF THE ABORTION  
37 CLINIC.

38 (b) FOR A MEDICATION ABORTION WHO HAS ADMITTING PRIVILEGES AT A HEALTH  
39 CARE INSTITUTION THAT IS CLASSIFIED BY THE DIRECTOR AS A HOSPITAL PURSUANT TO  
40 SECTION 36-405, SUBSECTION B.

41 4. If a physician is not present, a registered nurse, nurse  
42 practitioner, licensed practical nurse or ~~physician's~~ PHYSICIAN assistant is  
43 present and remains at the clinic when abortions are performed to provide  
44 postoperative monitoring and care, OR MONITORING AND CARE AFTER INDUCING A

1 MEDICATION ABORTION, until each patient who had an abortion that day is  
2 discharged.

3 5. Surgical assistants receive training in counseling, patient  
4 advocacy and the specific responsibilities of the services the surgical  
5 assistants provide.

6 6. Volunteers receive training in the specific responsibilities of the  
7 services the volunteers provide, including counseling and patient advocacy as  
8 provided in the rules adopted by the director for different types of  
9 volunteers based on their responsibilities.

10 D. The director shall adopt rules relating to the medical screening  
11 and evaluation of each abortion clinic patient. At a minimum these rules  
12 shall require:

13 1. A medical history, including the following:

14 (a) Reported allergies to medications, antiseptic solutions or latex.

15 (b) Obstetric and gynecologic history.

16 (c) Past surgeries.

17 2. A physical examination, including a bimanual examination estimating  
18 uterine size and palpation of the adnexa.

19 3. The appropriate laboratory tests, including:

20 (a) ~~For an abortion in which an ultrasound examination is not~~  
21 ~~performed before the abortion procedure,~~ Urine or blood tests for pregnancy  
22 performed before the abortion procedure.

23 (b) A test for anemia.

24 (c) Rh typing, unless reliable written documentation of blood type is  
25 available.

26 (d) Other tests as indicated from the physical examination.

27 4. An ultrasound evaluation for all patients ~~who elect to have an~~  
28 ~~abortion after twelve weeks' gestation.~~ The rules shall require that if a  
29 person who is not a physician performs an ultrasound examination, that person  
30 shall have documented evidence that the person completed a course in the  
31 operation of ultrasound equipment as prescribed in rule. The physician or  
32 other health care professional shall review, at the request of the patient,  
33 the ultrasound evaluation results with the patient before the abortion  
34 procedure is performed, including the probable gestational age of the fetus.

35 5. That the physician is responsible for estimating the gestational  
36 age of the fetus based on the ultrasound examination and obstetric standards  
37 in keeping with established standards of care regarding the estimation of  
38 fetal age as defined in rule and shall write the estimate in the patient's  
39 medical history. The physician shall keep original prints of each ultrasound  
40 examination of a patient in the patient's medical history file.

41 E. The director shall adopt rules relating to the abortion procedure.  
42 At a minimum these rules shall require:

43 1. That medical personnel is available to all patients throughout the  
44 abortion procedure.

1           2. Standards for the safe conduct of abortion procedures that conform  
2 to obstetric standards in keeping with established standards of care  
3 regarding the estimation of fetal age as defined in rule.

4           3. Appropriate use of local anesthesia, analgesia and sedation if  
5 ordered by the physician.

6           4. The use of appropriate precautions, such as the establishment of  
7 intravenous access at least for patients undergoing second or third trimester  
8 abortions.

9           5. The use of appropriate monitoring of the vital signs and other  
10 defined signs and markers of the patient's status throughout the abortion  
11 procedure and during the recovery period until the patient's condition is  
12 deemed to be stable in the recovery room.

13           6. THAT ANY MEDICATION, DRUG OR OTHER SUBSTANCE USED TO INDUCE AN  
14 ABORTION IS ADMINISTERED IN COMPLIANCE WITH THE PROTOCOL THAT IS AUTHORIZED  
15 BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR THAT MEDICATION, DRUG  
16 OR SUBSTANCE AND THAT IS AVAILABLE ON THE UNITED STATES FOOD AND DRUG  
17 ADMINISTRATION WEBSITE.

18           F. The director shall adopt rules that prescribe minimum recovery room  
19 standards. At a minimum these rules shall require that:

20           1. FOR A SURGICAL ABORTION, immediate postprocedure care, OR CARE  
21 PROVIDED AFTER INDUCING A MEDICATION ABORTION, consists of observation in a  
22 supervised recovery room for as long as the patient's condition warrants.

23           2. The clinic arrange hospitalization if any complication beyond the  
24 management capability of the staff occurs or is suspected.

25           3. A licensed health professional who is trained in the management of  
26 the recovery area and is capable of providing basic cardiopulmonary  
27 resuscitation and related emergency procedures remains on the premises of the  
28 abortion clinic until all patients are discharged.

29           4. FOR A SURGICAL ABORTION, a physician with admitting privileges at  
30 ~~an accredited hospital in this state~~ A HEALTH CARE INSTITUTION THAT IS  
31 CLASSIFIED BY THE DIRECTOR AS A HOSPITAL PURSUANT TO SECTION 36-405,  
32 SUBSECTION B AND THAT IS WITHIN THIRTY MILES OF THE ABORTION CLINIC remains  
33 on the premises of the abortion clinic until all patients are stable and are  
34 ready to leave the recovery room and to facilitate the transfer of emergency  
35 cases if hospitalization of the patient or viable fetus is necessary. A  
36 physician shall sign the discharge order and be readily accessible and  
37 available until the last patient is discharged.

38           5. A physician discusses Rh0(d) immune globulin with each patient for  
39 whom it is indicated and assures it is offered to the patient in the  
40 immediate postoperative period or that it will be available to her within  
41 seventy-two hours after completion of the abortion procedure. If the patient  
42 refuses, a refusal form approved by the department shall be signed by the  
43 patient and a witness and included in the medical record.

1           6. Written instructions with regard to postabortion coitus, signs of  
2 possible problems and general aftercare are given to each patient. Each  
3 patient shall have specific instructions regarding access to medical care for  
4 complications, including a telephone number to call for medical emergencies.

5           7. There is a specified minimum length of time that a patient remains  
6 in the recovery room by type of abortion procedure and duration of gestation.

7           8. The physician assures that a licensed health professional from the  
8 abortion clinic makes a good faith effort to contact the patient by  
9 telephone, with the patient's consent, within twenty-four hours after **surgery**  
10 **A SURGICAL ABORTION** to assess the patient's recovery.

11           9. Equipment and services are located in the recovery room to provide  
12 appropriate emergency resuscitative and life support procedures pending the  
13 transfer of the patient or viable fetus to the hospital.

14           G. The director shall adopt rules that prescribe standards for  
15 follow-up visits. At a minimum these rules shall require that:

16           1. **FOR A SURGICAL ABORTION**, a postabortion medical visit is offered  
17 and, if requested, scheduled for three weeks after the abortion, including a  
18 medical examination and a review of the results of all laboratory tests. **FOR**  
19 **A MEDICATION ABORTION, THE RULES SHALL REQUIRE THAT A POSTABORTION MEDICAL**  
20 **VISIT IS SCHEDULED BETWEEN ONE WEEK AND THREE WEEKS AFTER THE INITIAL DOSE OF**  
21 **A MEDICATION ABORTION TO CONFIRM THE PREGNANCY IS COMPLETELY TERMINATED AND**  
22 **TO ASSESS THE DEGREE OF BLEEDING.**

23           2. A urine pregnancy test is obtained at the time of the follow-up  
24 visit to rule out continuing pregnancy. If a continuing pregnancy is  
25 suspected, the patient shall be evaluated and a physician who performs  
26 abortions shall be consulted.

27           H. The director shall adopt rules to prescribe minimum abortion clinic  
28 incident reporting. At a minimum these rules shall require that:

29           1. The abortion clinic records each incident resulting in a patient's  
30 or viable fetus' serious injury occurring at an abortion clinic and shall  
31 report them in writing to the department within ten days after the incident.  
32 For the purposes of this paragraph, "serious injury" means an injury that  
33 occurs at an abortion clinic and that creates a serious risk of substantial  
34 impairment of a major body organ **AND INCLUDES ANY INJURY OR CONDITION THAT**  
35 **REQUIRES AMBULANCE TRANSPORTATION OF THE PATIENT.**

36           2. If a patient's death occurs, other than a fetal death properly  
37 reported pursuant to law, the abortion clinic reports it to the department  
38 not later than the next department work day.

39           3. Incident reports are filed with the department and appropriate  
40 professional regulatory boards.

41           **I. THE DIRECTOR SHALL ADOPT RULES RELATING TO ENFORCEMENT OF THIS**  
42 **ARTICLE. AT A MINIMUM, THESE RULES SHALL REQUIRE THAT:**

43           **1. FOR AN ABORTION CLINIC THAT IS NOT IN SUBSTANTIAL COMPLIANCE WITH**  
44 **THIS ARTICLE AND THE RULES ADOPTED PURSUANT TO THIS ARTICLE OR THAT IS IN**  
45 **SUBSTANTIAL COMPLIANCE BUT REFUSES TO CARRY OUT A PLAN OF CORRECTION**

1 ACCEPTABLE TO THE DEPARTMENT OF ANY DEFICIENCIES THAT ARE LISTED ON THE  
2 DEPARTMENT'S STATE OF DEFICIENCY, THE DEPARTMENT MAY DO ANY OF THE FOLLOWING:

- 3 (a) ASSESS A CIVIL PENALTY PURSUANT TO SECTION 36-431.01.
- 4 (b) IMPOSE AN INTERMEDIATE SANCTION PURSUANT TO SECTION 36-427.
- 5 (c) SUSPEND OR REVOKE A LICENSE PURSUANT TO SECTION 36-427.
- 6 (d) DENY A LICENSE.
- 7 (e) BRING AN ACTION FOR AN INJUNCTION PURSUANT TO SECTION 36-430.

8 2. IN DETERMINING THE APPROPRIATE ENFORCEMENT ACTION, THE DEPARTMENT  
9 CONSIDERS THE THREAT OF THE HEALTH, SAFETY AND WELFARE OF THE ABORTION  
10 CLINIC'S PATIENTS OR THE GENERAL PUBLIC, INCLUDING:

- 11 (a) WHETHER THE ABORTION CLINIC HAS REPEATED VIOLATIONS OF STATUTES OR  
12 RULES.
- 13 (b) WHETHER THE ABORTION CLINIC HAS ENGAGED IN A PATTERN OF  
14 NONCOMPLIANCE.
- 15 (c) THE TYPE, SEVERITY AND NUMBER OF VIOLATIONS.

16 ~~I.~~ J. The department shall not release personally identifiable  
17 patient or physician information.

18 ~~J.~~ K. The rules adopted by the director pursuant to this section do  
19 not limit the ability of a physician or other health professional to advise a  
20 patient on any health issue.

21 Sec. 3. Section 36-2151, Arizona Revised Statutes, is amended to read:

22 36-2151. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Abortion" means the use of any means to terminate the clinically  
25 diagnosable pregnancy of a woman with knowledge that the termination by those  
26 means will cause, with reasonable likelihood, the death of the unborn child.  
27 Abortion does not include birth control devices, oral contraceptives used to  
28 inhibit or prevent ovulation, conception or the implantation of a fertilized  
29 ovum in the uterus or the use of any means to ~~increase the probability of a~~  
30 ~~live birth~~ SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN CHILD, to  
31 preserve the life or health of the child after a live birth, to terminate an  
32 ectopic pregnancy or to remove a dead fetus.

33 2. "Auscultation" means the act of listening for sounds made by  
34 internal organs of the unborn child, specifically for a heartbeat, using an  
35 ultrasound transducer and fetal heart rate monitor.

36 3. "Conception" means the fusion of a human spermatozoon with a human  
37 ovum.

38 4. "Gestational age" means the age of the unborn child as calculated  
39 from the first day of the last menstrual period of the pregnant woman.

40 5. "Health professional" has the same meaning prescribed in section  
41 32-3201.

42 6. "Medical emergency" means a condition that, on the basis of the  
43 physician's good faith clinical judgment, so complicates the medical  
44 condition of a pregnant woman as to necessitate the immediate abortion of her

1 pregnancy to avert her death or for which a delay will create serious risk of  
2 substantial and irreversible impairment of a major bodily function.

3 7. "MEDICATION ABORTION" MEANS THE USE OF ANY MEDICATION, DRUG OR  
4 OTHER SUBSTANCE THAT IS INTENDED TO CAUSE OR INDUCE AN ABORTION.

5 ~~7-~~ 8. "Physician" means a person who is licensed pursuant to title  
6 32, chapter 13 or 17.

7 ~~8-~~ 9. "Pregnant" or "pregnancy" means a female reproductive condition  
8 of having a developing unborn child in the body and that begins with  
9 conception.

10 ~~9-~~ 10. "Probable gestational age" means the gestational age of the  
11 unborn child at the time the abortion is planned to be performed and as  
12 determined with reasonable probability by the attending physician.

13 ~~10-~~ 11. "Surgical abortion" means the use of a surgical instrument or  
14 a machine to terminate the clinically diagnosable pregnancy of a woman with  
15 knowledge that the termination by those means will cause, with reasonable  
16 likelihood, the death of the unborn child. Surgical abortion does not  
17 include the use of any means to increase the probability of a live birth, to  
18 preserve the life or health of the child after a live birth, to terminate an  
19 ectopic pregnancy or to remove a dead fetus. Surgical abortion does not  
20 include patient care incidental to the procedure.

21 ~~11-~~ 12. "Ultrasound" means the use of ultrasonic waves for diagnostic  
22 or therapeutic purposes to monitor a developing unborn child.

23 ~~12-~~ 13. "Unborn child" means the offspring of human beings from  
24 conception until birth.

25 Sec. 4. Section 36-2152, Arizona Revised Statutes, is amended to read:

26 ~~36-2152.~~ Parental consent; exception; hearings; time limits;  
27 violation; classification; civil relief; statute of  
28 limitations

29 A. In addition to the OTHER requirements of ~~section 36-2153~~ THIS  
30 CHAPTER, a person shall not knowingly perform an abortion on a pregnant  
31 unemancipated minor unless the attending physician has secured the written  
32 and notarized consent from one of the minor's parents or the minor's guardian  
33 or conservator or unless a judge of the superior court authorizes the  
34 physician to perform the abortion pursuant to subsection B of this section.  
35 Notwithstanding section 41-319, the notarized statement of parental consent  
36 and the description of the document or notarial act recorded in the notary  
37 journal are confidential and are not public records.

38 B. A judge of the superior court, on petition or motion, and after an  
39 appropriate hearing, shall authorize a physician to perform the abortion if  
40 the judge determines that the pregnant minor is mature and capable of giving  
41 informed consent to the proposed abortion. If the judge determines that the  
42 pregnant minor is not mature or if the pregnant minor does not claim to be  
43 mature, the judge shall determine whether the performance of an abortion on  
44 her without the consent from one of her parents or her guardian or  
45 conservator would be in her best interests and shall authorize a physician to



1 perform the abortion without consent if the judge concludes that the pregnant  
2 minor's best interests would be served.

3 C. If the pregnant minor claims to be mature at a proceeding held  
4 pursuant to subsection B of this section, the minor must prove by clear and  
5 convincing evidence that she is sufficiently mature and capable of giving  
6 informed consent without consulting her parent or legal guardian based on her  
7 experience level, perspective and judgment. In assessing the pregnant  
8 minor's experience level, the court may consider, among other relevant  
9 factors, the minor's age and experiences working outside the home, living  
10 away from home, traveling on her own, handling personal finances and making  
11 other significant decisions. In assessing the pregnant minor's perspective,  
12 the court may consider, among other relevant factors, what steps the minor  
13 took to explore her options and the extent to which she considered and  
14 weighed the potential consequences of each option. In assessing the pregnant  
15 minor's judgment, the court may consider, among other relevant factors, the  
16 minor's conduct since learning of her pregnancy and her intellectual ability  
17 to understand her options and to make an informed decision.

18 D. The pregnant minor may participate in the court proceedings on her  
19 own behalf. The court shall appoint a guardian ad litem for her. The court  
20 shall advise her that she has the right to court appointed counsel and, on  
21 her request, shall provide her with counsel unless she appears through  
22 private counsel or she knowingly and intelligently waives her right to  
23 counsel.

24 E. Proceedings in the court under this section are confidential and  
25 have precedence over other pending matters. Members of the public shall not  
26 inspect, obtain copies of or otherwise have access to records of court  
27 proceedings under this section unless authorized by law. A judge who  
28 conducts proceedings under this section shall make in writing specific  
29 factual findings and legal conclusions supporting the decision and shall  
30 order a confidential record of the evidence to be maintained, including the  
31 judge's own findings and conclusions. The minor may file the petition using  
32 a fictitious name. For purposes of this subsection, public does not include  
33 judges, clerks, administrators, professionals or other persons employed by or  
34 working under the supervision of the court or employees of other public  
35 agencies who are authorized by state or federal rule or law to inspect and  
36 copy closed court records.

37 F. The court shall hold the hearing and shall issue a ruling within  
38 forty-eight hours, excluding weekends and holidays, after the petition is  
39 filed. If the court fails to issue a ruling within this time period, the  
40 petition is deemed to have been granted and the consent requirement is  
41 waived.

42 G. An expedited confidential appeal is available to a pregnant minor  
43 for whom the court denies an order authorizing an abortion without parental  
44 consent. The appellate court shall hold the hearing and issue a ruling  
45 within forty-eight hours, excluding weekends and holidays, after the petition

1 for appellate review is filed. Filing fees are not required of the pregnant  
2 minor at either the trial or the appellate level.

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

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

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

19 I. A person who performs an abortion in violation of this section is  
20 guilty of a class 1 misdemeanor. A person is not subject to any liability  
21 under this section if the person establishes by written evidence that the  
22 person relied on evidence sufficient to convince a careful and prudent person  
23 that the representations of the pregnant minor regarding information  
24 necessary to comply with this section are true.

25 J. In addition to other remedies available under the common or  
26 statutory law of this state, one or both of the minor's parents or the  
27 minor's guardian may bring a civil action in the superior court in the county  
28 in which the parents or the guardian resides to obtain appropriate relief for  
29 a violation of this section, unless the pregnancy resulted from the criminal  
30 conduct of the parent or guardian. The civil action may be based on a claim  
31 that failure to obtain consent was a result of simple negligence, gross  
32 negligence, wantonness, wilfulness, intention or any other legal standard of  
33 care. **THE CIVIL ACTION MAY BE BROUGHT AGAINST THE PERSON WHO PERFORMS THE  
34 ABORTION IN VIOLATION OF THIS SECTION AND ANY PERSON WHO CAUSES, AIDS OR  
35 ASSISTS A MINOR TO OBTAIN AN ABORTION WITHOUT MEETING THE REQUIREMENTS OF  
36 THIS SECTION.** Relief pursuant to this subsection includes the following:

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

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

41 3. Reasonable attorney fees and costs.

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

1 L. THE CONSENT REQUIRED BY THIS SECTION MUST BE OBTAINED ON A FORM  
2 PRESCRIBED BY THE DEPARTMENT OF HEALTH SERVICES. AT A MINIMUM, THE FORM  
3 MUST:

4 1. LIST THE POSSIBLE MEDICAL RISKS THAT MAY OCCUR WITH ANY SURGICAL,  
5 MEDICAL OR DIAGNOSTIC PROCEDURE, INCLUDING THE POTENTIAL FOR INFECTION, BLOOD  
6 CLOTS, HEMORRHAGE, ALLERGIC REACTIONS AND DEATH.

7 2. LIST THE POSSIBLE MEDICAL RISKS THAT MAY OCCUR WITH A SURGICAL  
8 ABORTION, INCLUDING HEMORRHAGE, UTERINE PERFORATION, STERILITY, INJURY TO THE  
9 BOWEL OR BLADDER, A POSSIBLE HYSTERECTOMY AS A RESULT OF A COMPLICATION  
10 INJURY DURING THE PROCEDURE AND FAILURE TO REMOVE ALL PRODUCTS OF CONCEPTION  
11 THAT MAY RESULT IN AN ADDITIONAL PROCEDURE.

12 3. LIST THE POSSIBLE MEDICAL RISKS THAT MAY OCCUR WITH A MEDICATION  
13 ABORTION, INCLUDING HEMORRHAGE, INFECTION, FAILURE TO REMOVE ALL PRODUCTS OF  
14 CONCEPTION THAT MAY RESULT IN AN ADDITIONAL PROCEDURE, STERILITY AND THE  
15 POSSIBLE CONTINUATION OF THE PREGNANCY.

16 4. REQUIRE THE PATIENT'S AND THE PARENT'S INITIALS ON EACH PAGE OF THE  
17 FORM AND A FULL SIGNATURE ON THE FINAL PAGE OF THE FORM.

18 5. INCLUDE A SPACE FOR THE NOTARY'S SIGNATURE AND SEAL ON THE FINAL  
19 PAGE OF THE FORM.

20 M. THE PHYSICIAN MUST MAINTAIN THE FORM IN THE PATIENT'S RECORDS FOR  
21 SEVEN YEARS AFTER THE DATE OF THE PROCEDURE OR FIVE YEARS AFTER THE DATE OF  
22 THE MINOR'S MATURITY, WHICHEVER IS LONGER.

23 Sec. 5. Section 36-2153, Arizona Revised Statutes, is amended to read:  
24 36-2153. Informed consent; requirements; information; website;  
25 signs; violation; civil relief; statute of  
26 limitations

27 A. An abortion shall not be performed or induced without the voluntary  
28 and informed consent of the woman on whom the abortion is to be performed or  
29 induced. Except in the case of a medical emergency **AND IN ADDITION TO THE**  
30 **OTHER REQUIREMENTS OF THIS CHAPTER**, consent to an abortion is voluntary and  
31 informed only if all of the following are true:

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

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

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

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

40 (d) Alternatives to the procedure or treatment that a reasonable  
41 patient would consider material to the decision of whether or not to undergo  
42 the abortion.

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

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

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

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

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

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

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

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

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

24 (f) THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT  
25 DESCRIBES THE UNBORN CHILD AND LISTS THE AGENCIES THAT OFFER ALTERNATIVES TO  
26 ABORTION.

27 (g) THE WOMAN HAS A RIGHT TO REVIEW THE WEBSITE AND THAT A PRINTED  
28 COPY OF THE MATERIALS ON THE WEBSITE WILL BE PROVIDED TO HER FREE OF CHARGE  
29 IF SHE CHOOSES TO REVIEW THESE MATERIALS.

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

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

37 B. If a medical emergency compels the performance of an abortion, the  
38 physician shall inform the woman, before the abortion if possible, of the  
39 medical indications supporting the physician's judgment that an abortion is  
40 necessary to avert the woman's death or to avert substantial and irreversible  
41 impairment of a major bodily function.

42 C. THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH A WEBSITE WITHIN  
43 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND  
44 SHALL ANNUALLY UPDATE THE WEBSITE. THE WEBSITE MUST INCLUDE A LINK TO A  
45 PRINTABLE VERSION OF ALL MATERIALS LISTED ON THE WEBSITE. THE MATERIALS MUST

1 BE WRITTEN IN AN EASILY UNDERSTOOD MANNER AND PRINTED IN A TYPEFACE THAT IS  
2 LARGE ENOUGH TO BE CLEARLY LEGIBLE. THE WEBSITE MUST INCLUDE ALL OF THE  
3 FOLLOWING MATERIALS:

4 1. INFORMATION THAT IS ORGANIZED GEOGRAPHICALLY BY LOCATION AND THAT  
5 IS DESIGNED TO INFORM THE WOMAN ABOUT PUBLIC AND PRIVATE AGENCIES AND  
6 SERVICES THAT ARE AVAILABLE TO ASSIST A WOMAN THROUGH PREGNANCY, AT  
7 CHILDBIRTH AND WHILE HER CHILD IS DEPENDENT, INCLUDING ADOPTION AGENCIES.  
8 THE MATERIALS SHALL INCLUDE A COMPREHENSIVE LIST OF THE AGENCIES, A  
9 DESCRIPTION OF THE SERVICES THEY OFFER AND THE MANNER IN WHICH THESE AGENCIES  
10 MAY BE CONTACTED, INCLUDING THE AGENCIES' TELEPHONE NUMBERS AND WEBSITE  
11 ADDRESSES.

12 2. INFORMATION ON THE AVAILABILITY OF MEDICAL ASSISTANCE BENEFITS FOR  
13 PRENATAL CARE, CHILDBIRTH AND NEONATAL CARE.

14 3. A STATEMENT THAT IT IS UNLAWFUL FOR ANY PERSON TO COERCE A WOMAN TO  
15 UNDERGO AN ABORTION.

16 4. A STATEMENT THAT ANY PHYSICIAN WHO PERFORMS AN ABORTION ON A WOMAN  
17 WITHOUT OBTAINING THE WOMAN'S VOLUNTARY AND INFORMED CONSENT OR WITHOUT  
18 ACCORDING HER A PRIVATE MEDICAL CONSULTATION MAY BE LIABLE TO THE WOMAN FOR  
19 DAMAGES IN A CIVIL ACTION.

20 5. A STATEMENT THAT THE FATHER OF A CHILD IS LIABLE TO ASSIST IN THE  
21 SUPPORT OF THAT CHILD, EVEN IF THE FATHER HAS OFFERED TO PAY FOR AN ABORTION,  
22 AND THAT THE LAW ALLOWS ADOPTIVE PARENTS TO PAY COSTS OF PRENATAL CARE,  
23 CHILDBIRTH AND NEONATAL CARE.

24 6. INFORMATION THAT IS DESIGNED TO INFORM THE WOMAN OF THE PROBABLE  
25 ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE UNBORN CHILD AT TWO-WEEK  
26 GESTATIONAL INCREMENTS FROM FERTILIZATION TO FULL TERM, INCLUDING PICTURES OR  
27 DRAWINGS REPRESENTING THE DEVELOPMENT OF UNBORN CHILDREN AT TWO-WEEK  
28 GESTATIONAL INCREMENTS AND ANY RELEVANT INFORMATION ON THE POSSIBILITY OF THE  
29 UNBORN CHILD'S SURVIVAL. THE PICTURES OR DRAWINGS MUST CONTAIN THE  
30 DIMENSIONS OF THE UNBORN CHILD AND MUST BE REALISTIC AND APPROPRIATE FOR EACH  
31 STAGE OF PREGNANCY. THE INFORMATION PROVIDED PURSUANT TO THIS PARAGRAPH MUST  
32 BE OBJECTIVE, NONJUDGMENTAL AND DESIGNED TO CONVEY ONLY ACCURATE SCIENTIFIC  
33 INFORMATION ABOUT THE UNBORN CHILD AT THE VARIOUS GESTATIONAL AGES.

34 7. OBJECTIVE INFORMATION THAT DESCRIBES THE METHODS OF ABORTION  
35 PROCEDURES COMMONLY EMPLOYED, THE MEDICAL RISKS COMMONLY ASSOCIATED WITH EACH  
36 PROCEDURE, THE POSSIBLE DETRIMENTAL PSYCHOLOGICAL EFFECTS OF ABORTION AND THE  
37 MEDICAL RISKS COMMONLY ASSOCIATED WITH CARRYING A CHILD TO TERM.

38 ~~C.~~ D. An individual who is not a physician shall not perform a  
39 surgical abortion.

40 ~~D.~~ E. A person shall not write or communicate a prescription for a  
41 drug or drugs to induce an abortion or require or obtain payment for a  
42 service provided to a patient who has inquired about an abortion or scheduled  
43 an abortion until the expiration of the twenty-four hour reflection period  
44 required by subsection A OF THIS SECTION.

1           ~~E~~. F. A person shall not intimidate or coerce in any way any person  
2 to obtain an abortion. A parent, A guardian or any other person shall not  
3 coerce a minor to obtain an abortion. If a minor is denied financial support  
4 by the minor's parents, guardians or custodian due to the minor's refusal to  
5 have an abortion performed, the minor is deemed emancipated for the purposes  
6 of eligibility for public assistance benefits, except that the emancipated  
7 minor may not use these benefits to obtain an abortion.

8           G. ANY FACILITY OR OFFICE THAT PROVIDES ABORTIONS SHALL CONSPICUOUSLY  
9 POST SIGNS THAT ARE VISIBLE TO ALL WHO ENTER THE FACILITY OR OFFICE, THAT ARE  
10 CLEARLY READABLE AND THAT STATE IT IS UNLAWFUL FOR ANY PERSON TO FORCE A  
11 WOMAN TO HAVE AN ABORTION AND A WOMAN WHO IS BEING FORCED TO HAVE AN ABORTION  
12 HAS THE RIGHT TO CONTACT ANY LOCAL OR STATE LAW ENFORCEMENT OR SOCIAL SERVICE  
13 AGENCY TO RECEIVE PROTECTION FROM ANY ACTUAL OR THREATENED PHYSICAL,  
14 EMOTIONAL OR PSYCHOLOGICAL ABUSE. THE SIGNS SHALL BE POSTED IN THE WAITING  
15 ROOM, CONSULTATION ROOMS AND PROCEDURE ROOMS.

16           H. A PERSON SHALL NOT REQUIRE A WOMAN TO OBTAIN AN ABORTION AS A  
17 PROVISION IN CONTRACT OR AS A CONDITION OF EMPLOYMENT.

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

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

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

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

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

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

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

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

43           3. Reasonable attorney fees and costs.

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

1           Sec. 6. Section 36-2156, Arizona Revised Statutes, is amended to read:  
2           36-2156. Informed consent; ultrasound required; violation;  
3                                   civil relief; statute of limitations

4           A. An abortion shall not be performed or induced without the voluntary  
5 and informed consent of the woman on whom the abortion is to be performed or  
6 induced. Except in the case of a medical emergency and in addition to the  
7 OTHER requirements of ~~section 36-2153~~ THIS CHAPTER, consent to an abortion is  
8 voluntary and informed only if both of the following are true:

9           1. At least ~~one-hour~~ TWENTY-FOUR HOURS before the woman having any  
10 part of an abortion performed or induced, and before the administration of  
11 any anesthesia or medication in preparation for the abortion on the woman,  
12 the physician who is to perform the abortion, the referring physician or a  
13 qualified person working in conjunction with either physician shall:

14           (a) Perform fetal ultrasound imaging and auscultation of fetal heart  
15 tone services on the woman undergoing the abortion.

16           (b) Offer to provide the woman with an opportunity to view the active  
17 ultrasound image of the unborn child and hear the heartbeat of the unborn  
18 child if the heartbeat is audible. The active ultrasound image must be of a  
19 quality consistent with standard medical practice in the community, contain  
20 the dimensions of the unborn child and accurately portray the presence of  
21 external members and internal organs, if present or viewable, of the unborn  
22 child. The auscultation of fetal heart tone must be of a quality consistent  
23 with standard medical practice in the community.

24           (c) Offer to provide the woman with a simultaneous explanation of what  
25 the ultrasound is depicting, including the presence and location of the  
26 unborn child within the uterus, the number of unborn children depicted, the  
27 dimensions of the unborn child and the presence of any external members and  
28 internal organs, if present or viewable.

29           (d) Offer to provide the patient with a physical picture of the  
30 ultrasound image of the unborn child.

31           2. The woman certifies in writing before the abortion that she has  
32 been given the opportunity to view the active ultrasound image and hear the  
33 heartbeat of the unborn child if the heartbeat is audible and that she opted  
34 to view or not view the active ultrasound image and hear or not hear the  
35 heartbeat of the unborn child.

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

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

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

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

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

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

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

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

18           3. Reasonable attorney fees and costs.

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

21           Sec. 7. Title 36, chapter 20, article 1, Arizona Revised Statutes, is  
22 amended by adding sections 36-2158 and 36-2159, to read:

23           36-2158. Informed consent; fetal condition; website; violation;  
24                                   civil relief; statute of limitations; definitions

25           A. A PERSON SHALL NOT PERFORM OR INDUCE AN ABORTION WITHOUT FIRST  
26 OBTAINING THE VOLUNTARY AND INFORMED CONSENT OF THE WOMAN ON WHOM THE  
27 ABORTION IS TO BE PERFORMED OR INDUCED. EXCEPT IN THE CASE OF A MEDICAL  
28 EMERGENCY AND IN ADDITION TO THE REQUIREMENTS OF SECTIONS 36-2153 AND  
29 36-2156, CONSENT TO AN ABORTION IS VOLUNTARY AND INFORMED ONLY IF ALL OF THE  
30 FOLLOWING OCCUR:

31           1. IN THE CASE OF A WOMAN SEEKING AN ABORTION OF HER UNBORN CHILD  
32 DIAGNOSED WITH A LETHAL FETAL CONDITION, AT LEAST TWENTY-FOUR HOURS BEFORE  
33 THE ABORTION THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OR THE REFERRING  
34 PHYSICIAN HAS INFORMED THE WOMAN, ORALLY AND IN PERSON, THAT:

35           (a) PERINATAL HOSPICE SERVICES ARE AVAILABLE AND THE PHYSICIAN HAS  
36 OFFERED THIS CARE AS AN ALTERNATIVE TO ABORTION.

37           (b) THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT LISTS  
38 PERINATAL HOSPICE PROGRAMS THAT ARE AVAILABLE BOTH IN THIS STATE AND  
39 NATIONALLY AND THAT ARE ORGANIZED GEOGRAPHICALLY BY LOCATION.

40           (c) THE WOMAN HAS A RIGHT TO REVIEW THE WEBSITE AND THAT A PRINTED  
41 COPY OF THE MATERIALS ON THE WEBSITE WILL BE PROVIDED TO HER FREE OF CHARGE  
42 IF SHE CHOOSES TO REVIEW THESE MATERIALS.

43           2. IN THE CASE OF A WOMAN SEEKING AN ABORTION OF HER UNBORN CHILD  
44 DIAGNOSED WITH A NONLETHAL FETAL CONDITION, AT LEAST TWENTY-FOUR HOURS BEFORE



1 THE ABORTION THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OR THE REFERRING  
2 PHYSICIAN HAS INFORMED THE WOMAN, ORALLY AND IN PERSON:

3 (a) OF UP-TO-DATE, EVIDENCE-BASED INFORMATION CONCERNING THE RANGE OF  
4 OUTCOMES FOR INDIVIDUALS LIVING WITH THE DIAGNOSED CONDITION, INCLUDING  
5 PHYSICAL, DEVELOPMENTAL, EDUCATIONAL AND PSYCHOSOCIAL OUTCOMES.

6 (b) THAT THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT  
7 LISTS INFORMATION REGARDING SUPPORT SERVICES, HOTLINES, RESOURCE CENTERS OR  
8 CLEARINGHOUSES, NATIONAL AND LOCAL PEER SUPPORT GROUPS AND OTHER EDUCATION  
9 AND SUPPORT PROGRAMS AVAILABLE TO ASSIST THE WOMAN AND HER UNBORN CHILD, ANY  
10 NATIONAL OR LOCAL REGISTRIES OF FAMILIES WILLING TO ADOPT NEWBORNS WITH THE  
11 NONLETHAL FETAL CONDITION AND CONTACT INFORMATION FOR ADOPTION AGENCIES  
12 WILLING TO PLACE NEWBORNS WITH THE NONLETHAL FETAL CONDITION WITH FAMILIES  
13 WILLING TO ADOPT.

14 (c) THAT THE WOMAN HAS A RIGHT TO REVIEW THE WEBSITE AND THAT A  
15 PRINTED COPY OF THE MATERIALS ON THE WEBSITE WILL BE PROVIDED TO HER FREE OF  
16 CHARGE IF SHE CHOOSES TO REVIEW THESE MATERIALS.

17 3. THE WOMAN CERTIFIES IN WRITING BEFORE THE ABORTION THAT THE  
18 INFORMATION REQUIRED TO BE PROVIDED PURSUANT TO THIS SUBSECTION HAS BEEN  
19 PROVIDED.

20 B. THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH A WEBSITE WITHIN  
21 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND SHALL ANNUALLY  
22 UPDATE THE WEBSITE. THE WEBSITE SHALL INCLUDE THE INFORMATION PRESCRIBED IN  
23 SUBSECTION A, PARAGRAPH 1, SUBDIVISION (b) AND PARAGRAPH 2, SUBDIVISION (b)  
24 OF THIS SECTION.

25 C. A PHYSICIAN WHO KNOWINGLY VIOLATES THIS SECTION COMMITS AN ACT OF  
26 UNPROFESSIONAL CONDUCT AND IS SUBJECT TO LICENSE SUSPENSION OR REVOCATION  
27 PURSUANT TO TITLE 32, CHAPTER 13 OR 17.

28 D. IN ADDITION TO OTHER REMEDIES AVAILABLE UNDER THE COMMON OR  
29 STATUTORY LAW OF THIS STATE, ANY OF THE FOLLOWING INDIVIDUALS MAY FILE A  
30 CIVIL ACTION TO OBTAIN APPROPRIATE RELIEF FOR A VIOLATION OF THIS SECTION:

31 1. A WOMAN ON WHOM AN ABORTION HAS BEEN PERFORMED WITHOUT HER INFORMED  
32 CONSENT AS REQUIRED BY THIS SECTION.

33 2. THE FATHER OF THE UNBORN CHILD IF THE FATHER IS MARRIED TO THE  
34 MOTHER AT THE TIME SHE RECEIVED THE ABORTION, UNLESS THE PREGNANCY RESULTED  
35 FROM THE FATHER'S CRIMINAL CONDUCT.

36 3. THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD IF THE MOTHER WAS NOT  
37 AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION, UNLESS THE  
38 PREGNANCY RESULTED FROM EITHER OF THE MATERNAL GRANDPARENT'S CRIMINAL  
39 CONDUCT.

40 E. A CIVIL ACTION FILED PURSUANT TO SUBSECTION D OF THIS SECTION SHALL  
41 BE BROUGHT IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE WOMAN ON WHOM THE  
42 ABORTION WAS PERFORMED RESIDES AND MAY BE BASED ON A CLAIM THAT FAILURE TO  
43 OBTAIN INFORMED CONSENT WAS A RESULT OF SIMPLE NEGLIGENCE, GROSS NEGLIGENCE,  
44 WANTONNESS, WILFULNESS, INTENTION OR ANY OTHER LEGAL STANDARD OF CARE.  
45 RELIEF PURSUANT TO THIS SUBSECTION INCLUDES THE FOLLOWING:



1 E. IN ADDITION TO OTHER REMEDIES AVAILABLE UNDER THE COMMON OR  
2 STATUTORY LAW OF THIS STATE, ANY OF THE FOLLOWING INDIVIDUALS MAY FILE A  
3 CIVIL ACTION TO OBTAIN APPROPRIATE RELIEF FOR A VIOLATION OF THIS SECTION:

4 1. A WOMAN ON WHOM AN ABORTION HAS BEEN PERFORMED IN VIOLATION OF THIS  
5 SECTION.

6 2. THE FATHER OF THE UNBORN CHILD IF THE FATHER IS MARRIED TO THE  
7 MOTHER AT THE TIME SHE RECEIVED THE ABORTION, UNLESS THE PREGNANCY RESULTED  
8 FROM THE FATHER'S CRIMINAL CONDUCT.

9 3. THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD IF THE MOTHER WAS NOT  
10 AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION, UNLESS THE  
11 PREGNANCY RESULTED FROM EITHER OF THE MATERNAL GRANDPARENT'S CRIMINAL  
12 CONDUCT.

13 F. A CIVIL ACTION FILED PURSUANT TO SUBSECTION E OF THIS SECTION SHALL  
14 BE BROUGHT IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE WOMAN ON WHOM THE  
15 ABORTION WAS PERFORMED RESIDES AND MAY BE BASED ON A CLAIM THAT FAILURE TO  
16 OBTAIN INFORMED CONSENT WAS A RESULT OF SIMPLE NEGLIGENCE, GROSS NEGLIGENCE,  
17 WANTONNESS, WILFULNESS, INTENTION OR ANY OTHER LEGAL STANDARD OF CARE.  
18 RELIEF PURSUANT TO THIS SUBSECTION INCLUDES THE FOLLOWING:

19 1. MONEY DAMAGES FOR ALL PSYCHOLOGICAL, EMOTIONAL AND PHYSICAL  
20 INJURIES RESULTING FROM THE VIOLATION OF THIS SECTION.

21 2. STATUTORY DAMAGES IN AN AMOUNT EQUAL TO FIVE THOUSAND DOLLARS OR  
22 THREE TIMES THE COST OF THE ABORTION, WHICHEVER IS GREATER.

23 3. REASONABLE ATTORNEY FEES AND COSTS.

24 G. A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE INITIATED  
25 WITHIN SIX YEARS AFTER THE VIOLATION OCCURRED.

26 H. A WOMAN ON WHOM AN ABORTION IS PERFORMED OR INDUCED IN VIOLATION OF  
27 THIS SECTION MAY NOT BE PROSECUTED UNDER THIS SECTION OR FOR CONSPIRACY TO  
28 COMMIT A VIOLATION OF THIS SECTION.

29 Sec. 8. Section 36-2163, Arizona Revised Statutes, is amended to read:

30 36-2163. Reports; confidentiality; annual statistical report;  
31 violations; classification; unprofessional conduct

32 A. A report required by this article shall not contain the name of the  
33 woman, common identifiers such as the woman's social security number, driver  
34 license number or insurance carrier identification numbers or any other  
35 information or identifiers that would make it possible to identify in any  
36 manner or under any circumstances an individual who has obtained or seeks to  
37 obtain an abortion.

38 B. The department of health services shall collect all abortion  
39 reports and complication reports and prepare a comprehensive annual  
40 statistical report based on the data gathered in the reports. The  
41 statistical report shall not lead to the disclosure of the identity of any  
42 person filing a report or about whom a report is filed. The department shall  
43 make the statistical report available on its website and for public  
44 inspection and copying.

1 C. The report prepared by the department pursuant to subsection B of  
2 this section shall include statistics from the administrative office of the  
3 courts containing the following information:

4 1. The number of petitions filed pursuant to section 36-2152,  
5 subsection B.

6 2. Of the petitions filed pursuant to section 36-2152, subsection B,  
7 the number in which the judge appointed a guardian ad litem or  
8 court-appointed counsel for the minor pursuant to section 36-2152,  
9 subsection D.

10 3. Of the petitions filed pursuant to section 36-2152, subsection B,  
11 the number in which the judge issued an order authorizing an abortion without  
12 parental consent.

13 4. Of the petitions filed pursuant to section 36-2152, subsection B,  
14 the number in which the judge issued an order denying the petition.

15 5. Of the petitions denied, the number appealed to the court of  
16 appeals.

17 6. The number of those appeals that resulted in the denials being  
18 affirmed.

19 7. The number of those appeals that resulted in the denial being  
20 reversed.

21 D. Except for a statistical report as provided in subsection B of this  
22 section, a report filed pursuant to this article is not a public record and  
23 is not available for public inspection, except that disclosure may be made to  
24 law enforcement officials on an order of a court after application showing  
25 good cause. The court may condition disclosure of the information on any  
26 appropriate safeguards it may impose.

27 E. Original copies of all reports filed pursuant to sections 36-2161  
28 and 36-2162 shall be available to the Arizona medical board and the Arizona  
29 board of osteopathic examiners in medicine and surgery for use in the  
30 performance of their official duties. The Arizona medical board and the  
31 Arizona board of osteopathic examiners in medicine and surgery shall maintain  
32 the confidentiality of any reports obtained pursuant to this subsection.

33 F. An employee, agent or contractor of the department who wilfully  
34 discloses any information obtained from reports filed pursuant to this  
35 article, other than disclosure authorized under subsections B, D and E of  
36 this section or as otherwise authorized by law, is guilty of a class 3  
37 misdemeanor.

38 G. A person who is required by this article to file a report, keep any  
39 records or supply any information and who wilfully fails to file that report,  
40 keep records or supply information as required by law is guilty of  
41 unprofessional conduct and is subject to discipline, including license  
42 suspension or revocation.

43 H. A person who wilfully delivers or discloses to the department any  
44 report, record or information known by that person to be false commits a  
45 class 1 misdemeanor.

1 I. In addition to the penalties prescribed by subsections F, G and H  
2 of this section, an organization or facility that wilfully violates the  
3 reporting requirements of this article is subject to discipline by the  
4 department including the ~~same~~ civil penalties ~~as~~ prescribed in section ~~36-126~~  
5 ~~36-431.01. IF AN ORGANIZATION OR FACILITY THAT IS LICENSED PURSUANT TO~~  
6 ~~CHAPTER 4, ARTICLE 10 OF THIS TITLE WILFULLY VIOLATES THE REPORTING~~  
7 ~~REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY~~  
8 ~~PURSUANT TO SECTION 36-431.01, IMPOSE AN INTERMEDIATE SANCTION PURSUANT TO~~  
9 ~~SECTION 36-427, SUSPEND OR REVOKE A LICENSE PURSUANT TO SECTION 36-427, DENY~~  
10 ~~A LICENSE OR BRING AN ACTION FOR AN INJUNCTION PURSUANT TO SECTION 36-430.~~

11 Sec. 9. Findings and purposes

12 A. The legislature finds that:

13 1. Abortion can cause serious both short-term and long-term physical  
14 and psychological complications for women, including but not limited to  
15 uterine perforation, uterine scarring, cervical perforation or other injury,  
16 infection, bleeding, hemorrhage, blood clots, failure to actually terminate  
17 the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory  
18 disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory  
19 arrest, renal failure, metabolic disorder, shock, embolism, coma, placenta  
20 previa in subsequent pregnancies, preterm delivery in subsequent pregnancies,  
21 free fluid in the abdomen, organ damage, adverse reactions to anesthesia and  
22 other drugs, psychological or emotional complications such as depression,  
23 anxiety or sleeping disorders and death.

24 2. Abortion has a higher medical risk when the procedure is performed  
25 later in pregnancy. Compared to an abortion at eight weeks of gestation or  
26 earlier, the relative risk increases exponentially at higher gestations.  
27 L. Bartlett et al., Risk factors for legal induced abortion-related mortality  
28 in the United States, *Obstetrics & Gynecology* 103(4):729-737 (2004).

29 3. The incidence of major complications is highest after twenty weeks  
30 of gestation. J. Pregler & A. DeCherney, *Women's Health: Principles and*  
31 *Clinical Practice* 232 (2002).

32 4. The risk of death associated with abortion increases with the  
33 length of pregnancy, from one death for every one million abortions at or  
34 before eight weeks gestation to one per 29,000 abortions at sixteen to twenty  
35 weeks and one per 11,000 abortions at twenty-one or more weeks. L. Bartlett  
36 et al., Risk factors for legal induced abortion-related mortality in the  
37 United States, *Obstetrics & Gynecology* 103(4):729-737 (2004). After the  
38 first trimester, the risk of hemorrhage from an abortion, in particular, is  
39 greater, and the resultant complications may require a hysterectomy, other  
40 reparative surgery or a blood transfusion.

41 5. The State of Arizona has a legitimate concern for the public's  
42 health and safety. *Williamson v. Lee Optical*, 348 U.S. 483, 486 (1985);  
43 *Cohen v. State*, 121 Ariz. 6, 10, 588 P.2d 299, 303 (1978).

1           6. The State of Arizona "has legitimate interests from the outset of  
 2 pregnancy in protecting the health of women." *Planned Parenthood of*  
 3 *Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 847 (1992); *Planned*  
 4 *Parenthood Arizona, Inc. v. American Ass'n of Pro-Life Obstetricians &*  
 5 *Gynecologists*, 257 P.3d 181, 194 (Ariz. App. Div. 1, 2011). More  
 6 specifically, Arizona "has a legitimate concern with the health of women who  
 7 undergo abortions." *Akron v. Akron Ctr. for Reproductive Health, Inc.*, 462  
 8 U.S. 416, 428-29 (1983).

9           7. There is substantial and well-documented medical evidence that an  
 10 unborn child by at least twenty weeks of gestation has the capacity to feel  
 11 pain during an abortion. K. Anand, Pain and its effects in the human neonate  
 12 and fetus, *New England Journal of Medicine*, 317:1321-29 (1987).

13           8. The United States Food and Drug Administration approved the drug  
 14 mifepristone, a first-generation (selective) progesterone receptor modulator  
 15 ([S]PRM), as an abortion-inducing drug with a specific gestation, dosage and  
 16 administration protocol.

17           9. As approved by the United States Food and Drug Administration, and  
 18 as outlined in the drug label, an abortion by mifepristone consists of three  
 19 200 mg tablets of mifepristone taken orally, followed by two 200 mcg tablets  
 20 of misopristol taken orally, through forty-nine days LMP (a gestational  
 21 measurement using the first day of the woman's "last menstrual period" as a  
 22 marker). The patient is to return for a follow-up visit in order to confirm  
 23 that a complete termination of pregnancy has occurred. *Mifeprex Prescribing*  
 24 *Information*, Danco Laboratories (July 2005), available at  
 25 [http://www.accessdata.fda.gov/drugsatfda\\_docs/label/2005/020687s0131b1.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s0131b1.pdf);  
 26 *Mifeprex Medication Guide*, Danco Laboratories (June 8, 2011), available at  
 27 [www.accessdata.fda.gov/drugsatfda\\_docs/label/2011/020687s0141b1.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s0141b1.pdf).

28           10. The aforementioned treatment requires three office visits by the  
 29 patient, and the dosages may only be administered in a clinic, medical office  
 30 or hospital and under supervision of a physician.

31           11. Court testimony demonstrates that some abortion providers fail to  
 32 follow the mifepristone protocol as tested and approved by the United States  
 33 Food and Drug Administration, and as outlined in the drug label. See, e.g.,  
 34 *Planned Parenthood v. Goddard*, CV2009-029110, Declaration of Beth Otterstein  
 35 at 3 (Sept. 10, 2009); *Planned Parenthood v. Horne*, CV2010-030230,  
 36 Declaration of Paul D. Blumenthal, M.D., M.P.H. (June 29, 2011); and *Planned*  
 37 *Parenthood Cincinnati Region v. Taft*, 459 F. Supp. 2d 626, 630 n. 7 (S.D. Oh.  
 38 2006).

39           12. The use of mifepristone presents significant medical risks to  
 40 women, including but not limited to *C. sordellii* bacterial infection, septic  
 41 shock, toxic shock syndrome, adult respiratory distress syndrome from sepsis,  
 42 *Escheria coli* sepsis, group B *Streptococcus* septicemia, disseminated  
 43 intravascular coagulopathy (DIC) with hepatic and renal failure, severe pelvic  
 44 infection and massive hemorrhage.

1           13. Abortion-inducing drugs are associated with an increased risk of  
2 complications relative to surgical abortion. The risk of complications  
3 increases with increasing gestational age, and, in the instance of  
4 mifepristone, with failure to complete the two-step dosage process.

5           14. Medical studies have indicated that 1 to 2 out of every 1,000 women  
6 who undergo mifepristone abortions will require emergency blood transfusion  
7 for massive hemorrhage. By April 30, 2011, the United States Food and Drug  
8 Administration reported that at least 339 women required blood transfusions  
9 for massive bleeding after mifepristone abortions. A total of 612 United  
10 States women have been hospitalized due to complications, and fourteen women  
11 in the United States have died following administration of mifepristone. The  
12 majority of reported deaths in the United States were from fatal infection.  
13 Mifepristone U.S. Postmarketing Adverse Events Summary through 04/30/2011,  
14 United States Food and Drug Administration, available at  
15 [www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor)  
16 [PatientsandProviders/UCM263353.pdf](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor). This infection is atypical to the usual  
17 presentation of sepsis and may occur without the typical signs of infection,  
18 such as fever and tenderness. This atypical presentation requires that  
19 mifepristone be dispensed only in a closely supervised clinical setting under  
20 the direction of a licensed physician who has the direct ability to counsel  
21 the patient regarding the risks, and also to examine the patient prior to and  
22 after administration of mifepristone.

23           15. The absence of proper follow-up care after mifepristone  
24 abortions has resulted in at least 58 women having undetected  
25 ectopic pregnancies, including two deaths from ectopic rupture.  
26 Mifepristone U.S. Postmarketing Adverse Events Summary through 04/30/2011,  
27 United States Food and Drug Administration, available at  
28 [www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor)  
29 [PatientsandProviders/UCM263353.pdf](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor).

30           B. For these reasons, the legislature's purposes in promulgating this  
31 act include to:

32           1. Prohibit abortions at or after twenty weeks of gestation, except in  
33 cases of a medical emergency, based on the documented risks to women's health  
34 and the strong medical evidence that unborn children feel pain during an  
35 abortion at that gestational age.

36           2. Define "medical emergency" to encompass "significant health risks,"  
37 namely only those circumstances in which a pregnant woman's life or a major,  
38 physical bodily function is threatened. *Gonzales v. Carhart*, 550 U.S. 124,  
39 161 (2007).

40           3. Protect women from the dangerous and potentially deadly off-label  
41 use of abortion-inducing drugs, such as, but not limited to, mifepristone.

42           4. Ensure that physicians abide by the protocol tested and approved by  
43 the United States Food and Drug Administration for such abortion-inducing  
44 drugs, as outlined in the drug labels.

1           Sec. 10. Exemption from rule making

2           For the purposes of this act, the department of health services is  
3 exempt from the rule making requirements of title 41, chapter 6, Arizona  
4 Revised Statutes, for two years after the effective date of this act.

5           Sec. 11. Construction

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

8           Sec. 12. Severability

9           If a provision of this act or its application to any person or  
10 circumstance is held invalid, the invalidity does not affect other provisions  
11 or applications of the act that can be given effect without the invalid  
12 provision or application, and to this end the provisions of this act are  
13 severable.