

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SENATE BILL 1394

## AN ACT

AMENDING SECTIONS 36-2161 AND 36-2162, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 20, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2162.01; 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 36-2161, Arizona Revised Statutes, is amended to  
3 read:

4 36-2161. Abortions: reporting requirements

5 A. A hospital or facility in this state where abortions are  
6 performed must submit to the department of health services on a form  
7 prescribed by the department a report of each abortion performed in the  
8 hospital or facility. The report shall not identify the individual  
9 patient by name OR INCLUDE ANY OTHER INFORMATION OR IDENTIFIER THAT WOULD  
10 MAKE IT POSSIBLE TO IDENTIFY, IN ANY MANNER OR UNDER ANY CIRCUMSTANCES, A  
11 WOMAN WHO HAS OBTAINED OR SOUGHT TO OBTAIN AN ABORTION, but THE REPORT  
12 must include the following information:

13 1. The name and address of the facility where the abortion was  
14 performed.

15 2. The type of facility where the abortion was performed.

16 3. The county where the abortion was performed.

17 4. The woman's age.

18 5. The woman's educational background by highest grade completed  
19 and, if applicable, level of college completed.

20 6. The county and state in which the woman resides.

21 7. The woman's race and ethnicity.

22 8. The woman's marital status.

23 9. The number of prior pregnancies and prior abortions of the  
24 woman.

25 10. The number of previous spontaneous terminations of pregnancy of  
26 the woman.

27 11. The gestational age of the unborn child at the time of the  
28 abortion.

29 12. The reason for the abortion, including ~~whether the abortion is~~  
30 ~~elective or due to maternal or fetal health considerations.~~ AT LEAST ONE  
31 OF THE FOLLOWING:

32 (a) ECONOMIC REASONS.

33 (b) THE WOMAN DOES NOT WANT CHILDREN AT THIS TIME.

34 (c) THE WOMAN'S EMOTIONAL HEALTH IS AT STAKE.

35 (d) THE WOMAN'S PHYSICAL HEALTH IS AT STAKE.

36 (e) THE WOMAN WILL SUFFER SUBSTANTIAL IMPAIRMENT OF A MAJOR BODILY  
37 FUNCTION IF THE PREGNANCY CONTINUES.

38 (f) THE PREGNANCY WAS THE RESULT OF RAPE.

39 (g) THE PREGNANCY WAS THE RESULT OF INCEST.

40 (h) THE PREGNANCY RESULTED IN FETAL ANOMALIES.

41 (i) RELATIONSHIP ISSUES, INCLUDING ABUSE, SEPARATION, DIVORCE AND  
42 EXTRAMARITAL AFFAIRS.

43 (j) OTHER.

44 (k) UNKNOWN OR THE WOMAN REFUSED TO ANSWER.

1           13. The type of procedure performed or prescribed and the date of  
2 the abortion.

3           14. Any preexisting medical conditions of the woman that would  
4 complicate pregnancy. ~~and~~

5           15. Any known medical complication that resulted from the  
6 abortion. ~~and~~ , INCLUDING AT LEAST ONE OF THE FOLLOWING:

- 7           (a) SHOCK.
- 8           (b) UTERINE PERFORATION.
- 9           (c) CERVICAL LACERATION REQUIRING SUTURE OR REPAIR.
- 10          (d) HEAVY BLEEDING OR HEMORRHAGE WITH ESTIMATED BLOOD LOSS OF AT  
11 LEAST FIVE HUNDRED CUBIC CENTIMETERS.
- 12          (e) ASPIRATION OR ALLERGIC RESPONSE.
- 13          (f) POSTPROCEDURE INFECTION.
- 14          (g) SEPSIS.
- 15          (h) INCOMPLETE ABORTION RETAINING PART OF THE FETUS REQUIRING  
16 RE-EVACUATION.
- 17          (i) DAMAGE TO THE UTERUS.
- 18          (j) FAILED TERMINATION OF PREGNANCY.
- 19          (k) DEATH OF THE PATIENT.
- 20          (l) OTHER.
- 21          (m) NONE.

22          ~~15.~~ 16. The basis for any medical judgment that a medical  
23 emergency existed that excused the physician from compliance with the  
24 requirements of this chapter.

25          ~~16.~~ 17. The physician's statement if required pursuant to section  
26 36-2301.01.

27          ~~17.~~ 18. If applicable, the weight of the aborted fetus for any  
28 abortion performed pursuant to section 36-2301.01.

29          ~~18.~~ 19. Whether a fetus or embryo was delivered alive as defined  
30 in section 36-2301 during or immediately after an attempted abortion and  
31 the efforts made to promote, preserve and maintain the life of the fetus  
32 or embryo pursuant to section 36-2301.

33          ~~19.~~ 20. Statements by the physician and all clinical staff who  
34 observed the fetus or embryo during or immediately after the abortion  
35 certifying under penalty of perjury that, to the best of their knowledge,  
36 the aborted fetus or embryo was not delivered alive as defined in section  
37 36-2301.

38          21. THE MEDICAL SPECIALTY OF THE PHYSICIAN PERFORMING THE ABORTION,  
39 INCLUDING ONE OF THE FOLLOWING:

- 40          (a) OBSTETRICS-GYNECOLOGY.
- 41          (b) GENERAL OR FAMILY PRACTICE.
- 42          (c) EMERGENCY MEDICINE.
- 43          (d) OTHER.

22. THE TYPE OF ADMISSION FOR THE PATIENT, INCLUDING WHETHER THE ABORTION WAS PERFORMED:

- (a) AS AN OUTPATIENT PROCEDURE IN AN ABORTION CLINIC.
- (b) AS AN OUTPATIENT PROCEDURE AT A HOSPITAL.
- (c) AS AN INPATIENT PROCEDURE AT A HOSPITAL.
- (d) AS AN OUTPATIENT PROCEDURE AT A HEALTH CARE INSTITUTION OTHER THAN AN ABORTION CLINIC OR HOSPITAL.

23. WHETHER ANESTHESIA WAS ADMINISTERED TO THE MOTHER.

24. WHETHER ANESTHESIA WAS ADMINISTERED TO THE UNBORN CHILD.

B. The report must be signed by the physician who performed the abortion or, if a health professional other than a physician is authorized by law to prescribe or administer abortion medication, the signature and title of the person who prescribed or administered the abortion medication. The form may be signed electronically and shall indicate that the person who signs the report is attesting that the information in the report is correct to the best of the person's knowledge. The hospital or facility must transmit the report to the department within fifteen days after the last day of each reporting month.

C. Any report filed pursuant to this section shall be filed electronically at an internet website that is designated by the department unless the person required to file the report applies for a waiver from electronic reporting by submitting a written request to the department.

Sec. 2. Section 36-2162, Arizona Revised Statutes, is amended to read:

36-2162. Complications; reporting requirements

A. A health professional who provides medical care or treatment to a woman who, in the good faith judgment of the health professional, is in need of medical care because of a complication or complications resulting from having undergone an abortion or attempted abortion must file a report with the department of health services on a form prescribed by the department. The report shall not identify the individual patient by name but must contain the following information and other information as the department may require:

- 1. The date of the abortion.
- 2. The woman's age.
- 3. The number of pregnancies the woman may have had before the abortion.
- 4. The number and type of abortions the woman may have had before this abortion.
- 5. The name and address of the facility where the abortion was performed.
- 6. The gestational age of the unborn child at the time of the abortion, if known.
- 7. The type of abortion performed, if known.

1           8. The nature of the complication or complications~~—~~ , INCLUDING AT  
2 LEAST ONE OF THE FOLLOWING:

- 3           (a) SHOCK.  
4           (b) UTERINE PERFORATION.  
5           (c) CERVICAL LACERATION REQUIRING SUTURE OR REPAIR.  
6           (d) HEAVY BLEEDING OR HEMORRHAGE WITH ESTIMATED BLOOD LOSS OF AT  
7 LEAST FIVE HUNDRED CUBIC CENTIMETERS.  
8           (e) ASPIRATION OR ALLERGIC RESPONSE.  
9           (f) POSTPROCEDURE INFECTION.  
10          (g) SEPSIS.  
11          (h) INCOMPLETE ABORTION RETAINING PART OF THE FETUS REQUIRING  
12 RE-EVACUATION.  
13          (i) DAMAGE TO THE UTERUS.  
14          (j) FAILED TERMINATION OF PREGNANCY.  
15          (k) DEATH OF THE PATIENT.  
16          (l) OTHER.

17          9. The medical treatment given.

18          10. The nature and extent, if known, of any permanent condition  
19 caused by the complication.

20          B. The hospital or facility shall complete the complication report,  
21 which may be signed electronically and shall indicate that the person who  
22 signs the report is attesting that the information in the report is  
23 correct to the best of that person's knowledge. The hospital or facility  
24 must transmit the report to the department within fifteen days after the  
25 last day of each reporting month.

26          C. Any report filed pursuant to this section shall be filed  
27 electronically at an internet website that is designated by the department  
28 unless the person required to file the report applies for a waiver from  
29 electronic reporting by submitting a written request to the department.

30          Sec. 3. Title 36, chapter 20, article 2, Arizona Revised Statutes,  
31 is amended by adding section 36-2162.01, to read:

32           36-2162.01. Informed consent; reporting requirements

33          A. A PHYSICIAN IN THIS STATE WHO PROVIDES INFORMED CONSENT  
34 INFORMATION REGARDING ABORTION PURSUANT TO SECTION 36-2153 OR PERFORMS  
35 FETAL ULTRASOUND IMAGING AND AUSCULTATION OF FETAL HEART TONE SERVICES  
36 PURSUANT TO SECTION 36-2156 OR WHO DELEGATES TO A PERSON AUTHORIZED BY  
37 SECTION 36-2153 OR 36-2156 THE DUTY TO PROVIDE THE INFORMATION OR SERVICES  
38 REQUIRED BY THOSE SECTIONS SHALL SUBMIT TO THE DEPARTMENT OF HEALTH  
39 SERVICES ON A FORM PRESCRIBED BY THE DEPARTMENT A REPORT THAT INCLUDES THE  
40 FOLLOWING INFORMATION:

41           1. THE NUMBER OF WOMEN TO WHOM THE PHYSICIAN PROVIDED THE  
42 INFORMATION DESCRIBED IN SECTION 36-2153, SUBSECTION A, PARAGRAPH 1, AND,  
43 OF THOSE WOMEN, THE NUMBER PROVIDED IN THE CAPACITY OF A REFERRING  
44 PHYSICIAN AND THE NUMBER PROVIDED IN THE CAPACITY OF A PHYSICIAN WHO IS TO  
45 PERFORM THE ABORTION.

1           2. THE NUMBER OF WOMEN TO WHOM THE PHYSICIAN, PHYSICIAN ASSISTANT,  
2 NURSE, PSYCHOLOGIST OR LICENSED BEHAVIORAL HEALTH PROFESSIONAL PROVIDED  
3 THE INFORMATION DESCRIBED IN SECTION 36-2153, SUBSECTION A, PARAGRAPH 2,  
4 AND, OF THOSE WOMEN, THE NUMBER PROVIDED IN THE CAPACITY OF A REFERRING  
5 PHYSICIAN AND THE NUMBER PROVIDED IN THE CAPACITY OF A PHYSICIAN WHO IS TO  
6 PERFORM THE ABORTION, AND, OF EACH OF THOSE NUMBERS, THE NUMBER PROVIDED  
7 BY THE PHYSICIAN AND THE NUMBER PROVIDED BY A PHYSICIAN ASSISTANT, NURSE,  
8 PSYCHOLOGIST OR LICENSED BEHAVIORAL HEALTH PROFESSIONAL.

9           3. THE NUMBER OF WOMEN FOR WHOM THE PHYSICIAN OR QUALIFIED PERSON  
10 WORKING IN CONJUNCTION WITH THE PHYSICIAN PERFORMED FETAL ULTRASOUND  
11 IMAGING AND AUSCULTATION OF FETAL HEART TONE SERVICES DESCRIBED IN SECTION  
12 36-2156, SUBSECTION A, PARAGRAPH 1, AND, OF THOSE NUMBERS, THE NUMBER  
13 PROVIDED IN THE CAPACITY OF A REFERRING PHYSICIAN AND THE NUMBER PROVIDED  
14 IN THE CAPACITY OF A PHYSICIAN WHO IS TO PERFORM THE ABORTION, AND, OF  
15 EACH OF THOSE NUMBERS, THE NUMBER PROVIDED BY THE PHYSICIAN AND THE NUMBER  
16 PROVIDED BY A QUALIFIED PERSON WORKING IN CONJUNCTION WITH THE PHYSICIAN.

17           4. THE NUMBER OF ABORTIONS PERFORMED BY THE PHYSICIAN IN WHICH  
18 INFORMATION REQUIRED BY SECTIONS 36-2153 AND 36-2156 TO BE PROVIDED AT  
19 LEAST TWENTY-FOUR HOURS BEFORE THE ABORTION WAS NOT PROVIDED BECAUSE A  
20 MEDICAL EMERGENCY COMPELLED THE PERFORMANCE OF AN ABORTION TO AVERT THE  
21 WOMAN'S DEATH AND THE NUMBER OF ABORTIONS IN WHICH THIS REQUIRED  
22 INFORMATION WAS NOT PROVIDED BECAUSE A MEDICAL EMERGENCY COMPELLED THE  
23 PERFORMANCE OF AN ABORTION TO AVERT SUBSTANTIAL AND IRREVERSIBLE  
24 IMPAIRMENT OF A MAJOR BODILY FUNCTION OF THE WOMAN.

25           B. THE REPORT MAY NOT IDENTIFY THE INDIVIDUAL PATIENT BY NAME OR  
26 INCLUDE ANY OTHER INFORMATION OR IDENTIFIER THAT WOULD MAKE IT POSSIBLE TO  
27 IDENTIFY, IN ANY MANNER OR UNDER ANY CIRCUMSTANCES, A WOMAN WHO HAS  
28 OBTAINED OR SOUGHT TO OBTAIN AN ABORTION.

29           C. THE REPORT SHALL BE SIGNED BY THE PHYSICIAN WHO PROVIDED TO THE  
30 WOMAN THE INFORMATION REQUIRED BY SECTION 36-2153, SUBSECTION A, PARAGRAPH  
31 1 OR THE PHYSICIAN WHO DELEGATED THE DUTY TO ANOTHER PERSON AUTHORIZED BY  
32 LAW TO PROVIDE TO THE WOMAN THE INFORMATION REQUIRED BY SECTION 36-2153,  
33 SUBSECTION A, PARAGRAPH 2 OR SECTION 36-2156, SUBSECTION A, PARAGRAPH 1.  
34 THE FORM MAY BE SIGNED ELECTRONICALLY AND SHALL INDICATE THAT THE  
35 PHYSICIAN WHO SIGNS THE REPORT IS ATTESTING THAT THE INFORMATION IN THE  
36 REPORT IS CORRECT TO THE BEST OF THE PHYSICIAN'S KNOWLEDGE. THE PHYSICIAN  
37 MUST TRANSMIT THE REPORT TO THE DEPARTMENT WITHIN FIFTEEN DAYS AFTER THE  
38 LAST DAY OF EACH REPORTING MONTH.

39           D. ANY REPORT FILED PURSUANT TO THIS SECTION SHALL BE FILED  
40 ELECTRONICALLY AT AN INTERNET WEBSITE THAT IS DESIGNATED BY THE DEPARTMENT  
41 UNLESS THE PERSON REQUIRED TO FILE THE REPORT APPLIES FOR A WAIVER FROM  
42 ELECTRONIC REPORTING BY SUBMITTING A WRITTEN REQUEST TO THE DEPARTMENT.

1           Sec. 4. Section 36-2163, Arizona Revised Statutes, is amended to  
2 read:

3           36-2163. Reports; confidentiality; annual statistical report;  
4                                   violations; classification; unprofessional  
5                                   conduct; penalties

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

12           B. The department of health services shall collect all abortion  
13 reports, ~~and~~ complication reports **AND INFORMED CONSENT REPORTS** and prepare  
14 a comprehensive annual statistical report based on the data gathered in  
15 the reports. The statistical report shall include a breakdown of the  
16 number of abortions by gestational age of the unborn child at the time of  
17 the abortion and the type of procedure performed or prescribed. **THE**  
18 **STATISTICAL REPORT SHALL INCLUDE A BREAKDOWN BY MONTH OF THE REASONS FOR**  
19 **ABORTIONS PURSUANT TO SECTION 36-2161 AND A BREAKDOWN BY MONTH OF THE**  
20 **NUMBER OF ABORTIONS PERFORMED OR PRESCRIBED BY EACH HOSPITAL AND FACILITY**  
21 **PURSUANT TO SECTION 36-2161. ALL DATA INCLUDED ON THE FORMS PURSUANT TO**  
22 **SECTIONS 36-2161, 36-2162 AND 36-2162.01 SHALL BE INCLUDED IN THE**  
23 **STATISTICAL REPORT, EXCEPT THAT THE DEPARTMENT SHALL CONFIDENTIALLY**  
24 **MAINTAIN THE DATA THAT ALONE OR IN COMBINATION MAY CONSTITUTE INFORMATION**  
25 **FROM WHICH AN INDIVIDUAL PERFORMING OR HAVING AN ABORTION MAY BE**  
26 **IDENTIFIED USING EPIDEMIOLOGIC PRINCIPLES.** The statistical report shall  
27 not lead to the disclosure of the identity of any person filing a report  
28 or about whom a report is filed. The department shall make the  
29 statistical report available on its website and for public inspection and  
30 copying.

31           C. The statistical report prepared by the department pursuant to  
32 subsection B of this section shall include statistics from the  
33 administrative office of the courts containing the following information:

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

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

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

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

1           5. Of the petitions denied, the number appealed to the court of  
2 appeals.

3           6. The number of those appeals that resulted in the denials being  
4 affirmed.

5           7. The number of those appeals that resulted in the denial being  
6 reversed.

7           D. THE STATISTICAL REPORT PREPARED BY THE DEPARTMENT PURSUANT TO  
8 SUBSECTION B OF THIS SECTION SHALL INCLUDE STATISTICS FROM THE ARIZONA  
9 HEALTH CARE COST CONTAINMENT SYSTEM CONTAINING THE FOLLOWING INFORMATION:

10           1. THE TOTAL NUMBER OF ABORTIONS PARTIALLY OR FULLY PAID FOR WITH  
11 STATE MONIES THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

12           2. THE TOTAL AMOUNT OF STATE MONIES USED TO PAY FOR THE ABORTIONS  
13 AND EXPENSES INCIDENTAL TO THE ABORTIONS.

14           3. THE TOTAL NUMBER OF ABORTIONS, IF ANY, PAID FOR WITH STATE  
15 MONIES AND PERFORMED OUT OF STATE.

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

22           ~~F.~~ F. Original copies of all reports filed pursuant to sections  
23 36-2161 and 36-2162 shall be available to the Arizona medical board and  
24 the Arizona board of osteopathic examiners in medicine and surgery for use  
25 in the performance of their official duties. The Arizona medical board  
26 and the Arizona board of osteopathic examiners in medicine and surgery  
27 shall maintain the confidentiality of any reports obtained pursuant to  
28 this subsection.

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

34           ~~G.~~ H. A person who is required by this article to file a report,  
35 keep any records or supply any information and who wilfully fails to file  
36 that report, keep records or supply information as required by law is  
37 guilty of unprofessional conduct and is subject to discipline, including  
38 license suspension or revocation.

39           ~~H.~~ I. A person who wilfully delivers or discloses to the  
40 department any report, record or information known by that person to be  
41 false commits a class 1 misdemeanor.

42           ~~I.~~ J. In addition to the penalties prescribed by subsections ~~F~~, G,  
43 ~~and~~ H AND I of this section, an organization or facility that wilfully  
44 violates the reporting requirements of this article is subject to  
45 discipline by the department, including the civil penalties prescribed in

1 section 36-431.01. If an organization or facility that is licensed  
2 pursuant to chapter 4, article 10 of this title wilfully violates the  
3 reporting requirements of this article, the department may assess a civil  
4 penalty pursuant to section 36-431.01, impose an intermediate sanction  
5 pursuant to section 36-427, suspend or revoke a license pursuant to  
6 section 36-427, deny a license or bring an action for an injunction  
7 pursuant to section 36-430.

8 Sec. 5. Effective date

9 This act is effective from and after December 31, 2018.