

\*Sponsorship has changed since the bill was introduced

REFERENCE TITLE: fetal resuscitation; repeal

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
First Regular Session  
2019

## HB 2696

\*Introduced by  
Representatives Terán: Blanc, Bolding, Cano, Fernandez, Friese, Gabaldón,  
Hernandez D, Longdon, Powers Hannley, Salman, Shah

AN ACT

AMENDING SECTIONS 36-449.03 AND 36-2161, ARIZONA REVISED STATUTES;  
REPEALING SECTION 36-2301, 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 36-449.03, Arizona Revised Statutes, is amended  
3 to read:

4 36-449.03. Abortion clinics; rules; civil penalties

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

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

9 2. Dressing rooms for staff and patients.

10 3. Appropriate lavatory areas.

11 4. Areas for preprocedure hand washing.

12 5. Private procedure rooms.

13 6. Adequate lighting and ventilation for abortion procedures.

14 7. Surgical or gynecologic examination tables and other fixed  
15 equipment.

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

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

19 10. Areas for cleaning and sterilizing instruments.

20 11. Adequate areas ~~for the secure storage of~~ TO SECURELY STORE  
21 medical records and necessary equipment and supplies.

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

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

29 1. Prescribe required equipment and supplies, including  
30 medications, required ~~for the~~ TO conduct, in an appropriate fashion, ~~of~~  
31 any abortion procedure that the medical staff of the clinic anticipates  
32 performing and ~~for monitoring~~ TO MONITOR the progress of each patient  
33 throughout the procedure and recovery period.

34 2. Require that the number or amount of equipment and supplies at  
35 the clinic is adequate at all times to ~~assure~~ ENSURE sufficient quantities  
36 of clean and sterilized durable equipment and supplies to meet the needs  
37 of each patient.

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

42 4. Prescribe required equipment and supplies for required  
43 laboratory tests and requirements for protocols to calibrate and maintain  
44 laboratory equipment at the abortion clinic or operated by clinic staff.

45 5. Require ultrasound equipment.

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

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

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

8           2. Physicians performing abortions are licensed pursuant to title  
9 32, chapter 13 or 17, demonstrate competence in the procedure involved and  
10 are acceptable to the medical director of the abortion clinic.

11           3. A physician is available:

12           (a) For a surgical abortion who has admitting privileges at a  
13 health care institution that is classified by the director as a hospital  
14 pursuant to section 36-405, subsection B and that is within thirty miles  
15 of the abortion clinic.

16           (b) For a medication abortion who has admitting privileges at a  
17 health care institution that is classified by the director as a hospital  
18 pursuant to section 36-405, subsection B.

19           4. If a physician is not present, a registered nurse, nurse  
20 practitioner, licensed practical nurse or physician assistant is present  
21 and remains at the clinic when abortions are performed to provide  
22 postoperative monitoring and care, or monitoring and care after inducing a  
23 medication abortion, until each patient who had an abortion that day is  
24 discharged.

25           5. Surgical assistants receive training in counseling, patient  
26 advocacy and the specific responsibilities of the services the surgical  
27 assistants provide.

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

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

35           1. A medical history, including the following:

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

38           (b) Obstetric and gynecologic history.

39           (c) Past surgeries.

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

42           3. The appropriate laboratory tests, including:

43           (a) Urine or blood tests for pregnancy performed before the  
44 abortion procedure.

45           (b) A test for anemia.

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

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

4 4. An ultrasound evaluation for all patients. The rules shall  
5 require that if a person who is not a physician performs an ultrasound  
6 examination, that person shall have documented evidence that the person  
7 completed a course in ~~the operation of~~ OPERATING ultrasound equipment as  
8 prescribed in rule. The physician or other health care professional shall  
9 review, at the request of the patient, the ultrasound evaluation results  
10 with the patient before the abortion procedure is performed, including the  
11 probable gestational age of the fetus.

12 5. That the physician is responsible for estimating the gestational  
13 age of the fetus based on the ultrasound examination and obstetric  
14 standards in keeping with established standards of care regarding the  
15 estimation of fetal age as defined in rule and shall write the estimate in  
16 the patient's medical history. The physician shall keep original prints  
17 of each ultrasound examination of a patient in the patient's medical  
18 history file.

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

21 1. That medical personnel is available to all patients throughout  
22 the abortion procedure.

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

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

28 4. The use of appropriate precautions, such as ~~the establishment of~~  
29 ESTABLISHING intravenous access at least for patients undergoing second or  
30 third trimester abortions.

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

35 ~~6. For abortion clinics performing or inducing an abortion for a  
36 woman whose unborn child is the gestational age of twenty weeks or more,  
37 minimum equipment standards to assist the physician in complying with  
38 section 36-2301. For the purposes of this paragraph, "abortion" and  
39 "gestational age" have the same meanings prescribed in section 36-2151.~~

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

42 1. For a surgical abortion, immediate postprocedure care, or care  
43 provided after inducing a medication abortion, consists of observation in  
44 a supervised recovery room for as long as the patient's condition  
45 warrants.

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

3           3. A licensed health professional who is trained in ~~the management~~  
4 ~~of~~ MANAGING the recovery area and WHO is capable of providing basic  
5 cardiopulmonary resuscitation and related emergency procedures remains on  
6 the premises of the abortion clinic until all patients are discharged.

7           4. For a surgical abortion, a physician with admitting privileges  
8 at a health care institution that is classified by the director as a  
9 hospital pursuant to section 36-405, subsection B and that is within  
10 thirty miles of the abortion clinic remains on the premises of the  
11 abortion clinic until all patients are stable and are ready to leave the  
12 recovery room and ~~to facilitate~~ FACILITATES the transfer of emergency  
13 cases if hospitalization of the patient or viable fetus is necessary. A  
14 physician shall sign the discharge order and be readily accessible and  
15 available until the last patient is discharged.

16           5. A physician discusses Rh0(d) immune globulin with each patient  
17 for whom it is indicated and ~~assures~~ ENSURES THAT it is offered to the  
18 patient in the immediate postoperative period or that it will be available  
19 to her within seventy-two hours after completion of the abortion  
20 procedure. If the patient refuses, a refusal form approved by the  
21 department shall be signed by the patient and a witness and included in  
22 the medical record.

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

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

31           8. The physician ~~assures~~ ENSURES that a licensed health  
32 professional from the abortion clinic makes a good faith effort to contact  
33 the patient by telephone, with the patient's consent, within twenty-four  
34 hours after a surgical abortion to assess the patient's recovery.

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

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

40           1. For a surgical abortion, a postabortion medical visit is offered  
41 and, if requested, scheduled for three weeks after the abortion, including  
42 a medical examination and a review of the results of all laboratory tests.  
43 For a medication abortion, the rules shall require that a postabortion  
44 medical visit is scheduled between one week and three weeks after the  
45 initial dose for a medication abortion to confirm the pregnancy is  
46 completely terminated and to assess the degree of bleeding.

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

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

7           1. The abortion clinic records each incident resulting in a  
8 patient's or viable fetus' serious injury occurring at an abortion clinic  
9 and shall report them in writing to the department within ten days after  
10 the incident. For the purposes of this paragraph, "serious injury" means  
11 an injury that occurs at an abortion clinic and that creates a serious  
12 risk of substantial impairment of a major body organ and includes any  
13 injury or condition that requires ambulance transportation of the patient.

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

17           3. Incident reports are filed with the department and appropriate  
18 professional regulatory boards.

19           I. The director shall adopt rules relating to enforcement of this  
20 article. At a minimum, these rules shall require that:

21           1. For an abortion clinic that is not in substantial compliance  
22 with this article and the rules adopted pursuant to this article ~~and~~  
23 ~~section 36-2301~~ or that is in substantial compliance but refuses to carry  
24 out a plan of correction acceptable to the department of any deficiencies  
25 that are listed on the department's statement of deficiency, the  
26 department may do any of the following:

- 27           (a) Assess a civil penalty pursuant to section 36-431.01.
- 28           (b) Impose an intermediate sanction pursuant to section 36-427.
- 29           (c) Suspend or revoke a license pursuant to section 36-427.
- 30           (d) Deny a license.
- 31           (e) Bring an action for an injunction pursuant to section 36-430.

32           2. In determining the appropriate enforcement action, the  
33 department consider the threat to the health, safety and welfare of the  
34 abortion clinic's patients or the general public, including:

- 35           (a) Whether the abortion clinic has repeated violations of statutes  
36 or rules.
- 37           (b) Whether the abortion clinic has engaged in a pattern of  
38 noncompliance.
- 39           (c) The type, severity and number of violations.

40           J. The department shall not release personally identifiable patient  
41 or physician information.

42           K. The rules adopted by the director pursuant to this section do  
43 not limit the ability of a physician or other health professional to  
44 advise a patient on any health issue.

1           Sec. 2. Section 36-2161, Arizona Revised Statutes, is amended to  
2 read:

3           36-2161. Abortions; reporting requirements

4           A. A hospital or facility in this state where abortions are  
5 performed must submit to the department of health services on a form  
6 prescribed by the department a report of each abortion performed in the  
7 hospital or facility. The report shall not identify the individual  
8 patient by name or include any other information or identifier that would  
9 make it possible to identify, in any manner or under any circumstances, a  
10 woman who has obtained or sought to obtain an abortion. The report must  
11 include the following information:

- 12           1. The name and address of the facility where the abortion was  
13 performed.
- 14           2. The type of facility where the abortion was performed.
- 15           3. The county where the abortion was performed.
- 16           4. The woman's age.
- 17           5. The woman's educational background by highest grade completed  
18 and, if applicable, level of college completed.
- 19           6. The county and state in which the woman resides.
- 20           7. The woman's race and ethnicity.
- 21           8. The woman's marital status.
- 22           9. The number of prior pregnancies and prior abortions of the  
23 woman.
- 24           10. The number of previous spontaneous terminations of pregnancy of  
25 the woman.
- 26           11. The gestational age of the unborn child at the time of the  
27 abortion.
- 28           12. The reason for the abortion, including at least one of the  
29 following:
  - 30           (a) The abortion is elective.
  - 31           (b) The abortion is due to maternal health considerations,  
32 including one of the following:
    - 33           (i) A premature rupture of membranes.
    - 34           (ii) An anatomical abnormality.
    - 35           (iii) Chorioamnionitis.
    - 36           (iv) Preeclampsia.
    - 37           (v) Other.
  - 38           (c) The abortion is due to fetal health considerations, including  
39 the fetus being diagnosed with at least one of the following:
    - 40           (i) A lethal anomaly.
    - 41           (ii) A central nervous system anomaly.
    - 42           (iii) Trisomy 18.
    - 43           (iv) Trisomy 21.
    - 44           (v) Triploidy.
    - 45           (vi) Other.
  - 46           (d) The pregnancy is the result of a sexual assault.

- 1 (e) The pregnancy is the result of incest.
- 2 (f) The woman is being coerced into obtaining an abortion.
- 3 (g) The woman is a victim of sex trafficking.
- 4 (h) The woman is a victim of domestic violence.
- 5 (i) Other.
- 6 (j) The woman declined to answer.
- 7 13. The type of procedure performed or prescribed and the date of
- 8 the abortion.
- 9 14. Any preexisting medical conditions of the woman that would
- 10 complicate pregnancy.
- 11 15. Any known medical complication that resulted from the abortion,
- 12 including at least one of the following:
- 13 (a) Shock.
- 14 (b) Uterine perforation.
- 15 (c) Cervical laceration requiring suture or repair.
- 16 (d) Heavy bleeding or hemorrhage with estimated blood loss of at
- 17 least five hundred cubic centimeters.
- 18 (e) Aspiration or allergic response.
- 19 (f) Postprocedure infection.
- 20 (g) Sepsis.
- 21 (h) Incomplete abortion retaining part of the fetus requiring
- 22 reevacuation.
- 23 (i) Damage to the uterus.
- 24 (j) Failed termination of pregnancy.
- 25 (k) Death of the patient.
- 26 (l) Other.
- 27 (m) None.
- 28 16. The basis for any medical judgment that a medical emergency
- 29 existed that excused the physician from compliance with the requirements
- 30 of this chapter.
- 31 17. The physician's statement if required pursuant to section
- 32 36-2301.01.
- 33 18. If applicable, the weight of the aborted fetus for any abortion
- 34 performed pursuant to section 36-2301.01.
- 35 ~~19. Whether a fetus or embryo was delivered alive as defined in~~
- 36 ~~section 36-2301 during or immediately after an attempted abortion and the~~
- 37 ~~efforts made to promote, preserve and maintain the life of the fetus or~~
- 38 ~~embryo pursuant to section 36-2301.~~
- 39 ~~20. Statements by the physician and all clinical staff who observed~~
- 40 ~~the fetus or embryo during or immediately after the abortion certifying~~
- 41 ~~under penalty of perjury that, to the best of their knowledge, the aborted~~
- 42 ~~fetus or embryo was not delivered alive as defined in section 36-2301.~~
- 43 ~~21.~~ 19. The medical specialty of the physician performing the
- 44 abortion, including one of the following:
- 45 (a) Obstetrics-gynecology.
- 46 (b) General or family practice.



1 (c) Emergency medicine.

2 (d) Other.

3 ~~22.~~ 20. The type of admission for the patient, including whether  
4 the abortion was performed:

5 (a) As an outpatient procedure in an abortion clinic.

6 (b) As an outpatient procedure at a hospital.

7 (c) As an inpatient procedure at a hospital.

8 (d) As an outpatient procedure at a health care institution other  
9 than an abortion clinic or hospital.

10 ~~23.~~ 21. Whether anesthesia was administered to the mother.

11 ~~24.~~ 22. Whether anesthesia was administered to the unborn child.

12 B. The hospital or facility shall request the information specified  
13 in subsection A, paragraph 12 of this section at the same time the  
14 information pursuant to section 36-2153 is provided to the woman  
15 individually and in a private room to protect the woman's privacy. The  
16 information requested pursuant to subsection A, paragraph 12 of this  
17 section may be obtained on a medical form provided to the woman to  
18 complete if the woman completes the form individually and in a private  
19 room.

20 C. If the woman who is seeking the abortion discloses that the  
21 abortion is being sought because of a reason described in subsection A,  
22 paragraph 12, subdivision (d), (e), (f), (g) or (h) of this section, the  
23 hospital or facility shall provide the woman with information regarding  
24 the woman's right to report a crime to law enforcement and resources  
25 available for assistance and services, including a national human  
26 trafficking resource hotline.

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

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

40 Sec. 3. Repeal

41 Section 36-2301, Arizona Revised Statutes, is repealed.