

REFERENCE TITLE: **abortion prohibition; licensure repealed**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2650

Introduced by
Representatives Blackman: Barton, Biasiucci, Bolick, Burges, Carroll,
Cook, Fillmore, Hoffman, Toma

AN ACT

AMENDING TITLE 11, CHAPTER 3, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-532.01; AMENDING SECTIONS 12-611, 13-109, 13-412, 13-417, 13-1102, 13-1103, 13-1104 AND 13-1105, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1106; REPEALING SECTIONS 13-3603, 13-3603.01, 13-3603.02, 13-3604, 15-115 AND 15-1630, ARIZONA REVISED STATUTES; AMENDING SECTIONS 20-121, 35-196.02, 35-196.05 AND 36-402, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 4, ARTICLE 10, ARIZONA REVISED STATUTES; AMENDING SECTION 36-2151, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-2152, 36-2153, 36-2155, 36-2156, 36-2157, 36-2158 AND 36-2159, ARIZONA REVISED STATUTES; REPEALING TITLE 36, CHAPTER 20, ARTICLE 2, ARIZONA REVISED STATUTES; REPEALING SECTIONS 36-2301, 36-2301.01 AND 36-2301.02, 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. Title 11, chapter 3, article 6, Arizona Revised
3 Statutes, is amended by adding section 11-532.01, to read:

4 11-532.01. Prosecution of homicide by abortion

5 THE COUNTY ATTORNEY SHALL ENFORCE TITLE 13, CHAPTER 11 IN RELATION
6 TO HOMICIDE BY ABORTION REGARDLESS OF ANY CONTRARY OR CONFLICTING FEDERAL
7 LAWS, REGULATIONS, TREATIES, COURT DECISIONS OR EXECUTIVE ORDERS.

8 Sec. 2. Section 12-611, Arizona Revised Statutes, is amended to
9 read:

10 12-611. Liability: definition

11 A. When death of a person is caused by wrongful act, neglect or
12 default, and the act, neglect or default is such as would, if death had
13 not ensued, have entitled the party injured to maintain an action to
14 recover damages in respect thereof, then, and in every such case, the
15 person who or the corporation which would have been liable if death had
16 not ensued shall be liable to an action for damages, notwithstanding the
17 death of the person injured, and although the death was caused under such
18 circumstances as amount in law to murder in the first or second degree or
19 manslaughter.

20 B. FOR THE PURPOSES OF THIS SECTION, "PERSON" INCLUDES AN UNBORN
21 CHILD IN THE WOMB AT ANY STATE OF DEVELOPMENT.

22 Sec. 3. Section 13-109, Arizona Revised Statutes, is amended to
23 read:

24 13-109. Place of trial

25 A. Criminal prosecutions shall be tried in the county in which
26 conduct constituting any element of the offense or a result of such
27 conduct occurred, unless otherwise provided by law.

28 B. The following special provisions apply:

29 1. If conduct constituting an element of an offense or a result
30 constituting an element of an offense occurs in two or more counties,
31 trial of the offense may be held in any of the counties concerned. ~~;~~

32 2. A person who in one county solicits, aids, abets or attempts to
33 aid another in the planning or commission of an offense in another county
34 may be tried for the offense in either county. ~~;~~

35 3. If an offense is committed in transit and it cannot readily be
36 determined in which county the offense was committed, trial of the offense
37 may be held in any county through or over which the transit occurred. ~~;~~

38 4. If the cause of death is inflicted in one county and death
39 ensues in another county, trial of the offense may be held in either
40 county. If the cause of death is inflicted in one county and death ensues
41 out of this state, trial of the offense shall be in the county where the
42 cause was inflicted. If the body of a homicide victim is found in a
43 county, it is presumed that the cause of death was inflicted in that
44 county. ~~;~~

1 5. If an offense is committed on the boundary of two or more
2 counties or within one mile of such boundary, trial of the offense may be
3 held in any of the counties concerned. ~~;~~ ~~OR~~

4 6. A person who obtains property unlawfully may be tried in any
5 county in which such person exerts control over the property. ~~;~~ ~~OR~~

6 7. A person who commits a preparatory offense may be tried in any
7 county in which any act that is an element of the offense, including the
8 agreement in conspiracy, is committed.

9 8. IF AN OFFENSE INVOLVES HOMICIDE BY ABORTION, TRIAL OF THE
10 OFFENSE MAY BE HELD IN THE COUNTY IN WHICH THE DEFENDANT IS APPREHENDED OR
11 WHERE OTHERWISE PROVIDED IN THIS SECTION.

12 C. If an offense has been committed within this state and it cannot
13 readily be determined within which county or counties the commission took
14 place, trial may be held in the county in which the defendant resides or,
15 if the defendant has no fixed residence, in the county in which the
16 defendant is apprehended or to which the defendant is extradited.

17 Sec. 4. Section 13-412, Arizona Revised Statutes, is amended to
18 read:

19 13-412. Duress

20 A. Conduct ~~which~~ THAT would otherwise constitute an offense is
21 justified if a reasonable person would believe that he was compelled to
22 engage in the proscribed conduct by the threat or use of immediate
23 physical force against his person or the person of another ~~which~~ THAT
24 resulted or could result in serious physical injury ~~which~~ THAT a
25 reasonable person in the situation would not have resisted.

26 B. The defense provided by subsection A OF THIS SECTION is
27 unavailable if the person intentionally, knowingly or recklessly placed
28 himself in a situation in which it was probable that he would be subjected
29 to duress.

30 ~~C. The defense provided by subsection A is unavailable for offenses~~
31 ~~involving homicide or serious physical injury.~~

32 Sec. 5. Section 13-417, Arizona Revised Statutes, is amended to
33 read:

34 13-417. Necessity defense

35 A. Conduct that would otherwise constitute an offense is justified
36 if a reasonable person was compelled to engage in the proscribed conduct
37 and the person had no reasonable alternative to avoid imminent public or
38 private injury greater than the injury that might reasonably result from
39 the person's own conduct.

40 B. An accused person may not assert the defense under subsection A
41 OF THIS SECTION if the person intentionally, knowingly or recklessly
42 placed himself in the situation in which it was probable that the person
43 would have to engage in the proscribed conduct.

44 ~~C. An accused person may not assert the defense under subsection A~~
45 ~~for offenses involving homicide or serious physical injury.~~

1 Sec. 6. Section 13-1102, Arizona Revised Statutes, is amended to
2 read:

3 13-1102. Negligent homicide; classification

4 A. A person commits negligent homicide if with criminal negligence
5 the person causes the death of another person, including an unborn child.

6 B. An offense under this section applies to an unborn child in the
7 womb at any stage of ~~its~~ **THE UNBORN CHILD'S** development. ~~A person may not~~
8 ~~be prosecuted under this section if any of the following applies:~~

9 ~~1. The person was performing an abortion for which the consent of~~
10 ~~the pregnant woman, or a person authorized by law to act on the pregnant~~
11 ~~woman's behalf, has been obtained or for which the consent was implied or~~
12 ~~authorized by law.~~

13 ~~2. The person was performing medical treatment on the pregnant~~
14 ~~woman or the pregnant woman's unborn child.~~

15 ~~3. The person was the unborn child's mother.~~

16 C. Negligent homicide is a class 4 felony.

17 Sec. 7. Section 13-1103, Arizona Revised Statutes, is amended to
18 read:

19 13-1103. Manslaughter; classification

20 A. A person commits manslaughter by **DOING ANY OF THE FOLLOWING:**

21 1. Recklessly causing the death of another person. ~~;~~~~OR~~

22 2. Committing second degree murder as prescribed in section
23 13-1104, subsection A ~~upon~~ **ON** a sudden quarrel or heat of passion
24 resulting from adequate provocation by the victim. ~~;~~~~OR~~

25 3. Intentionally providing the physical means that another person
26 uses to commit suicide, with the knowledge that the person intends to
27 commit suicide. ~~;~~~~OR~~

28 4. Committing second degree murder as prescribed in section
29 13-1104, subsection A, paragraph 3, while being coerced to do so by the
30 use or threatened immediate use of unlawful deadly physical force ~~upon~~
31 ~~such~~ **ON THE** person or a third person ~~which~~ **THAT** a reasonable person in his
32 situation would have been unable to resist. ~~;~~~~OR~~

33 5. Knowingly or recklessly causing the death of an unborn child by
34 any physical injury to the mother.

35 B. An offense under subsection A, paragraph 5 of this section
36 applies to an unborn child in the womb at any stage of ~~its~~ **THE UNBORN**
37 **CHILD'S** development. ~~A person shall not be prosecuted under subsection A,~~
38 ~~paragraph 5 of this section if any of the following applies:~~

39 ~~1. The person was performing an abortion for which the consent of~~
40 ~~the pregnant woman, or a person authorized by law to act on the pregnant~~
41 ~~woman's behalf, has been obtained or for which the consent was implied or~~
42 ~~authorized by law.~~

43 ~~2. The person was performing medical treatment on the pregnant~~
44 ~~woman or the pregnant woman's unborn child.~~

45 ~~3. The person was the unborn child's mother.~~

1 C. Manslaughter is a class 2 felony.

2 Sec. 8. Section 13-1104, Arizona Revised Statutes, is amended to
3 read:

4 13-1104. Second degree murder; classification

5 A. A person commits second degree murder if without premeditation:

6 1. The person intentionally causes the death of another person,
7 including an unborn child or, as a result of intentionally causing the
8 death of another person, causes the death of an unborn child. ~~;~~~~OR~~

9 2. Knowing that the person's conduct will cause death or serious
10 physical injury, the person causes the death of another person, including
11 an unborn child or, as a result of knowingly causing the death of another
12 person, causes the death of an unborn child. ~~;~~~~OR~~

13 3. Under circumstances manifesting extreme indifference to human
14 life, the person recklessly engages in conduct that creates a grave risk
15 of death and thereby causes the death of another person, including an
16 unborn child or, as a result of recklessly causing the death of another
17 person, causes the death of an unborn child.

18 B. An offense under this section applies to an unborn child in the
19 womb at any stage of ~~its~~ **THE UNBORN CHILD'S** development. ~~A person may not~~
20 ~~be prosecuted under this section if any of the following applies:~~

21 ~~1. The person was performing an abortion for which the consent of~~
22 ~~the pregnant woman, or a person authorized by law to act on the pregnant~~
23 ~~woman's behalf, has been obtained or for which the consent was implied or~~
24 ~~authorized by law.~~

25 ~~2. The person was performing medical treatment on the pregnant~~
26 ~~woman or the pregnant woman's unborn child.~~

27 ~~3. The person was the unborn child's mother.~~

28 C. Second degree murder is a class 1 felony and is punishable as
29 provided by section 13-705 if the victim is under fifteen years of age or
30 is an unborn child, section 13-706, subsection A or section 13-710.

31 Sec. 9. Section 13-1105, Arizona Revised Statutes, is amended to
32 read:

33 13-1105. First degree murder; classification

34 A. A person commits first degree murder if:

35 1. Intending or knowing that the person's conduct will cause death,
36 the person causes the death of another person, including an unborn child,
37 with premeditation or, as a result of causing the death of another person
38 with premeditation, causes the death of an unborn child.

39 2. Acting either alone or with one or more other persons the person
40 commits or attempts to commit sexual conduct with a minor under section
41 13-1405, sexual assault under section 13-1406, molestation of a child
42 under section 13-1410, terrorism under section 13-2308.01, marijuana
43 offenses under section 13-3405, subsection A, paragraph 4, dangerous drug
44 offenses under section 13-3407, subsection A, paragraphs 4 and 7,
45 narcotics offenses under section 13-3408, subsection A, paragraph 7 that

1 equal or exceed the statutory threshold amount for each offense or
2 combination of offenses, involving or using minors in drug offenses under
3 section 13-3409, drive by shooting under section 13-1209, kidnapping under
4 section 13-1304, burglary under section 13-1506, 13-1507 or 13-1508, arson
5 under section 13-1703 or 13-1704, robbery under section 13-1902, 13-1903
6 or 13-1904, escape under section 13-2503 or 13-2504, child abuse under
7 section 13-3623, subsection A, paragraph 1 or unlawful flight from a
8 pursuing law enforcement vehicle under section 28-622.01 and, in the
9 course of and in furtherance of the offense or immediate flight from the
10 offense, the person or another person causes the death of any person.

11 3. Intending or knowing that the person's conduct will cause death
12 to a law enforcement officer, the person causes the death of a law
13 enforcement officer who is in the line of duty.

14 B. Homicide, as prescribed in subsection A, paragraph 2 of this
15 section, requires no specific mental state other than what is required for
16 the commission of any of the enumerated felonies.

17 C. An offense under subsection A, paragraph 1 of this section
18 applies to an unborn child in the womb at any stage of ~~its~~ **THE UNBORN**
19 **CHILD'S** development. ~~A person shall not be prosecuted under subsection A,~~
20 ~~paragraph 1 of this section if any of the following applies:~~

21 ~~1. The person was performing an abortion for which the consent of~~
22 ~~the pregnant woman, or a person authorized by law to act on the pregnant~~
23 ~~woman's behalf, has been obtained or for which the consent was implied or~~
24 ~~authorized by law.~~

25 ~~2. The person was performing medical treatment on the pregnant~~
26 ~~woman or the pregnant woman's unborn child.~~

27 ~~3. The person was the unborn child's mother.~~

28 D. First degree murder is a class 1 felony and is punishable by
29 death or life imprisonment as provided by sections 13-751 and 13-752.

30 Sec. 10. Title 13, chapter 11, Arizona Revised Statutes, is amended
31 by adding section 13-1106, to read:

32 13-1106. Concurrent jurisdiction: homicide by abortion

33 **A. THE ATTORNEY GENERAL AND THE COUNTY ATTORNEY HAVE CONCURRENT**
34 **JURISDICTION TO PROSECUTE VIOLATIONS OF THIS CHAPTER RELATING TO HOMICIDE**
35 **BY ABORTION.**

36 Sec. 11. Repeal

37 Sections 13-3603, 13-3603.01, 13-3603.02, 13-3604, 15-115 and
38 15-1630, Arizona Revised Statutes, are repealed.

39 Sec. 12. Section 20-121, Arizona Revised Statutes, is amended to
40 read:

41 20-121. Health care exchange: abortion coverage: prohibition

42 ~~A.~~ Consistent with the provisions of the patient protection and
43 affordable care act (P.L. 111-148), any qualified health insurance policy,
44 contract or plan offered through any health care exchange operating in
45 this state shall not provide coverage for abortions.

1 ~~B. Subsection A of this section does not apply to coverage for any~~
2 ~~abortion.~~

3 ~~1. That is necessary to save the life of the woman having the~~
4 ~~abortion.~~

5 ~~2. That is necessary to avert substantial and irreversible~~
6 ~~impairment of a major bodily function of the woman having the abortion.~~

7 ~~3. When the pregnancy is the result of rape or incest.~~

8 Sec. 13. Section 35-196.02, Arizona Revised Statutes, is amended to
9 read:

10 35-196.02. Use of public monies or insurance for abortion
11 prohibited

12 A. Notwithstanding any ~~provisions of OTHER law to the contrary, no~~
13 public ~~funds nor~~ MONIES OR tax monies of this state or any political
14 subdivision of this state ~~nor OR~~ any federal ~~funds~~ MONIES passing through
15 the state treasury or the treasury of any political subdivision of this
16 state may NOT be expended for payment to any person or entity for the
17 performance of any abortion ~~unless an abortion is necessary to save the~~
18 ~~life of the woman having the abortion.~~

19 B. Notwithstanding any other law, public monies or tax monies of
20 this state or any political subdivision of this state shall not be
21 expended directly or indirectly to pay the costs, premiums or charges
22 associated with a health insurance policy, contract or plan that provides
23 coverage, benefits or services related to the performance of any abortion.
24 ~~unless an abortion is necessary to either:~~

25 ~~1. Save the life of the woman having the abortion.~~

26 ~~2. Avert substantial and irreversible impairment of a major bodily~~
27 ~~function of the woman having the abortion.~~

28 C. Notwithstanding any other law, public monies or tax monies of
29 this state or any political subdivision of this state or any federal ~~funds~~
30 MONIES passing through the state treasury or the treasury of any political
31 subdivision of this state or monies paid by students as part of tuition or
32 fees to a state university or a community college shall not be expended or
33 allocated for training to perform abortions.

34 ~~D. This section does not prohibit the state from complying with the~~
35 ~~requirements of federal law in title XIX and title XXI of the social~~
36 ~~security act.~~

37 Sec. 14. Section 35-196.05, Arizona Revised Statutes, is amended to
38 read:

39 35-196.05. Public funding; family planning services;
40 contracting with certain facilities;
41 prohibition; enforcement; definitions

42 A. Subject to any applicable requirements of federal law,
43 regulations or guidelines, any appropriation, expenditure or grant of
44 public monies for family planning services by this state or any political

1 subdivision of this state shall be made in the following order of
2 priority:

3 1. To health care facilities that are owned or operated by this
4 state or any political subdivision of this state.

5 2. To hospitals and federally qualified health centers.

6 3. To rural health clinics.

7 4. To health care providers whose primary area of practice is the
8 provision of primary health services as enumerated in 42 United States
9 Code section 254b(b)(1).

10 B. This state or any political subdivision of this state may not
11 enter into a contract with or make a grant to any person that performs
12 ~~nonfederally qualified~~ abortions or maintains or operates a facility where
13 ~~nonfederally qualified~~ abortions are performed ~~for the provision of family~~
14 ~~planning services.~~

15 C. The attorney general or the county attorney may bring an action
16 in law or equity to enforce this section, and relief shall be made
17 available in appropriate circumstances, including recoupment and
18 declaratory and injunctive relief.

19 D. Any entity that is eligible for the receipt of public monies has
20 standing to bring any action that the attorney general or the county
21 attorney may bring pursuant to subsection C of this section, if the
22 expenditure or grant of public monies has resulted in the reduction of
23 public monies available to that entity.

24 E. Any monies that are recouped under actions taken pursuant to
25 subsection C or D of this section shall revert to the fund from which the
26 monies were appropriated or granted. A prevailing plaintiff under
27 subsection C or D of this section shall be awarded reasonable attorney
28 fees and costs.

29 F. For the purposes of this section:

30 1. "Abortion" has the same meaning prescribed in section 36-2151.

31 2. "Federally qualified health center" means a health care provider
32 that is eligible for federal funding under 42 United States Code section
33 ~~1396d(1)(2)(B)~~ 1396d(1)(2)(B).

34 3. "Hospital" means a primary or tertiary care facility licensed
35 pursuant to title 36, chapter 4, article 2.

36 ~~4. "Nonfederally qualified abortion" means an abortion that does~~
37 ~~not meet the requirements for federal reimbursement under title XIX of the~~
38 ~~social security act.~~

39 ~~5.~~ 4. "Public monies" means state monies from whatever source,
40 monies of a political subdivision from whatever source and federal monies
41 provided under title X of the public health service act (42 United States
42 Code sections 300 through 300a-8) and titles V, XIX and XX of the social
43 security act.

1 ~~6.~~ 5. "Rural health clinic" means a health care provider that is
2 eligible to receive federal funding under 42 United States Code section
3 1395x(aa)(2).

4 Sec. 15. Section 36-402, Arizona Revised Statutes, is amended to
5 read:

6 36-402. Exemptions

7 A. This chapter and the rules adopted by the director pursuant to
8 this chapter do not authorize the licensure, supervision, regulation or
9 control of:

10 1. The remedial care or treatment of residents or patients in any
11 home or institution conducted only for those who rely solely on treatment
12 by prayer or spiritual means in accordance with the creed or tenets of any
13 well-recognized church or religious denomination.

14 2. Establishments, such as motels, hotels and boarding houses, that
15 provide domiciliary and ancillary commercial services, but do not provide
16 adaptive, medical, hospital, nursing, behavioral health, health-related or
17 supervisory care services.

18 3. Private offices and clinics of health care providers licensed
19 under title 32 that are not freestanding urgent care centers, unless:

20 (a) Patients are kept overnight as bed patients or treated
21 otherwise under general anesthesia, except when treatment by general
22 anesthesia is regulated by title 32, chapter 11.

23 ~~(b) The office or clinic is an abortion clinic. For the purposes~~
24 ~~of this subdivision, "abortion clinic" has the same meaning prescribed in~~
25 ~~section 36-449.01.~~

26 ~~(c)~~ (b) The office or clinic is a pain management clinic. For the
27 purposes of this subdivision, "pain management clinic" has the same
28 meaning prescribed in section 36-448.01.

29 4. Dispensaries and first aid stations located within business or
30 industrial establishments maintained solely for the use of employees if
31 the facility does not contain inpatient beds and is under the supervision
32 of a physician or a registered nurse practitioner.

33 5. The collection, processing or distribution of whole human blood,
34 blood components, plasma, blood fractions or derivatives procured,
35 processed or distributed by federally licensed and regulated blood banks.

36 6. Places where four or fewer adults not related to the
37 administrator or owner receive adult day health services for compensation
38 on a regular basis.

39 7. Places at which persons receive health-related services only
40 from relatives or from legal guardians or places that do not purport to be
41 establishments that regularly provide health-related services and at which
42 one or two persons receive health-related services on a twenty-four-hour
43 basis.

1 8. The personal residence of a terminally ill person, or the
2 personal residence of that person's relative or guardian, where that
3 person receives hospice services from a hospice service agency.

4 9. All medical and health-related facilities and services that are
5 provided to inmates who are confined in a state prison. The state
6 department of corrections shall annually evaluate the medical and
7 health-related facilities and services that are provided to inmates to
8 determine that the facilities and services meet the applicable standards
9 that are adopted by the director of the department of health services.
10 The state department of corrections shall report the results of its annual
11 evaluation and the actual findings, including a plan of correction for any
12 deficiencies, to the director of the department of health services. The
13 department of health services shall conduct validation surveys on a
14 percentage of the medical and health-related facilities, the number of
15 which shall be determined by the state department of corrections and the
16 department of health services. The director of the state department of
17 corrections shall maintain the annual evaluation reports. This paragraph
18 does not apply to licensed behavioral or mental health inpatient treatment
19 facilities that the state department of corrections operates.

20 10. A facility that provides medical and health services to inmates
21 who are confined in a county jail. The sheriff shall annually evaluate
22 the facility to determine if it meets the applicable standards that are
23 adopted by either a national corrections commission on health care or an
24 American correctional association, or the sheriff shall annually submit
25 the facility to a similar separate inspection by an outside agency with
26 medical standards. The sheriff must submit the certificate of
27 accreditation or proof of successful inspection to the department annually
28 and keep a copy of the certificate or proof of inspection.

29 11. Community education, advocacy or recovery support groups that
30 are not owned or operated by or contracted to provide services with a
31 health care institution.

32 B. A medical and health-related facility that provides medical and
33 health services exclusively to persons who are incarcerated, detained or
34 confined under court order or court jurisdiction is exempt from the
35 patient-per-room capacity requirements provided in rule if the facility:

- 36 1. Does not exceed its intended medical and custodial purposes.
- 37 2. Adopts policies and procedures to comply with the national
38 commission on correctional health care standards, or equivalent standards.
- 39 3. As soon as practicable, becomes accredited by the national
40 commission on correctional health care, or by an equivalent organization.
- 41 4. Once accreditation is obtained, submits a certificate of
42 accreditation to the department of health services annually.
- 43 5. Maintains a copy of the certificate of accreditation.

1 6. Maintains patient and custodial records, including on-site
2 current photographs and fingerprints, if ~~permitted~~ ALLOWED by applicable
3 law.

4 7. Makes patient lists with inmate identifiers available to the
5 state department of corrections on reasonable request.

6 8. Provides timely notice of any major incident involving public
7 safety to the appropriate law enforcement agency and allows that agency
8 access to the facility for the purposes of law enforcement and
9 investigation.

10 C. Subsection B of this section does not apply to health care
11 institutions that exclusively provide behavioral health services.

12 Sec. 16. Repeal

13 Title 36, chapter 4, article 10, Arizona Revised Statutes, is
14 repealed.

15 Sec. 17. Section 36-2151, Arizona Revised Statutes, is amended to
16 read:

17 36-2151. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Abortion" means the use of any means to terminate the
20 clinically diagnosable pregnancy of a woman with knowledge that the
21 termination by those means will cause, with reasonable likelihood, the
22 death of the unborn child. Abortion does not include birth control
23 devices, ~~OR~~ oral contraceptives used to inhibit or prevent ovulation, ~~OR~~
24 conception ~~or the implantation of a fertilized ovum in the uterus~~ or the
25 use of any means to save the life or preserve the health of the unborn
26 child, to preserve the life or health of the child after a live birth, to
27 terminate an ectopic pregnancy THAT SERIOUSLY THREATENS THE LIFE OF THE
28 MOTHER WHEN A REASONABLE ALTERNATIVE TO SAVE THE LIFE OF BOTH THE MOTHER
29 AND THE UNBORN CHILD IS UNAVAILABLE or to remove a dead ~~fetus~~ UNBORN
30 CHILD.

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

34 ~~3.~~ 2. "Conception" means the fusion of a human spermatozoon with a
35 human ovum.

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

39 ~~5.~~ 3. "Health professional" has the same meaning prescribed in
40 section 32-3201.

41 ~~6. "Medical emergency" means a condition that, on the basis of the~~
42 ~~physician's good faith clinical judgment, so complicates the medical~~
43 ~~condition of a pregnant woman as to necessitate the immediate abortion of~~
44 ~~her pregnancy to avert her death or for which a delay will create serious~~

1 ~~risk of substantial and irreversible impairment of a major bodily~~
2 ~~function.~~

3 ~~7.~~ 4. "Medication abortion" means the use of any medication, drug
4 or other substance that is intended to cause or induce an abortion.

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

7 ~~9.~~ 6. ~~"Pregnant" or~~ "Pregnancy" means a female reproductive
8 condition of having a developing unborn child in the body and that begins
9 with conception.

10 ~~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 ~~11.~~ 7. "Surgical abortion" means the use of a surgical instrument
14 or a machine to ~~terminate the clinically diagnosable pregnancy of a woman~~
15 ~~with knowledge that the termination by those means will cause, with~~
16 ~~reasonable likelihood, the death of the unborn child. Surgical abortion~~
17 ~~does not include the use of any means to increase the probability of a~~
18 ~~live birth, to preserve the life or health of the child after a live~~
19 ~~birth, to terminate an ectopic pregnancy or to remove a dead fetus~~ **PERFORM**
20 **AN ABORTION.** Surgical abortion does not include patient care incidental
21 to the procedure.

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

24 ~~13.~~ 8. "Unborn child" means the offspring of human beings from
25 conception until birth.

26 Sec. 18. Repeal

27 A. Sections 36-2152, 36-2153, 36-2155, 36-2156, 36-2157, 36-2158
28 and 36-2159, Arizona Revised Statutes, are repealed.

29 B. Title 36, chapter 20, article 2, Arizona Revised Statutes, is
30 repealed.

31 C. Sections 36-2301, 36-2301.01 and 36-2301.02, Arizona Revised
32 Statutes, are repealed.

33 Sec. 19. Conforming legislation

34 The legislative council staff shall prepare proposed legislation
35 conforming the Arizona Revised Statutes to the provisions of this act for
36 consideration in the fifty-fifth legislature, second regular session.

37 Sec. 20. Appearance not required

38 Any federal statute, regulation, executive order or court decision
39 that purports to supersede, stay or overrule this act is in violation of
40 the Constitution of Arizona and the Constitution of the United States and
41 is therefore void. This state and its political subdivisions, and agents
42 thereof, are not required to enter an appearance, special or otherwise, in
43 any federal suit challenging this act.

1 Sec. 21. Intent
2 The Legislature intends to:
3 1. Provide unborn children the equal protection of the laws of this
4 state, to establish that a living human unborn child from the moment of
5 fertilization and at every stage of development is entitled to the same
6 rights, powers, privileges, justice and protections as are secured or
7 granted by the laws of this state to any other human person.
8 2. Rescind current licenses to kill unborn children by repealing
9 discriminatory provisions in order to cause all alleged offenders to be
10 equally subject to the law, including its prohibitions, defenses,
11 justifications and immunities.
12 3. Treat as void and of no effect any and all federal acts, laws,
13 treaties, decisions, orders, rules or regulations that would deprive an
14 unborn child of the right to life or prohibit the protection of such
15 right.
16 Sec. 22. Savings clause
17 This act does not apply to any offense committed before the
18 effective date of this act. The act does not affect the rights and duties
19 that matured and proceedings that began before the effective date of this
20 act.
21 Sec. 23. Nonseverability
22 If any portion of this act is finally and constitutionally
23 adjudicated invalid, the entire act is void.
24 Sec. 24. Short title
25 This act may be cited as the "Abolition of Abortion in Arizona Act".
26 Sec. 25. Emergency
27 This act is an emergency measure that is necessary to preserve the
28 public peace, health or safety and is operative immediately as provided by
29 law.