

REFERENCE TITLE: **abortion; state personnel; resources; prohibition**

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

HB 2877

Introduced by
Representative Blackman

AN ACT

**AMENDING TITLE 1, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY
ADDING SECTION 1-272; 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 1, Chapter 2, Article 4, Arizona Revised Statutes,
3 is amended by adding section 1-272, to read:

4 1-272. Abortion; use of state personnel and resources;
5 violation; classification; definition

6 A. PURSUANT TO THE SOVEREIGN AUTHORITY OF THIS STATE AND ARTICLE
7 II, SECTION 3, CONSTITUTION OF ARIZONA, THIS STATE AND ALL POLITICAL
8 SUBDIVISIONS OF THIS STATE ARE PROHIBITED FROM USING ANY PERSONNEL OR
9 FINANCIAL RESOURCES TO ENFORCE, ADMINISTER OR COOPERATE WITH ROE V. WADE
10 TO PREVENT THIS STATE OR ITS POLITICAL SUBDIVISIONS FROM PROTECTING THE
11 LIVES OF PEOPLE WHO HAVE NOT YET BEEN BORN.

12 B. A GOVERNMENT AGENCY OR OFFICIAL OF THIS STATE OR ANY POLITICAL
13 SUBDIVISION OF THIS STATE, INCLUDING ANY SHERIFF, DEPUTY SHERIFF OR OTHER
14 LAW ENFORCEMENT OFFICER, MAY NOT GIVE FORCE OR EFFECT TO ANY COURT ORDER
15 THAT CONFLICTS WITH THIS SECTION. NOTWITHSTANDING ANY COOPERATIVE
16 AGREEMENT WITH FEDERAL AGENCIES, A LAW ENFORCEMENT AGENCY OR LAW
17 ENFORCEMENT OFFICER IN THIS STATE MAY NOT ASSIST OR COOPERATE IN ANY WAY
18 WITH THE ARREST OR IMPRISONMENT OF ANY GOVERNMENT OFFICIAL OR INDIVIDUAL
19 WHO COMPLIES WITH THIS SECTION AND REFUSES TO COMPLY WITH ANY CONTRARY
20 COURT ORDER, INCLUDING ANY ORDER TO LEVY ON PROPERTY, SEIZE BANK ACCOUNTS,
21 ARREST THE PERSON, SERVE PROCESS FOR THE PURPOSE OF CAUSING ANY PERSON TO
22 VIOLATE THIS SECTION OR PUNISH ANY PERSON FOR FAILING TO COMPLY WITH AN
23 ORDER CONTRARY TO THIS SECTION. A FEDERAL OFFICER OR AGENT WHO ARRESTS
24 ANY GOVERNMENT OFFICIAL OF THIS STATE FOR COMPLIANCE WITH THIS SECTION IS
25 SUBJECT TO ARREST BY THIS STATE'S LAW ENFORCEMENT.

26 C. THIS STATE AND ALL POLITICAL SUBDIVISIONS OF THIS STATE SHALL
27 ENFORCE PROHIBITIONS AGAINST ABORTION WITHOUT REGARD TO ROE V. WADE.

28 D. ON A REQUEST OF AN EMPLOYEE OR FORMER EMPLOYEE OF THIS STATE OR
29 A POLITICAL SUBDIVISION OF THIS STATE, THE ATTORNEY GENERAL SHALL DEFEND
30 ANY ACTION BROUGHT AGAINST THAT EMPLOYEE OR FORMER EMPLOYEE ON ACCOUNT OF
31 AN ACT OR OMISSION IN THE SCOPE OF EMPLOYMENT RELATING TO THIS SECTION.

32 E. A VIOLATION OF SUBSECTION A OR B OF THIS SECTION IS A CLASS 1
33 MISDEMEANOR.

34 F. A PERSON WHO VIOLATES THIS SECTION WHILE ACTING IN THE PERSON'S
35 OFFICIAL CAPACITY IS SUBJECT TO TERMINATION FROM EMPLOYMENT TO THE EXTENT
36 ALLOWABLE UNDER STATE LAW AND, IF THE PERSON IS A PUBLIC SERVANT AT THE
37 TIME OF CONVICTION, SHALL FORFEIT THE PERSON'S OFFICE.

38 G. ANY AGGRIEVED PARTY MAY BRING A PRIVATE CAUSE OF ACTION AGAINST
39 A PERSON WHO VIOLATES OR ATTEMPTS TO VIOLATE THIS SECTION.

40 H. FOR THE PURPOSES OF THIS SECTION, "ROE V. WADE" MEANS THE
41 OPINIONS AND JUDGMENTS OF THE SUPREME COURT OF THE UNITED STATES IN ROE V.
42 WADE, 410 U.S. 113 (1973), AND ITS JUDICIAL PROGENY, PAST AND FUTURE,
43 INCLUDING PLANNED PARENTHOOD V. CASEY, 505 U.S. 833 (1992) AND JUNE
44 MEDICAL SERVICES. LLC. V. RUSSO, 140 S.C.T. 2103 (2020).

1 Sec. 2. Appearance not required

2 This state and its political subdivisions, and agents thereof, are
3 not required to enter an appearance, special or otherwise, in any federal
4 suit challenging this act.

5 Sec. 3. Purpose and intent

6 A. The purpose of this act is to exercise the sovereign authority
7 of this state, consistent with the Constitution of the United States, to
8 declare and treat as void the opinions and judgments of the Supreme Court
9 of the United States in Roe v. Wade, 410 U.S. 113 (1973), and its judicial
10 progeny that claim to prohibit states from providing the equal protection
11 of the laws to people who have not yet been born.

12 B. The legislature intends to act pursuant to the following
13 provisions, among others, of the Constitution of Arizona:

14 1. "We, the people of the State of Arizona, grateful to Almighty
15 God for our liberties, do ordain this Constitution." Preamble,
16 Constitution of Arizona.

17 2. "A frequent recurrence to fundamental principles is essential to
18 the security of individual rights and the perpetuity of free government."
19 Article II, section 1, Constitution of Arizona.

20 3. "ALL POLITICAL POWER IS INHERENT IN THE PEOPLE, AND GOVERNMENTS
21 DERIVE THEIR JUST POWERS FROM THE CONSENT OF THE GOVERNED AND ARE
22 ESTABLISHED TO PROTECT AND MAINTAIN INDIVIDUAL RIGHTS." ARTICLE II,
23 SECTION 2, CONSTITUTION OF ARIZONA.

24 4. "A. The Constitution of the United States is the supreme law of
25 the land to which all government, state and federal, is subject.

26 B. To protect the people's freedom and to preserve the checks and
27 balances of the United States Constitution, this state may exercise its
28 sovereign authority to restrict the actions of its personnel and the use
29 of its financial resources to purposes that are consistent with the
30 constitution by doing any of the following:

31 1. Passing an initiative or referendum pursuant to article IV, part
32 1, section 1.

33 2. Passing a bill pursuant to article IV, part 2 and article V,
34 section 7.

35 3. Pursuing any other available legal remedy.

36 C. If the people or their representatives exercise their authority
37 pursuant to this section, this state and all political subdivisions of
38 this state are prohibited from using any personnel or financial resources
39 to enforce, administer or cooperate with the designated federal action or
40 program." Article II, section 3, Constitution of Arizona.

41 5. That "No person shall be deprived of life, liberty, or property
42 without due process of law." Article II, section 4, Constitution of
43 Arizona.

1 Sec. 4. Legislative Findings

2 THE LEGISLATURE FINDS THE FOLLOWING:

3 1. "THE CONSTITUTION OF THE UNITED STATES DOES NOT CONSTRAIN THE
4 STATES' ABILITY TO REGULATE OR EVEN PROHIBIT ABORTION." JUNE MEDICAL
5 SERVICES LLC. V. RUSSO, 140 S.C.T. 2103, 2149 (2020). (THOMAS, J.,
6 DISSENTING).

7 2. THE MEMBERS OF THIS LEGISLATURE HAVE SOLEMNLY SWORN TO SUPPORT
8 THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION AND LAWS OF THE
9 STATE OF ARIZONA, TO BEAR TRUE FAITH AND ALLEGIANCE TO THE SAME AND DEFEND
10 THEM AGAINST ALL ENEMIES, FOREIGN AND DOMESTIC, AND TO FAITHFULLY AND
11 IMPARTIALLY DISCHARGE THE DUTIES OF OUR OFFICES, ACCORDING TO THE BEST OF
12 OUR ABILITIES, SO HELP US GOD.

13 3. "[T]HE UNITED STATES CONSTITUTION, AND THE LAWS OF THE UNITED
14 STATES WHICH SHALL BE MADE IN PURSUANCE THEREOF. . . SHALL BE THE SUPREME
15 LAW OF THE LAND." ARTICLE VI, CLAUSE 2, UNITED STATES CONSTITUTION.

16 4. "[T]HE POWERS NOT DELEGATED TO THE UNITED STATES BY THE
17 CONSTITUTION, NOR PROHIBITED BY IT TO THE STATES, ARE RESERVED TO THE
18 STATES RESPECTIVELY, OR TO THE PEOPLE." AMENDMENT X, UNITED STATES
19 CONSTITUTION.

20 5. THOUGH PRUDENCE DICTATES THAT STATES SHOULD NOT DECLARE ACTIONS
21 OF THE FEDERAL JUDICIARY VOID FOR LIGHT OR INDEFINITE CAUSES, THE FEDERAL
22 JUDICIARY IS NOT INFALLIBLE NOR ARE ITS POWERS UNLIMITED.

23 6. NOTHING IN THE CONSTITUTION OF THE UNITED STATES PROVIDES FOR A
24 RIGHT TO ABORTION OF PREBORN HUMAN BEINGS.

25 7. THE CONCEPT OF THE FEDERAL JUDICIARY COMPELLING STATES TO ALLOW
26 THE PRACTICE OF PRENATAL HOMICIDE RUNS COMPLETELY CONTRARY TO THE TEXT AND
27 PRINCIPLES OF THE CONSTITUTION OF THE UNITED STATES.

28 8. THE POWER TO AUTHORIZE THE GENOCIDE OF MORE THAN SIXTY-TWO
29 MILLION PREBORN HUMAN BEINGS OVER THE LAST FORTY-EIGHT YEARS AND COUNTING
30 IS NOT WITHIN THE LEGITIMATE POWERS OF THE FEDERAL JUDICIARY.

31 9. ACTIONS OF THE FEDERAL JUDICIARY PURPORTING TO PROVIDE A RIGHT
32 TO ABORTION ARE NOT MADE IN PURSUANCE OF THE CONSTITUTION OF THE UNITED
33 STATES, ARE CONSEQUENTLY NOT THE SUPREME LAW OF THE LAND, AND ARE
34 THEREFORE NOT BINDING ON THIS STATE.

35 Sec. 5. Short Title

36 This act may be cited as the "Roe v. Wade is Unconstitutional Act".

37 Sec. 6. Emergency

38 This act is an emergency measure that is necessary to preserve the
39 public peace, health or safety and is operative immediately as provided by
40 law.