

REFERENCE TITLE: detectable heartbeat abortion; offense

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1383

Introduced by
Senator Rogers

AN ACT

AMENDING TITLE 13, CHAPTER 36, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3603.03; RELATING TO FAMILY OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 36, Arizona Revised Statutes, is
3 amended by adding section 13-3603.03, to read:

4 13-3603.03. Detectable heartbeat abortion; classification;
5 civil action; definitions

6 A. ANY PHYSICIAN WHO KNOWINGLY PERFORMS AN ABORTION AFTER
7 DETERMINING THAT THE BABY HAS A DETECTABLE HEARTBEAT KILLS A HUMAN BEING
8 AND IS GUILTY OF A CLASS 3 FELONY.

9 B. THIS SECTION DOES NOT APPLY TO A DETECTABLE HEARTBEAT ABORTION
10 IF IT IS DETERMINED TO BE ONE HUNDRED PERCENT MEDICALLY NECESSARY TO SAVE
11 THE LIFE OF A MOTHER WHOSE LIFE IS ENDANGERED BY A PHYSICAL DISORDER,
12 PHYSICAL ILLNESS OR PHYSICAL INJURY, INCLUDING A LIFE-ENDANGERING PHYSICAL
13 CONDITION CAUSED BY OR ARISING FROM THE PREGNANCY ITSELF.

14 C. THE FATHER OF THE BABY, IF MARRIED TO THE MOTHER AT THE TIME SHE
15 RECEIVES A DETECTABLE HEARTBEAT ABORTION PROCEDURE AND THE MATERNAL
16 GRANDPARENTS OF THE BABY IF THE MOTHER IS NOT AT LEAST EIGHTEEN YEARS OF
17 AGE AT THE TIME OF THE DETECTABLE HEARTBEAT ABORTION, MAY BRING A CIVIL
18 ACTION TO OBTAIN APPROPRIATE RELIEF UNLESS THE PREGNANCY RESULTED FROM THE
19 PLAINTIFF'S CRIMINAL CONDUCT OR THE PLAINTIFF CONSENTED TO THE DETECTABLE
20 HEARTBEAT ABORTION. RELIEF PURSUANT TO THIS SUBSECTION INCLUDES THE
21 FOLLOWING:

22 1. MONEY DAMAGES FOR ALL INJURIES, PSYCHOLOGICAL AND PHYSICAL,
23 RESULTING FROM THE VIOLATION OF THIS SECTION.

24 2. STATUTORY DAMAGES IN AN AMOUNT EQUAL TO THREE TIMES THE COST OF
25 THE DETECTABLE HEARTBEAT ABORTION.

26 D. THIS SECTION SHALL NOT SUBJECT A WOMAN ON WHOM A DETECTABLE
27 HEARTBEAT ABORTION IS PERFORMED TO ANY CRIMINAL PROSECUTION OR CIVIL
28 LIABILITY.

29 E. A DEFENDANT WHO IS ACCUSED OF AN OFFENSE UNDER THIS SECTION MAY
30 SEEK A HEARING BEFORE THE ARIZONA MEDICAL BOARD IF THE DEFENDANT IS
31 LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR THE ARIZONA BOARD OF
32 OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY IF THE DEFENDANT IS LICENSED
33 PURSUANT TO TITLE 32, CHAPTER 17 ON WHETHER THE PHYSICIAN'S CONDUCT WAS
34 NECESSARY TO SAVE THE LIFE OF THE MOTHER WHOSE LIFE WAS ENDANGERED BY A
35 PHYSICAL DISORDER, PHYSICAL ILLNESS OR PHYSICAL INJURY, INCLUDING A
36 LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING FROM THE
37 PREGNANCY ITSELF. THE FINDINGS ON THAT ISSUE ARE ADMISSIBLE, IN THE
38 COURT'S DISCRETION, ON THAT ISSUE AT THE TRIAL OF THE DEFENDANT. ON A
39 MOTION OF THE DEFENDANT, THE COURT, IN ITS DISCRETION, SHALL DELAY THE
40 BEGINNING OF THE TRIAL FOR NOT MORE THAN THIRTY DAYS TO PERMIT A HEARING
41 TO TAKE PLACE.

42 F. FOR THE PURPOSES OF THIS SECTION:

43 1. "DETECTABLE HEARTBEAT ABORTION" MEANS AN ABORTION IN WHICH THE
44 PERSON PERFORMING THE ABORTION DOES BOTH OF THE FOLLOWING:

1 (a) COMPLIES WITH SECTIONS 36-2152, 36-2153, 36-2156 AND 36-2158 OR
2 DELIBERATELY AND INTENTIONALLY DISREGARDS THE REQUIREMENTS PRESCRIBED IN
3 SECTIONS 36-2152, 36-2153, 36-2156 OR 36-2158 WITH THE INTENTION AND FOR
4 THE PURPOSE OF PERFORMING AN OVERT ACT THAT THE PERSON KNOWS WILL KILL THE
5 LIVING BABY WHO IS OF A GESTATIONAL AGE TO HAVE A DETECTABLE HEARTBEAT.

6 (b) PERFORMS THE OVERT ACT, OTHER THAN COMPLETION OF DELIVERY, THAT
7 KILLS THE DELIVERED LIVING BABY.

8 2. "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR A DOCTOR OF OSTEOPATHY
9 WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 OR ANY OTHER
10 INDIVIDUAL LEGALLY AUTHORIZED BY THIS STATE TO PERFORM ABORTIONS.
11 PHYSICIAN INCLUDES AN INDIVIDUAL WHO IS NOT A PHYSICIAN OR WHO IS NOT
12 OTHERWISE LEGALLY AUTHORIZED BY THIS STATE TO PERFORM ABORTIONS BUT WHO
13 NEVERTHELESS DIRECTLY PERFORMS A DETECTABLE HEARTBEAT ABORTION.