

REFERENCE TITLE: **abortion; unborn child; genetic abnormality**

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

SB 1457

Introduced by
Senators Barto: Boyer, Gray, Kerr, Leach, Livingston, Petersen, Shope

AN ACT

AMENDING TITLE 1, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 1-219; AMENDING SECTION 13-3603.02, ARIZONA REVISED STATUTES; REPEALING SECTION 13-3604, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-115.01; AMENDING SECTIONS 35-196.02, 35-196.04, 36-449.01, 36-449.03, 36-2151, 36-2153, 36-2157 AND 36-2158, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2160; AMENDING SECTION 36-2161, 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 1, chapter 2, article 2, Arizona Revised Statutes,
3 is amended by adding section 1-219, to read:

4 1-219. Interpretation of laws; unborn child; definition

5 A. THE LAWS OF THIS STATE SHALL BE INTERPRETED AND CONSTRUED TO
6 ACKNOWLEDGE, ON BEHALF OF AN UNBORN CHILD AT EVERY STAGE OF DEVELOPMENT,
7 ALL RIGHTS, PRIVILEGES AND IMMUNITIES AVAILABLE TO OTHER PERSONS, CITIZENS
8 AND RESIDENTS OF THIS STATE, SUBJECT ONLY TO THE CONSTITUTION OF THE
9 UNITED STATES AND DECISIONAL INTERPRETATIONS THEREOF BY THE UNITED STATES
10 SUPREME COURT.

11 B. THIS SECTION DOES NOT CREATE A CAUSE OF ACTION AGAINST A WOMAN
12 FOR INDIRECTLY HARMING HER UNBORN CHILD BY FAILING TO PROPERLY CARE FOR
13 HERSELF OR BY FAILING TO FOLLOW ANY PARTICULAR PROGRAM OF PRENATAL CARE.

14 C. FOR THE PURPOSES OF THIS SECTION, "UNBORN CHILD" HAS THE SAME
15 MEANING PRESCRIBED IN SECTION 36-2151.

16 Sec. 2. Section 13-3603.02, Arizona Revised Statutes, is amended to
17 read:

18 13-3603.02. Abortion; sex and race selection; genetic
19 abnormality; injunctive and civil relief;
20 failure to report; definitions

21 A. EXCEPT IN A MEDICAL EMERGENCY, a person who knowingly does any
22 of the following is guilty of a class 3 felony:

23 1. Performs an abortion knowing that the abortion is sought based
24 on the sex or race of the child or the race of a parent of that child.

25 2. PERFORMS AN ABORTION KNOWING THAT THE ABORTION IS SOUGHT BECAUSE
26 OF A GENETIC ABNORMALITY OF THE CHILD.

27 B. A PERSON WHO KNOWINGLY DOES ANY OF THE FOLLOWING IS GUILTY OF A
28 CLASS 3 FELONY:

29 ~~2.~~ 1. Uses force or the threat of force to intentionally injure or
30 intimidate any person for the purpose of coercing a sex-selection or
31 race-selection abortion OR AN ABORTION BECAUSE OF A GENETIC ABNORMALITY OF
32 THE CHILD.

33 ~~3.~~ 2. Solicits or accepts monies to finance a sex-selection or
34 race-selection abortion OR AN ABORTION BECAUSE OF A GENETIC ABNORMALITY OF
35 THE CHILD.

36 ~~B.~~ C. The attorney general or the county attorney may bring an
37 action in superior court to enjoin the activity described in subsection A
38 OR B of this section.

39 ~~C.~~ D. The father of the unborn child who is married to the mother
40 at the time she receives a sex-selection or race-selection abortion OR AN
41 ABORTION BECAUSE OF A GENETIC ABNORMALITY OF THE CHILD, or, if the mother
42 has not attained eighteen years of age at the time of the abortion, ~~the~~ A
43 maternal ~~grandparents~~ GRANDPARENT of the unborn child, may bring a civil
44 action on behalf of the unborn child to obtain appropriate relief with
45 respect to a violation of subsection A OR B of this section. The court

1 may award reasonable attorney fees as part of the costs in an action
2 brought pursuant to this subsection. For the purposes of this subsection,
3 "appropriate relief" includes monetary damages for all injuries, whether
4 psychological, physical or financial, including loss of companionship and
5 support, resulting from the violation of subsection A OR B of this
6 section.

7 ~~D.~~ E. A physician, physician's assistant, nurse, counselor or
8 other medical or mental health professional who knowingly does not report
9 known violations of this section to appropriate law enforcement
10 authorities shall be subject to a civil fine of not more than ~~ten thousand~~
11 ~~dollars~~ \$10,000.

12 ~~E.~~ F. A woman on whom a sex-selection or race-selection abortion
13 OR AN ABORTION BECAUSE OF A CHILD'S GENETIC ABNORMALITY is performed is
14 not subject to criminal prosecution or civil liability for any violation
15 of this section or for a conspiracy to violate this section.

16 ~~F.~~ G. For the purposes of this section: ~~-~~

- 17 1. "Abortion" has the same meaning prescribed in section 36-2151.
18 2. "GENETIC ABNORMALITY" MEANS THE PRESENCE OR PRESUMED PRESENCE OF
19 AN ABNORMAL GENE EXPRESSION IN AN UNBORN CHILD, INCLUDING A CHROMOSOMAL
20 DISORDER OR MORPHOLOGICAL MALFORMATION OCCURRING AS THE RESULT OF ABNORMAL
21 GENE EXPRESSION.
22 3. "MEDICAL EMERGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION
23 36-2151.

24 Sec. 3. Repeal

25 Section 13-3604, Arizona Revised Statutes, is repealed.

26 Sec. 4. Title 15, chapter 1, article 1, Arizona Revised Statutes,
27 is amended by adding section 15-115.01, to read:

28 15-115.01. Prohibited services; definitions

29 A. A FACILITY THAT IS RUN BY OR THAT OPERATES ON THE PROPERTY OF A
30 PUBLIC EDUCATIONAL INSTITUTION MAY NOT DO ANY OF THE FOLLOWING:

- 31 1. PERFORM OR PROVIDE AN ABORTION, UNLESS THE ABORTION IS NECESSARY
32 TO SAVE THE LIFE OF THE WOMAN HAVING THE ABORTION.
33 2. COUNSEL IN FAVOR OF ABORTION.
34 3. PROVIDE A REFERRAL FOR AN ABORTION.

35 B. A PERSON WHO IS EMPLOYED BY A PUBLIC EDUCATIONAL INSTITUTION AND
36 WHO IS ACTING WITHIN THE SCOPE OF THE PERSON'S EMPLOYMENT MAY NOT DO ANY
37 OF THE FOLLOWING:

- 38 1. PERFORM OR PROVIDE AN ABORTION, UNLESS THE ABORTION IS NECESSARY
39 TO SAVE THE LIFE OF THE WOMAN HAVING THE ABORTION.
40 2. COUNSEL IN FAVOR OF ABORTION.
41 3. PROVIDE A REFERRAL FOR AN ABORTION.

42 C. FOR THE PURPOSES OF THIS SECTION:

- 43 1. "ABORTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2151.
44 2. "MEDICAL EMERGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION
45 36-2151.

1 Sec. 6. Section 35-196.04, Arizona Revised Statutes, is amended to
2 read:

3 35-196.04. Use of public monies for human cloning, abortion
4 or other prohibited research; prohibition;
5 definition

6 A. Notwithstanding any other law, tax monies of this state or any
7 political subdivision of this state, federal monies passing through the
8 state treasury or the treasury of any political subdivision of this state
9 or any other public monies shall not be used by any person or entity,
10 including any state funded institution or facility, for human somatic cell
11 nuclear transfer, commonly known as human cloning.

12 B. NOTWITHSTANDING ANY OTHER LAW, PUBLIC MONIES OR TAX MONIES OF
13 THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE, ANY FEDERAL MONIES
14 PASSING THROUGH THE STATE TREASURY OR THE TREASURY OF ANY POLITICAL
15 SUBDIVISION OF THIS STATE OR MONIES PAID BY STUDENTS AS PART OF TUITION OR
16 FEES TO A STATE UNIVERSITY OR A COMMUNITY COLLEGE SHALL NOT BE EXPENDED OR
17 ALLOCATED FOR OR GRANTED TO OR ON BEHALF OF AN EXISTING OR PROPOSED
18 RESEARCH PROJECT THAT INVOLVES ABORTION, HUMAN SOMATIC CELL NUCLEAR
19 TRANSFER OR ANY RESEARCH THAT IS PROHIBITED BY TITLE 36, CHAPTER 23.

20 ~~B.~~ C. This section does not restrict areas of scientific research
21 that are not specifically prohibited by this section, including research
22 in the use of nuclear transfer or other cloning techniques to produce
23 molecules, deoxyribonucleic acid, cells other than human embryos, tissues,
24 organs, plants or animals other than humans.

25 ~~C.~~ D. For the purposes of this section, "human somatic cell
26 nuclear transfer" means human asexual reproduction that is accomplished by
27 introducing the genetic material from one or more human somatic cells into
28 a fertilized or unfertilized oocyte whose nuclear material has been
29 removed or inactivated so as to produce an organism, at any stage of
30 development, that is genetically virtually identical to an existing or
31 previously existing human organism.

32 Sec. 7. Section 36-449.01, Arizona Revised Statutes, is amended to
33 read:

34 36-449.01. Definitions

35 In this article, unless the context otherwise requires:

36 1. "Abortion" means the use of any means with the intent to
37 terminate a woman's pregnancy for reasons other than to increase the
38 probability of a live birth, to preserve the life or health of the child
39 after a live birth, to terminate an ectopic pregnancy or to remove a dead
40 fetus. Abortion does not include birth control devices or oral
41 contraceptives.

42 2. "Abortion clinic" means a facility, other than a hospital, in
43 which five or more first trimester abortions in any month or any second or
44 third trimester abortions are performed.

1 3. "BODILY REMAINS" HAS THE SAME MEANING PRESCRIBED IN SECTION
2 36-2151.

3 ~~5.~~ 4. "Director" means the director of the department of health
4 services.

5 5. "FINAL DISPOSITION" HAS THE SAME MEANING PRESCRIBED IN SECTION
6 36-301.

7 ~~4.~~ 6. "Medication abortion" means the use of any medication, drug
8 or other substance that is intended to cause or induce an abortion.

9 ~~5.~~ 7. "Perform" includes the initial administration of any
10 medication, drug or other substance intended to cause or induce an
11 abortion.

12 ~~6.~~ 8. "Surgical abortion" has the same meaning prescribed in
13 section 36-2151.

14 ~~7.~~ 9. "Viable fetus" has the same meaning prescribed in section
15 36-2301.01.

16 Sec. 8. Section 36-449.03, Arizona Revised Statutes, is amended to
17 read:

18 36-449.03. Abortion clinics; rules; civil penalties

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

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

23 2. Dressing rooms for staff and patients.

24 3. Appropriate lavatory areas.

25 4. Areas for preprocedure hand washing.

26 5. Private procedure rooms.

27 6. Adequate lighting and ventilation for abortion procedures.

28 7. Surgical or gynecologic examination tables and other fixed
29 equipment.

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

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

33 10. Areas for cleaning and sterilizing instruments.

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

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

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

43 1. Prescribe required equipment and supplies, including
44 medications, required ~~for the~~ TO conduct, in an appropriate fashion, ~~of~~
45 any abortion procedure that the medical staff of the clinic anticipates

1 performing and ~~for monitoring~~ TO MONITOR the progress of each patient
2 throughout the procedure and recovery period.

3 2. Require that the number or amount of equipment and supplies at
4 the clinic is adequate at all times to ~~assure~~ ENSURE sufficient quantities
5 of clean and sterilized durable equipment and supplies to meet the needs
6 of each patient.

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

11 4. Prescribe required equipment and supplies for required
12 laboratory tests and requirements for protocols to calibrate and maintain
13 laboratory equipment at the abortion clinic or operated by clinic staff.

14 5. Require ultrasound equipment.

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

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

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

22 2. Physicians performing abortions are licensed pursuant to title
23 32, chapter 13 or 17, demonstrate competence in the procedure involved and
24 are acceptable to the medical director of the abortion clinic.

25 3. A physician is available:

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

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

33 4. If a physician is not present, a registered nurse, nurse
34 practitioner, licensed practical nurse or physician assistant is present
35 and remains at the clinic when abortions are performed to provide
36 postoperative monitoring and care, or monitoring and care after inducing a
37 medication abortion, until each patient who had an abortion that day is
38 discharged.

39 5. Surgical assistants receive training in counseling, patient
40 advocacy and the specific responsibilities of the services the surgical
41 assistants provide.

42 6. Volunteers receive training in the specific responsibilities of
43 the services the volunteers provide, including counseling and patient
44 advocacy as provided in the rules adopted by the director for different
45 types of volunteers based on their responsibilities.

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

4 1. A medical history, including the following:

5 (a) Reported allergies to medications, antiseptic solutions or
6 latex.

7 (b) Obstetric and gynecologic history.

8 (c) Past surgeries.

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

11 3. The appropriate laboratory tests, including:

12 (a) Urine or blood tests for pregnancy performed before the
13 abortion procedure.

14 (b) A test for anemia.

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

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

18 4. An ultrasound evaluation for all patients. The rules shall
19 require that if a person who is not a physician performs an ultrasound
20 examination, that person shall have documented evidence that the person
21 completed a course in ~~the operation of~~ OPERATING ultrasound equipment as
22 prescribed in rule. The physician or other health care professional shall
23 review, at the request of the patient, the ultrasound evaluation results
24 with the patient before the abortion procedure is performed, including the
25 probable gestational age of the fetus.

26 5. That the physician is responsible for estimating the gestational
27 age of the fetus based on the ultrasound examination and obstetric
28 standards in keeping with established standards of care regarding the
29 estimation of fetal age as defined in rule and shall write the estimate in
30 the patient's medical history. The physician shall keep original prints
31 of each ultrasound examination of a patient in the patient's medical
32 history file.

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

35 1. That medical personnel is available to all patients throughout
36 the abortion procedure.

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

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

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

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

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

10 F. THE DIRECTOR SHALL ADOPT RULES RELATING TO THE FINAL DISPOSITION
11 OF BODILY REMAINS. AT A MINIMUM THESE RULES SHALL REQUIRE THAT:

12 1. THE FINAL DISPOSITION OF BODILY REMAINS FROM A SURGICAL ABORTION
13 BE BY CREMATION OR INTERMENT.

14 2. FOR A SURGICAL ABORTION, THE WOMAN ON WHOM THE ABORTION IS
15 PERFORMED HAS THE RIGHT TO DETERMINE THE METHOD AND LOCATION FOR FINAL
16 DISPOSITION OF BODILY REMAINS.

17 F. G. The director shall adopt rules that prescribe minimum
18 recovery room standards. At a minimum these rules shall require that:

19 1. For a surgical abortion, immediate postprocedure care, or care
20 provided after inducing a medication abortion, consists of observation in
21 a supervised recovery room for as long as the patient's condition
22 warrants.

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

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

29 4. For a surgical abortion, a physician with admitting privileges
30 at a health care institution that is classified by the director as a
31 hospital pursuant to section 36-405, subsection B and that is within
32 thirty miles of the abortion clinic remains on the premises of the
33 abortion clinic until all patients are stable and are ready to leave the
34 recovery room and to facilitate the transfer of emergency cases if
35 hospitalization of the patient or viable fetus is necessary. A physician
36 shall sign the discharge order and be readily accessible and available
37 until the last patient is discharged.

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

1 6. Written instructions with regard to postabortion coitus, signs
2 of possible problems and general aftercare are given to each patient.
3 Each patient shall have specific instructions regarding access to medical
4 care for complications, including a telephone number to call for medical
5 emergencies.

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

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

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

16 ~~G.~~ **H.** The director shall adopt rules that prescribe standards for
17 follow-up visits. At a minimum these rules shall require that:

18 1. For a surgical abortion, a postabortion medical visit is offered
19 and, if requested, scheduled for three weeks after the abortion, including
20 a medical examination and a review of the results of all laboratory tests.
21 For a medication abortion, the rules shall require that a postabortion
22 medical visit is scheduled between one week and three weeks after the
23 initial dose for a medication abortion to confirm the pregnancy is
24 completely terminated and to assess the degree of bleeding.

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

29 ~~H.~~ **I.** The director shall adopt rules to prescribe minimum abortion
30 clinic incident reporting. At a minimum these rules shall require that:

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

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

41 3. Incident reports are filed with the department and appropriate
42 professional regulatory boards.

43 ~~I.~~ **J.** The director shall adopt rules relating to enforcement of
44 this article. At a minimum, these rules shall require that:

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

- 7 (a) Assess a civil penalty pursuant to section 36-431.01.
- 8 (b) Impose an intermediate sanction pursuant to section 36-427.
- 9 (c) Suspend or revoke a license pursuant to section 36-427.
- 10 (d) Deny a license.
- 11 (e) Bring an action for an injunction pursuant to section 36-430.

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

- 15 (a) Whether the abortion clinic has repeated violations of statutes
16 or rules.
- 17 (b) Whether the abortion clinic has engaged in a pattern of
18 noncompliance.
- 19 (c) The type, severity and number of violations.

20 ~~J.~~ K. The department shall not release personally identifiable
21 patient or physician information.

22 ~~K.~~ L. The rules adopted by the director pursuant to this section
23 do not limit the ability of a physician or other health professional to
24 advise a patient on any health issue.

25 Sec. 9. Section 36-2151, Arizona Revised Statutes, is amended to
26 read:

27 36-2151. Definitions

28 In this article, unless the context otherwise requires:

29 1. "Abortion" means the use of any means to terminate the
30 clinically diagnosable pregnancy of a woman with knowledge that the
31 termination by those means will cause, with reasonable likelihood, the
32 death of the unborn child. Abortion does not include birth control
33 devices, oral contraceptives used to inhibit or prevent ovulation,
34 conception or the implantation of a fertilized ovum in the uterus or the
35 use of any means to save the life or preserve the health of the unborn
36 child, to preserve the life or health of the child after a live birth, to
37 terminate an ectopic pregnancy or to remove a dead fetus.

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

41 3. "BODILY REMAINS" MEANS THE PHYSICAL REMAINS, CORPSE OR BODY
42 PARTS OF AN UNBORN CHILD WHO HAS BEEN EXPELLED OR EXTRACTED FROM HIS OR
43 HER MOTHER THROUGH ABORTION.

44 ~~S.~~ 4. "Conception" means the fusion of a human spermatozoon with a
45 human ovum.

1 5. "FINAL DISPOSITION" HAS THE SAME MEANING PRESCRIBED IN SECTION
2 36-301.

3 6. "GENETIC ABNORMALITY" HAS THE SAME MEANING PRESCRIBED IN SECTION
4 13-3603.02.

5 ~~4.~~ 7. "Gestational age" means the age of the unborn child as
6 calculated from the first day of the last menstrual period of the pregnant
7 woman.

8 ~~5.~~ 8. "Health professional" has the same meaning prescribed in
9 section 32-3201.

10 ~~6.~~ 9. "Medical emergency" means a condition that, on the basis of
11 the physician's good faith clinical judgment, so complicates the medical
12 condition of a pregnant woman as to necessitate the immediate abortion of
13 her pregnancy to avert her death or for which a delay will create serious
14 risk of substantial and irreversible impairment of a major bodily
15 function.

16 ~~7.~~ 10. "Medication abortion" means the use of any medication, drug
17 or other substance that is intended to cause or induce an abortion.

18 ~~8.~~ 11. "Physician" means a person who is licensed pursuant to
19 title 32, chapter 13 or 17.

20 ~~9.~~ 12. "Pregnant" or "pregnancy" means a female reproductive
21 condition of having a developing unborn child in the body and that begins
22 with conception.

23 ~~10.~~ 13. "Probable gestational age" means the gestational age of the
24 unborn child at the time the abortion is planned to be performed and as
25 determined with reasonable probability by the attending physician.

26 ~~11.~~ 14. "Surgical abortion" means the use of a surgical instrument
27 or a machine to terminate the clinically diagnosable pregnancy of a woman
28 with knowledge that the termination by those means will cause, with
29 reasonable likelihood, the death of the unborn child. Surgical abortion
30 does not include the use of any means to increase the probability of a
31 live birth, to preserve the life or health of the child after a live
32 birth, to terminate an ectopic pregnancy or to remove a dead fetus.
33 Surgical abortion does not include patient care incidental to the
34 procedure.

35 ~~12.~~ 15. "Ultrasound" means the use of ultrasonic waves for
36 diagnostic or therapeutic purposes to monitor a developing unborn child.

37 ~~13.~~ 16. "Unborn child" means the offspring of human beings from
38 conception until birth.

39 Sec. 10. Section 36-2153, Arizona Revised Statutes, is amended to
40 read:

41 36-2153. Informed consent; requirements; information;
42 website; signage; violation; civil relief; statute
43 of limitations

44 A. An abortion shall not be performed or induced without the
45 voluntary and informed consent of the woman on whom the abortion is to be

1 performed or induced. Except in the case of a medical emergency and in
2 addition to the other requirements of this chapter, consent to an abortion
3 is voluntary and informed only if all of the following are true:

4 1. At least twenty-four hours before the abortion, the physician
5 who is to perform the abortion or the referring physician has informed the
6 woman, orally and in person, of:

7 (a) The name of the physician who will perform the abortion.

8 (b) The nature of the proposed procedure or treatment.

9 (c) The immediate and long-term medical risks associated with the
10 procedure that a reasonable patient would consider material to the
11 decision of whether or not to undergo the abortion.

12 (d) Alternatives to the procedure or treatment that a reasonable
13 patient would consider material to the decision of whether or not to
14 undergo the abortion.

15 (e) The probable gestational age of the unborn child at the time
16 the abortion is to be performed.

17 (f) The probable anatomical and physiological characteristics of
18 the unborn child at the time the abortion is to be performed.

19 (g) The medical risks associated with carrying the child to term.

20 2. At least twenty-four hours before the abortion, the physician
21 who is to perform the abortion, the referring physician or a qualified
22 physician, physician assistant, nurse, psychologist or licensed behavioral
23 health professional to whom the responsibility has been delegated by
24 either physician has informed the woman, orally and in person, that:

25 (a) Medical assistance benefits may be available for prenatal care,
26 childbirth and neonatal care.

27 (b) The father of the unborn child is liable to assist in the
28 support of the child, even if he has offered to pay for the abortion. In
29 the case of rape or incest, this information may be omitted.

30 (c) Public and private agencies and services are available to
31 assist the woman during her pregnancy and after the birth of her child if
32 she chooses not to have an abortion, whether she chooses to keep the child
33 or place the child for adoption.

34 (d) It is unlawful for any person to coerce a woman to undergo an
35 abortion.

36 (e) The woman is free to withhold or withdraw her consent to the
37 abortion at any time without affecting her right to future care or
38 treatment and without the loss of any state or federally funded benefits
39 to which she might otherwise be entitled.

40 (f) The department of health services maintains a website that
41 describes the unborn child and lists the agencies that offer alternatives
42 to abortion.

43 (g) The woman has ~~a~~ THE right to review the website and that a
44 printed copy of the materials on the website will be provided to her free
45 of charge if she chooses to review these materials.

1 (h) IN THE CASE OF A SURGICAL ABORTION, THE WOMAN HAS THE RIGHT TO
2 DETERMINE FINAL DISPOSITION OF BODILY REMAINS AND TO BE INFORMED OF THE
3 AVAILABLE OPTIONS FOR LOCATIONS AND METHODS FOR DISPOSITION OF BODILY
4 REMAINS.

5 3. The information in paragraphs 1 and 2 of this subsection is
6 provided to the woman individually and in a private room to protect her
7 privacy and to ensure that the information focuses on her individual
8 circumstances and that she has adequate opportunity to ask questions.

9 4. The woman certifies in writing before the abortion that the
10 information required to be provided pursuant to paragraphs 1 and 2 of this
11 subsection has been provided.

12 5. IN THE CASE OF A SURGICAL ABORTION, IF THE WOMAN DESIRES TO
13 EXERCISE HER RIGHT TO DETERMINE FINAL DISPOSITION OF BODILY REMAINS, THE
14 WOMAN INDICATES IN WRITING HER CHOICE FOR THE LOCATION AND METHOD OF FINAL
15 DISPOSITION OF BODILY REMAINS.

16 B. If a woman has taken mifepristone as part of a two-drug regimen
17 to terminate her pregnancy, has not yet taken the second drug and consults
18 an abortion clinic questioning her decision to terminate her pregnancy or
19 seeking information regarding the health of her fetus or the efficacy of
20 mifepristone alone to terminate a pregnancy, the abortion clinic staff
21 shall inform the woman that the use of mifepristone alone to end a
22 pregnancy is not always effective and that she should immediately consult
23 a physician if she would like more information.

24 C. If a medical emergency compels the performance of an abortion,
25 the physician shall inform the woman, before the abortion if possible, of
26 the medical indications supporting the physician's judgment that an
27 abortion is necessary to avert the woman's death or to avert substantial
28 and irreversible impairment of a major bodily function.

29 D. The department of health services shall establish and shall
30 annually update a website that includes a link to a printable version of
31 all materials listed on the website. The materials must be written in an
32 easily understood manner and printed in a typeface that is large enough to
33 be clearly legible. The website must include all of the following
34 materials:

35 1. Information that is organized geographically by location and
36 that is designed to inform the woman about public and private agencies and
37 services that are available to assist a woman through pregnancy, at
38 childbirth and while her child is dependent, including adoption agencies.
39 The materials shall include a comprehensive list of the agencies, a
40 description of the services they offer and the manner in which these
41 agencies may be contacted, including the agencies' telephone numbers and
42 website addresses.

43 2. Information on the availability of medical assistance benefits
44 for prenatal care, childbirth and neonatal care.

1 3. A statement that it is unlawful for any person to coerce a woman
2 to undergo an abortion.

3 4. A statement that any physician who performs an abortion on a
4 woman without obtaining the woman's voluntary and informed consent or
5 without affording her a private medical consultation may be liable to the
6 woman for damages in a civil action.

7 5. A statement that the father of a child is liable to assist in
8 the support of that child, even if the father has offered to pay for an
9 abortion, and that the law allows adoptive parents to pay costs of
10 prenatal care, childbirth and neonatal care.

11 6. Information that is designed to inform the woman of the probable
12 anatomical and physiological characteristics of the unborn child at
13 two-week gestational increments from fertilization to full term, including
14 pictures or drawings representing the development of unborn children at
15 two-week gestational increments and any relevant information on the
16 possibility of the unborn child's survival. The pictures or drawings must
17 contain the dimensions of the unborn child and must be realistic and
18 appropriate for each stage of pregnancy. The information provided
19 pursuant to this paragraph must be objective, nonjudgmental and designed
20 to convey only accurate scientific information about the unborn child at
21 the various gestational ages.

22 7. Objective information that describes the methods of abortion
23 procedures commonly employed, the medical risks commonly associated with
24 each procedure, the possible detrimental psychological effects of abortion
25 and the medical risks commonly associated with carrying a child to term.

26 8. Information explaining the efficacy of mifepristone taken alone,
27 without a follow-up drug as part of a two-drug regimen, to terminate a
28 pregnancy and advising a woman to immediately contact a physician if the
29 woman has taken only mifepristone and questions her decision to terminate
30 her pregnancy or seeks information regarding the health of her fetus.

31 E. An individual who is not a physician shall not perform a
32 surgical abortion.

33 F. A person shall not write or communicate a prescription for a
34 drug or drugs to induce an abortion or require or obtain payment for a
35 service provided to a patient who has inquired about an abortion or
36 scheduled an abortion until the ~~expiration of the~~ twenty-four-hour
37 reflection period required by subsection A of this section **EXPIRES**.

38 G. A person shall not intimidate or coerce in any way any person to
39 obtain an abortion. A parent, a guardian or any other person shall not
40 coerce a minor to obtain an abortion. If a minor is denied financial
41 support by the minor's parents, guardians or custodian due to the minor's
42 refusal to have an abortion performed, the minor is deemed emancipated for
43 the purposes of eligibility for public assistance benefits, except that
44 the emancipated minor may not use these benefits to obtain an abortion.

1 H. An abortion clinic as defined in section 36-449.01 shall
2 conspicuously post signs that are visible to all who enter the abortion
3 clinic, that are clearly readable and that state it is unlawful for any
4 person to force a woman to have an abortion and a woman who is being
5 forced to have an abortion has the right to contact any local or state law
6 enforcement or social service agency to receive protection from any actual
7 or threatened physical, emotional or psychological abuse. The signs shall
8 be posted in the waiting room, consultation rooms and procedure rooms.

9 I. A person shall not require a woman to obtain an abortion as a
10 provision in a contract or as a condition of employment.

11 J. A physician who knowingly violates this section commits an act
12 of unprofessional conduct and is subject to license suspension or
13 revocation pursuant to title 32, chapter 13 or 17.

14 K. In addition to other remedies available under the common or
15 statutory law of this state, any of the following may file a civil action
16 to obtain appropriate relief for a violation of this section:

17 1. A woman on whom an abortion has been performed without her
18 informed consent as required by this section.

19 2. The father of the unborn child if the father was married to the
20 mother at the time she received the abortion, unless the pregnancy
21 resulted from the plaintiff's criminal conduct.

22 3. ~~The A~~ maternal ~~grandparents~~ GRANDPARENT of the unborn child if
23 the mother was not at least eighteen years of age at the time of the
24 abortion, unless the pregnancy resulted from the plaintiff's criminal
25 conduct.

26 L. A civil action filed pursuant to subsection K of this section
27 shall be brought in the superior court in the county in which the woman on
28 whom the abortion was performed resides and may be based on a claim that
29 failure to obtain informed consent was a result of simple negligence,
30 gross negligence, wantonness, wilfulness, intention or any other legal
31 standard of care. Relief pursuant to subsection K of this section
32 includes the following:

33 1. Money damages for all psychological, emotional and physical
34 injuries resulting from the violation of this section.

35 2. Statutory damages in an amount equal to ~~five thousand dollars~~
36 \$5,000 or three times the cost of the abortion, whichever is greater.

37 3. Reasonable attorney fees and costs.

38 M. A civil action brought pursuant to this section must be
39 initiated within six years after the violation occurred.

40 Sec. 11. Section 36-2157, Arizona Revised Statutes, is amended to
41 read:

42 36-2157. Affidavit

43 A person shall not knowingly perform or induce an abortion before
44 that person completes an affidavit that:

1 (c) That the woman has a right to review the website and that a
2 printed copy of the materials on the website will be provided to her free
3 of charge if she chooses to review these materials.

4 (d) THAT SECTION 13-3603.02 PROHIBITS ABORTION BECAUSE OF THE
5 UNBORN CHILD'S SEX OR RACE OR BECAUSE OF A GENETIC ABNORMALITY.

6 3. The woman certifies in writing before the abortion that the
7 information required to be provided pursuant to this subsection has been
8 provided.

9 B. The department of health services shall establish ~~a website~~
10 ~~within ninety days after the effective date of this section~~ and shall
11 annually update ~~the A website. The website shall include~~ THAT INCLUDES
12 the information prescribed in subsection A, paragraph 1, subdivision (b)
13 and paragraph 2, subdivision (b) of this section.

14 C. A physician who knowingly violates this section commits an act
15 of unprofessional conduct and is subject to license suspension or
16 revocation pursuant to title 32, chapter 13 or 17.

17 D. In addition to other remedies available under the common or
18 statutory law of this state, any of the following individuals may file a
19 civil action to obtain appropriate relief for a violation of this section:

20 1. A woman on whom an abortion has been performed without her
21 informed consent as required by this section.

22 2. The father of the unborn child if the father ~~is~~ WAS married to
23 the mother at the time she received the abortion, unless the pregnancy
24 resulted from the father's criminal conduct.

25 3. ~~The A~~ maternal ~~grandparents~~ GRANDPARENT of the unborn child if
26 the mother was not at least eighteen years of age at the time of the
27 abortion, unless the pregnancy resulted from ~~either of~~ the maternal
28 grandparent's criminal conduct.

29 E. A civil action filed pursuant to subsection D of this section
30 shall be brought in the superior court in the county in which the woman on
31 whom the abortion was performed resides and may be based on a claim that
32 failure to obtain informed consent was a result of simple negligence,
33 gross negligence, wantonness, wilfulness, intention or any other legal
34 standard of care. Relief pursuant to this subsection includes the
35 following:

36 1. Money damages for all psychological, emotional and physical
37 injuries resulting from the violation of this section.

38 2. Statutory damages in an amount equal to ~~five thousand dollars~~
39 \$5,000 or three times the cost of the abortion, whichever is greater.

40 3. Reasonable attorney fees and costs.

41 F. A civil action brought pursuant to this section must be
42 initiated within six years after the violation occurred.

43 G. For the purposes of this section:

1 1. "Lethal fetal condition" means a fetal condition that is
2 diagnosed before birth and that will result, with reasonable certainty, in
3 the death of the unborn child within three months after birth.

4 2. "Nonlethal fetal condition" means a fetal condition that is
5 diagnosed before birth and that will not result in the death of the unborn
6 child within three months after birth but may result in physical or mental
7 disability or abnormality.

8 3. "Perinatal hospice" means comprehensive support to the pregnant
9 woman and her family that includes supportive care from the time of
10 diagnosis through the time of birth and death of the infant and through
11 the postpartum period. Supportive care may include counseling and medical
12 care by maternal-fetal medical specialists, obstetricians, neonatologists,
13 anesthesia specialists, clergy, social workers and specialty nurses who
14 are focused on alleviating fear and ensuring that the woman and her family
15 experience the life and death of the child in a comfortable and supportive
16 environment.

17 Sec. 13. Title 36, chapter 20, article 1, Arizona Revised Statutes,
18 is amended by adding section 36-2160, to read:

19 36-2160. Abortion-inducing drugs; definition

20 A. AN ABORTION-INDUCING DRUG MAY BE PROVIDED ONLY BY A QUALIFIED
21 PHYSICIAN IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

22 B. A MANUFACTURER, SUPPLIER OR PHYSICIAN OR ANY OTHER PERSON IS
23 PROHIBITED FROM PROVIDING AN ABORTION-INDUCING DRUG VIA COURIER, DELIVERY
24 OR MAIL SERVICE.

25 C. THIS SECTION DOES NOT APPLY TO DRUGS THAT MAY BE KNOWN TO CAUSE
26 AN ABORTION BUT THAT ARE PRESCRIBED FOR OTHER MEDICAL INDICATIONS.

27 D. FOR THE PURPOSES OF THIS SECTION, "ABORTION-INDUCING DRUG" MEANS
28 A MEDICINE OR DRUG OR ANY OTHER SUBSTANCE USED FOR A MEDICATION ABORTION.

29 Sec. 14. Section 36-2161, Arizona Revised Statutes, is amended to
30 read:

31 36-2161. Abortions; reporting requirements

32 A. A hospital or facility in this state where abortions are
33 performed must submit to the department of health services on a form
34 prescribed by the department a report of each abortion performed in the
35 hospital or facility. The report shall not identify the individual
36 patient by name or include any other information or identifier that would
37 make it possible to identify, in any manner or under any circumstances, a
38 woman who has obtained or sought to obtain an abortion. The report must
39 include the following information:

40 1. The name and address of the facility where the abortion was
41 performed.

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

43 3. The county where the abortion was performed.

44 4. The woman's age.

- 1 5. The woman's educational background by highest grade completed
- 2 and, if applicable, level of college completed.
- 3 6. The county and state in which the woman resides.
- 4 7. The woman's race and ethnicity.
- 5 8. The woman's marital status.
- 6 9. The number of prior pregnancies and prior abortions of the
- 7 woman.
- 8 10. The number of previous spontaneous terminations of pregnancy of
- 9 the woman.
- 10 11. The gestational age of the unborn child at the time of the
- 11 abortion.
- 12 12. The reason for the abortion, including at least one of the
- 13 following:
- 14 (a) The abortion is elective.
- 15 (b) The abortion is due to maternal health considerations,
- 16 including one of the following:
- 17 (i) A premature rupture of membranes.
- 18 (ii) An anatomical abnormality.
- 19 (iii) Chorioamnionitis.
- 20 (iv) Preeclampsia.
- 21 (v) Other.
- 22 (c) The abortion is due to fetal health considerations, including
- 23 the fetus being diagnosed with at least one of the following:
- 24 (i) A lethal anomaly.
- 25 (ii) A central nervous system anomaly.
- 26 ~~(iii) Trisomy 18.~~
- 27 ~~(iv) Trisomy 21.~~
- 28 ~~(v) Triploidy.~~
- 29 ~~(vi)~~ (iii) Other.
- 30 (d) The pregnancy is the result of a sexual assault.
- 31 (e) The pregnancy is the result of incest.
- 32 (f) The woman is being coerced into obtaining an abortion.
- 33 (g) The woman is a victim of sex trafficking.
- 34 (h) The woman is a victim of domestic violence.
- 35 (i) Other.
- 36 (j) The woman declined to answer.
- 37 13. The type of procedure performed or prescribed and the date of
- 38 the abortion.
- 39 14. Any preexisting medical conditions of the woman that would
- 40 complicate pregnancy.
- 41 15. Any known medical complication that resulted from the abortion,
- 42 including at least one of the following:
- 43 (a) Shock.
- 44 (b) Uterine perforation.
- 45 (c) Cervical laceration requiring suture or repair.

- 1 (d) Heavy bleeding or hemorrhage with estimated blood loss of at
2 least five hundred cubic centimeters.
- 3 (e) Aspiration or allergic response.
- 4 (f) Postprocedure infection.
- 5 (g) Sepsis.
- 6 (h) Incomplete abortion retaining part of the fetus requiring
7 reevacuation.
- 8 (i) Damage to the uterus.
- 9 (j) Failed termination of pregnancy.
- 10 (k) Death of the patient.
- 11 (l) Other.
- 12 (m) None.
- 13 16. The basis for any medical judgment that a medical emergency
14 existed that excused the physician from compliance with the requirements
15 of this chapter.
- 16 17. The physician's statement if required pursuant to section
17 36-2301.01.
- 18 18. If applicable, the weight of the aborted fetus for any abortion
19 performed pursuant to section 36-2301.01.
- 20 19. Whether a fetus or embryo was delivered alive as defined in
21 section 36-2301 during or immediately after an attempted abortion and the
22 efforts made to promote, preserve and maintain the life of the fetus or
23 embryo pursuant to section 36-2301.
- 24 20. Statements by the physician and all clinical staff who observed
25 the fetus or embryo during or immediately after the abortion certifying
26 under penalty of perjury that, to the best of their knowledge, the aborted
27 fetus or embryo was not delivered alive as defined in section 36-2301.
- 28 21. The medical specialty of the physician performing the abortion,
29 including one of the following:
- 30 (a) Obstetrics-gynecology.
- 31 (b) General or family practice.
- 32 (c) Emergency medicine.
- 33 (d) Other.
- 34 22. The type of admission for the patient, including whether the
35 abortion was performed:
- 36 (a) As an outpatient procedure in an abortion clinic.
- 37 (b) As an outpatient procedure at a hospital.
- 38 (c) As an inpatient procedure at a hospital.
- 39 (d) As an outpatient procedure at a health care institution other
40 than an abortion clinic or hospital.
- 41 23. Whether anesthesia was administered to the mother.
- 42 24. Whether anesthesia was administered to the unborn child.

1 25. WHETHER ANY GENETIC ABNORMALITY OF THE UNBORN CHILD WAS
2 DETECTED AT OR BEFORE THE TIME OF THE ABORTION BY GENETIC TESTING, SUCH AS
3 MATERNAL SERUM TESTS, OR BY ULTRASOUND, SUCH AS NUCHAL TRANSLUCENCY
4 SCREENING, OR BY OTHER FORMS OF TESTING.

5 26. IF A SURGICAL ABORTION WAS PERFORMED, THE METHOD OF FINAL
6 DISPOSITION OF BODILY REMAINS AND WHETHER THE WOMAN EXERCISED HER RIGHT TO
7 CHOOSE THE FINAL DISPOSITION OF BODILY REMAINS.

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

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

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

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

36 Sec. 15. Exemption from rulemaking

37 For the purposes of this act, the department of health services is
38 exempt from the rulemaking requirements of title 41, chapter 6, Arizona
39 Revised Statutes, for one year after the effective date of this act.

40 Sec. 16. Intervention

41 The Legislature, by concurrent resolution, may appoint one or more
42 of its members who sponsored or cosponsored this act in the member's
43 official capacity to intervene as a matter of right in any case in which
44 the constitutionality of this act is challenged.

1 Sec. 17. Construction

2 This act does not create or recognize a right to an abortion and
3 does not make lawful an abortion that is currently unlawful.

4 Sec. 18. Severability

5 If a provision of this act or its application to any person or
6 circumstance is held invalid, the invalidity does not affect other
7 provisions or applications of this act that can be given effect without
8 the invalid provision or application, and to this end the provisions of
9 this act are severable.