



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
First Regular Session

Senate: JUD DP 5-3-0-0 | 3<sup>rd</sup> Read 16-14-0-0

House: JUD DPA 6-4-0-0

## **SB 1457: abortion; unborn child; genetic abnormality**

**Sponsor: Senator Barto, LD 15**

**Caucus & COW**

### **Overview**

Prohibits acts related to an abortion based on genetic abnormality.

### **History**

In statute, knowingly doing the following is classified as a class 3 felony: 1) performing an abortion knowing that the abortion is sought based on the sex or race of the child or the race of the parent of the child; 2) using force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion; or 3) soliciting or accepting monies to finance a sex-selection or race-selection abortion ([A.R.S. § 13-3603.02](#)).

An abortion may not be performed or induced without the voluntary and informed consent of the woman on whom the abortion is to be performed or induced. Except in the case of a medical emergency, and in addition to other requirements, consent to an abortion is voluntary and informed only if various statutory requirements and disclosures are met ([A.R.S. § 36-2153](#)). Statute defines unborn child as the offspring of human beings from conception until birth ([A.R.S. § 36-2151](#)).

### **Provisions**

1. Requires Arizona law to be interpreted, on behalf of an unborn child at every stage of development, all rights and privileges available to other people, citizens and residents of Arizona, subject only to the U.S. Constitution and decisions of the U.S. Supreme Court. (Sec. 1)
2. States no new cause of action is created against a woman for indirectly harming the unborn child by failing to properly take care of herself or failing to follow any program of prenatal care. (Sec. 1)
3. Classifies the following, except in a medical emergency, as a class 3 felony:
  - a) performing an abortion knowing that the abortion is sought because of a genetic abnormality of the child;
  - b) using force or the threat of force to intimidate a person to have an abortion because of a genetic abnormality of the child; or
  - c) accepting or soliciting monies to finance an abortion because of a genetic abnormality of the child (Sec. 2)
4. Exempts from criminal responsibility a person who knowingly performs a race-based or sex-based abortion, if the abortion was performed due to a medical emergency. (Sec. 2)

Prop 105 (45 votes)

Prop 108 (40 votes)

Emergency (40 votes)

Fiscal Note

5. Allows a maternal grandparent, or the father of the unborn child if the father was married to the mother at the time of the abortion, to bring a civil action on behalf of the unborn child if the abortion was performed because of a genetic abnormality. (Sec. 2)
6. Exempts a woman from criminal prosecution or civil liability if an abortion was performed on her because of a child's genetic abnormality. (Sec. 2)
7. Repeals a section of statute making it unlawful for a woman to solicit, procure or take medicine, or submit to an operation, with the intent to procure a miscarriage. (Sec. 3)
8. Prohibits a public educational facility from:
  - a) Performing or providing an abortion, unless the abortion is necessary to save the woman's life;
  - b) Providing counseling in favor of an abortion; or
  - c) Proving a referral for an abortion. (Sec. 4)
9. Prohibits a person employed by a public educational institution and who is acting within the scope of the person's employment from:
  - a) Performing or providing an abortion, unless the abortion is necessary to save the woman's life;
  - b) Providing counseling in favor of an abortion; or
  - c) Proving a referral for an abortion. (Sec. 4)
10. Prohibits the state, or any political subdivision, from entering into a contract or commercial transaction with an abortion provider or an affiliate of an abortion provider, unless the contract is subject to federal law as determined by the Arizona Department of Administration in publicly available written decision. (Sec. 5)
11. Restricts the following monies from being allocated, expended or granted for use on research involving abortion, human somatic cell nuclear transfer or other restricted research as outlined in statute:
  - a) Public or tax monies of the state or any political subdivision;
  - b) Federal monies passing through the state treasury or any other political subdivision's treasury; or
  - c) Monies paid by students as tuition or fees to a state university or community college. (Sec. 6)
12. Requires the director of the Arizona Department of Health Services to adopt rules relating to the final disposition of bodily remains, that at a minimum, require:
  - a) The final disposition of bodily remains from a surgical abortion be by cremation or interment; or
  - b) For a surgical abortion, the woman on whom the abortion is performed has the right the determine the method and location for final disposition of bodily remains. (Sec. 8)
13. States a person performing or inducing an abortion to complete an affidavit stating that the person is not aborting the child because of a genetic abnormality (Sec. 11)
14. Mandates that a physician who is to perform an abortion to inform the woman that Arizona statute prohibits abortion because of the unborn child's sex, race of genetic abnormality. (Sec. 12)
15. States an abortion inducing drug may be provided only by a qualified physician. (Sec. 13)
16. Prohibits a manufacturer, supplier, physician or any other person from providing an abortion-inducing drug via courier or mail service. (Sec. 13)

17. Exempts drugs that may be known to cause an abortion, but that are prescribed for other medical reasons, from the above restriction. (Sec. 13)
18. Removes *trisomy 18*, *trisomy 21* and *triploidy* from fetal diagnosis reporting requirements. (Sec. 14)
19. Expands reports submitted to the Department of Health Services by facilities performing abortions to include:
  - a) Whether any genetic abnormality of the unborn child was detected at or before the abortion; and
  - b) If a surgical abortion was performed, the final disposition method of the bodily remains and whether the woman exercised her right to choose the final disposition of bodily remains. (Sec. 14)
20. Exempts the Department of Health Services from rulemaking for one year from the general effective date for the purposes related to the bill. (Sec. 15)
21. Permits the Legislature, by concurrent resolution, to appoint one or more members who sponsored or co-sponsored this bill, to intervene as a matter of right in any case in which the constitutionality of this act is questioned. (Sec. 16)
22. States the bill does not create or recognize a right to an abortion and does not make lawful an abortion that is currently unlawful. (Sec. 17)
23. Contains a severability clause. (Sec. 18)
24. Defines relevant terms. (Sec. 1, 2, 4, 7, 9)
25. Defines *genetic abnormality*. (Sec. 2)
26. Defines *public educational facility*. (Sec. 4)
27. Defines *bodily remains*. (Sec. 9)
28. Defines *abortion-inducing drug*. (Sec. 13)
29. Makes technical and conforming changes. (Sec. 2, 5, 6, 7, 8, 9, 10, 11, 12, and 14)

### **Amendments**

#### Committee on Judiciary

1. Prohibits the state or any political subdivision from entering into a contract or commercial transaction with providers providing abortions except when necessary to save the life of the woman having the abortion or to avert substantial impairment of a major bodily function of the woman having the abortion.
2. Allows the state to enter into a contract or commercial transaction with an affiliate of an abortion provider.
3. Restricts specified public monies from being allocated, expended or granted for use on research involving fetal remains.