



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1457

abortion; unborn child; genetic abnormality

Purpose

Prohibits acts related to an abortion based on genetic abnormality. Prohibits public educational institutions from outlined acts related to abortion. Requires outlined disclosures prior to an abortion. Enumerates rights granted to an unborn child.

Background

Statute classifies knowingly doing the following 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](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Rights of Unborn Child

1. Requires Arizona law to be interpreted and construed to acknowledge, on behalf of an unborn child at every stage of development, all rights, privileges and immunities available to other persons, citizens and residents of Arizona, subject only to the U.S. Constitution and decisions of the U.S. Supreme Court.
2. Provides that no new cause of action is created against:
 - a) a person who performs in vitro fertilization procedures as authorized under Arizona law; or
 - b) a woman for indirectly harming her unborn child by failing to properly care for herself or by failing to follow any particular program of prenatal care.

Genetic-Abnormality Abortion

3. Classifies, as a class 6 felony, knowingly performing an abortion knowing that it is sought solely because of a genetic abnormality of the child, except in a medical emergency.
4. Decreases, from a class 3 to a class 6 felony, knowingly performing an abortion knowing that it is sought based on the sex or race of the child or the race of a parent of that child.
5. Classifies, as a class 3 felony, knowingly:
 - a) using force or the threat of force to intentionally injure or intimidate a person for the purpose of coercing an abortion because of a genetic abnormality of the child; or
 - b) soliciting or accepting monies to finance an abortion because of a genetic abnormality of the child.
6. Defines *genetic abnormality* as the presence or presumed presence of an abnormal gene expression in an unborn child, including a chromosomal disorder or morphological malformation occurring as the result of abnormal gene expression.
7. Excludes a lethal fetal condition from the definition of *genetic abnormality*.
8. 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.
9. Allows the father of the unborn child who is married to the mother at the time she receives an abortion because of a genetic abnormality of the child, or a maternal grandparent, to bring a civil action on behalf of the unborn child.
10. Excludes, from criminal prosecution or civil liability, a woman on whom an abortion, because of a child's genetic abnormality, is performed.
11. Repeals section of statute making it unlawful for a woman to solicit and take medicine, drugs or substances, or who submits to an operation, with the intent to procure a miscarriage.

Public Educational Institutions

12. Prohibits a facility that is run by or that operates on the property of a public educational institution from performing or providing an abortion, unless the abortion is necessary to save the life of the woman having the abortion.
13. Defines *public educational institution* as:
 - a) a community college;
 - b) a state university;
 - c) a school district and its schools;
 - d) a charter school;
 - e) an accommodational school; or
 - f) the Arizona State Schools for the Deaf and the Blind.

Prohibitions and Procedures Related to Abortion

14. Prohibits the following monies from being expended or allocated for, or granted to or on behalf of, an existing or proposed research project that involves fetal remains from an abortion or human somatic cell nuclear transfer or any research prohibited by enumerated statute:
 - a) public monies or tax monies of the state or any political subdivision;
 - b) federal monies passing through the State Treasurer or the treasury of a political subdivision; or
 - c) monies paid by students as part of tuition or fees to a state university or community college.
15. Requires the Director of the Department of Health Services (DHS) 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 to be by cremation or interment; and
 - b) for a surgical abortion, the woman on whom the abortion is performed to have the right to determine the method and location for final disposition of bodily remains.
16. Defines *bodily remains* as the physical remains, corpse or body parts of an unborn child who has been expelled or extracted from his or her mother through abortion.
17. Requires, in the case of a surgical abortion, the physician performing the abortion or the referring physician to inform the woman of the right to:
 - a) determine the final disposition of bodily remains; and
 - b) be informed of the available options for locations and methods for disposition of the bodily remains.
18. Requires, in the case of a surgical abortion, the woman to indicate in writing her choice for the location and method of final disposition of bodily remains if the woman desires to exercise her right to determine the final disposition of bodily remains.
19. Requires an affidavit signed by a person performing or inducing an abortion to state that the person making the affidavit is not aborting the child because of a genetic abnormality of the child.
20. Requires a physician who is to perform an abortion of an unborn child diagnosed with a nonlethal fetal condition or the referring physician to inform the woman, orally and in person, that Arizona statute prohibits abortion because of the unborn child's sex or race or because of a genetic abnormality.
21. Requires an abortion-inducing drug to only be provided by a qualified physician in accordance with Arizona law.
22. Prohibits a manufacturer, supplier, physician or any other person from providing an abortion-inducing drug via courier, delivery or mail service.
23. Exempts drugs that may be known to cause an abortion, but that are prescribed for other medical indications, from the outlined prohibition.

24. Defines *abortion-inducing drug* as a medicine or drug or any other substance used for a medication abortion.
25. Removes *trisomy 18*, *trisomy 21* and *triploidy* from abortion reporting requirements relating to fetal diagnoses.
26. Requires reports submitted to DHS by hospitals or facilities that perform abortions to include:
 - a) whether any genetic abnormality of the unborn child was detected at or before the time of the abortion by genetic testing, such as maternal serum tests, by ultrasound, such as by nuchal translucency screening, or by other forms of testing; and
 - b) if a surgical abortion was performed, the method of final disposition of bodily remains and whether the woman exercised her right to choose the final disposition of bodily remains.
27. Exempts DHS from rulemaking for one year from the general effective date for purposes related to the bill.

Miscellaneous

28. Allows the Legislature, by concurrent resolution, to appoint one or more members who sponsored or cosponsored this bill, in the member's official capacity, to intervene as a matter of right in any case in which the constitutionality of the bill is challenged.
29. Declares that the bill does not create or recognize a right to an abortion and does not make lawful an abortion that is currently unlawful.
30. Contains a severability clause.
31. Contains a legislative findings and intent section.
32. Makes technical and conforming changes.
33. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

1. Decreases, from a class 3 to a class 6 felony, the proposed crime of knowingly performing an abortion knowing that it is sought because of a genetic abnormality of the child, except in a medical emergency.
2. Decreases, from a class 3 to a class 6 felony, the existing crime of knowingly performing an abortion knowing that it is sought based on the sex or race of the child or the race of a parent of that child.
3. Excludes a severe fetal abnormality from the definition of *genetic abnormality*.

4. Removes the prohibition of a facility that is run by or that operates on the property of a public educational institution from counseling in favor of abortion or providing a referral for an abortion.
5. Removes specified prohibitions for employees of a public educational institution related to abortion services.
6. Removes the prohibition of the state or a political subdivision from entering into a contract or commercial transaction with an abortion provider or an affiliate of an abortion provider.
7. Specifies that the restrictions placed on public monies for research projects related to abortion apply to fetal remains from an abortion.

Amendments Adopted by Conference Committee

1. Creates an exception to the section of the bill that grants an unborn child the same rights as any other person by excluding causes of action against a person who performs in vitro fertilization procedures.
2. Applies criminal liability to a person who performs an abortion sought because of a genetic abnormality of the child only if the genetic abnormality is the sole reason for the abortion.
3. Changes, from *severe fetal abnormality* to *lethal fetal condition*, the exception to the definition of genetic abnormality.

Senate Action

JUD 2/4/21 DP 5-3-0
3rd Read 3/4/21 16-14-0

House Action

JUD 3/17/21 DPA 6-4-0-0
3rd Read 4/1/21 31-29-0

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