



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1164

abortion; gestational age; limit

Purpose

Prohibits a physician from performing an abortion on an unborn human being whose probable gestational age is determined to be greater than 15 weeks, except in the case of a medical emergency.

Background

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](#)). A physician who knowingly violates prescribed informed consent requirements commits an act of unprofessional conduct and is subject to license suspension or revocation ([A.R.S. § 36-2156](#)).

A physician, except in the case of a medical emergency, may not knowingly perform an abortion on a viable fetus unless the physician states in writing before the abortion that the abortion is necessary to preserve the life or health of the woman, specifying the medical indications for and the probable health consequences of the abortion. A physician must also take certain steps to preserve the life and health of the fetus. *Viable fetus* means the unborn offspring of human beings that has reached a stage of fetal development so that, in the judgment of the attending physician on the particular facts of the case, there is a reasonable probability of the fetus' sustained survival outside the uterus, with or without artificial support ([A.R.S. § 36-2301.01](#)). A person who violates requirements related to fetal viability is guilty of a class 5 felony ([A.R.S. § 36-2303](#)).

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

Provisions

1. Prohibits a physician, except in a medical emergency, from intentionally or knowingly performing, inducing or attempting to perform or induce an abortion if the probable gestational age of the unborn human being has been determined to be greater than 15 weeks.
2. Prohibits a physician, except in a medical emergency, from performing or inducing or attempting to perform or induce an abortion unless the physician or referring physician has first:
 - a) made a determination of the probable gestational age of the unborn human being; and
 - b) documented the gestational age in the maternal patient's chart and, if required, in a report filed with DHS.

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3. Requires the determination of probable gestational age to be made according to standard medical practices and techniques used in the medical community.
4. Classifies, as a class 6 felony, a physician's intentional or knowing violation of the prohibition on abortions past 15 weeks gestational age.
5. Prohibits a woman on whom a prohibited abortion is performed from being prosecuted for conspiracy to commit any violation of this act.
6. States that a physician who intentionally or knowingly violates the prohibition on abortions past 15 weeks gestational age commits an act of unprofessional conduct and is subject to suspension or revocation of their license to practice medicine.
7. Requires a physician, in every case involving an abortion of an unborn human being with a gestational age greater than 15 weeks, to file a report with DHS within 15 days of the abortion.
8. Requires the report filed with DHS to include:
 - a) the date the abortion was performed;
 - b) the specific method of abortion used;
 - c) the probable gestational age of the unborn human being and the method used to calculate gestational age;
 - d) a statement that the abortion was necessary because of a medical emergency;
 - e) the specific medical indications supporting the determination that a medical emergency existed;
 - f) the probable health consequences of the abortion; and
 - g) the physician's signature as the physician's attestation under oath that the information stated is true and correct to the best of the physician's knowledge.
9. Prohibits reports from containing the name of the maternal patient on whom the abortion was performed or any other information or identifiers that would make it possible to identify, in any manner or under any circumstances, a woman who obtained or sought to obtain an abortion.
10. Subjects a physician to a civil penalty of up to \$10,000 if the physician intentionally or knowingly delivers a report that contains a false statement or fails to deliver a report.
11. Requires DHS to create the forms for the report required to be filed within 30 days after the general effective date.
12. Specifies that the reporting requirements on forms published by DHS do not apply until 10 days after the requisite forms have been made available or 10 days after the general effective date, whichever is later.
13. Allows the Attorney General to bring an action in law or equity to enforce this act on behalf of the Director of DHS, the Arizona Medical Board or the Board of Osteopathic Examiners in Medicine and Surgery.

14. States that this act does not create or recognize a right to abortion or alter generally accepted medical standards, and that the Legislature does not intend this act to make lawful an abortion that is currently unlawful.
15. Allows the Legislature to appoint one or more of its members to intervene as a matter of right in any case in which the constitutionality or enforceability of this act is challenged.
16. Contains a legislative findings clause.
17. Contains a severability clause.
18. Defines *attempt to perform or induce an abortion* as doing or omitting anything that, under the circumstances as the physician believes them to be, is an act or omission that constitutes a substantial step in a course of conduct planned to culminate in the performance or induction of an abortion in violation of this act.
19. Defines *gestational age* and *probable gestational age* as the age of an unborn human being as calculated from the first day of the last menstrual period of the pregnant woman.
20. Defines *human being* as an individual member of the species homo sapiens, from and after the point of conception.
21. Defines *major bodily function* as functions of the immune system, normal cell growth and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.
22. Defines *medical emergency* as a condition that, on the basis of the physician's good faith clinical judgement, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.
23. Becomes effective on the general effective date.

Prepared by Senate Research

February 1, 2022

ZD/sr