



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

VETOED
FACT SHEET FOR S.B. 1600

infants; born alive; requirements

Purpose

Requires any infant who is born alive to be treated as a legal person under Arizona laws and have the same rights to medically appropriate and reasonable care and treatment. Requires any health professional present, when an infant is born alive, to take all medically appropriate actions to preserve the life and health of the born alive infant.

Background

Current statute states that if an abortion is performed and a human fetus or embryo is delivered alive, it is the duty of any physician performing the abortion and any additional physician in attendance to see that all available means and medical skills are used to promote, preserve and maintain the life of the fetus or embryo. The physician performing the abortion must document and report to the Department of Health Services (DHS) the measures the physician performed to maintain the life of the fetus or embryo.

If an abortion is performed and a human fetus or embryo with a lethal fetal condition is delivered alive, the physician performing the abortion must also document and report to DHS the specific lethal fetal condition that was diagnosed before the performance of the abortion, confirmed by an examination performed after the human embryo or fetus was delivered alive.

A hospital that is not in substantial compliance with adopted rules, policies or procedures relating to maintaining the life of a fetus or embryo may be subject penalties and sanctions ([A.R.S. § 36-2301](#)).

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

Provisions

Born Alive Infants

1. Replaces the requirements of any practitioner involved in the performance of an abortion in which a fetus or embryo was delivered alive with the requirement that any infant who is born alive, including an infant born during an abortion, must be treated as a legal person under Arizona law and have the same rights to medically appropriate and reasonable care and treatment.
2. Requires birth and death certificates to be issued for the born alive infant, as appropriate.

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3. Requires any health professional who is present when an infant is born alive to take all medically appropriate and reasonable actions to preserve the life and health of the born alive infant.
4. Prohibits a health professional from depriving any born alive infant of medically appropriate and reasonable medical care or treatment, regardless of whether the infant is likely to survive.
5. Requires any health professional, hospital, abortion clinic or employee or volunteer of a hospital or abortion clinic that has knowledge of a failure to comply with the born alive infant requirements to immediately report the failure to law enforcement.
6. Subjects an abortion clinic that is not in substantial compliance with adopted rules, policies or procedures relating to maintaining the life of a born alive infant to applicable penalties and sanctions.
7. Specifies that the born alive infant requirements do not prevent an infant's parent or guardian from refusing to give consent to medical treatment or surgical care that is not medically necessary or reasonable, including care or treatment that:
 - a) is not necessary to save the life of the infant;
 - b) has potential risk to the infant's life or health that outweighs the potential benefit to the infant of the care or treatment;
 - c) will not do more than temporarily prolong the act of dying when death is imminent.
8. Declares any health professional who intentionally or knowingly violates the born alive infant requirements guilty of a class 6 felony.
9. States that any physician, nurse or other licensed health professional who intentionally or knowingly violates the born alive infant requirements has committed an act of unprofessional conduct.
10. Requires the license or certification of a medical professional who commits an act of unprofessional conduct associated with the birth of a born alive infant to be suspended or revoked.
11. Specifies that failure to comply with born alive infant requirements establishes a basis for civil action.
12. Allows civil action taken for failure to comply with the born alive infant requirements to be filed by the parent or legal guardian of the mother of the born alive infant, rather than a maternal grandparent.
13. Removes existing potential forms of relief for a civil action associated with the delivery of a fetus or embryo and replaces them with the following forms of relief for civil action pertaining to a born alive infant:
 - a) actual damages and punitive damages; and
 - b) a civil penalty of not less than \$5,000 per violation.
14. Prohibits the born alive infant requirements from being construed as any indication that other state laws protecting children who are born are not applicable to children who are born alive during an abortion.

Miscellaneous

15. States that it is the intent of the Legislature that every born alive infant requirement operate with equal force and be severable from one to another and that, if any requirement is held invalid or unenforceable by a court of competent jurisdiction, that requirement must be deemed severable and the remaining requirements deemed fully enforceable.
16. 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 born alive infant requirements are challenged.
17. The Legislature finds that:
 - a) it has a compelling interest in protecting the life of any born alive infant;
 - b) any born alive infant is a legal person for all purposes under Arizona law and is entitled to all the protections of such laws, including the right to appropriate and reasonable medical care and treatment; and
 - c) in the absence of proper legal protections, newly born infants have been denied appropriate and reasonable medical care and treatment, including lifesaving, life-sustaining or comfort care and have been left to die.
18. Defines *born alive* as the complete expulsion or extraction from the mother of an infant at any stage of development who, after expulsion or extraction, regardless of whether the umbilical cord has been cut or the placenta is attached and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, induced abortion or any other method, shows any outlined evidence of life.
19. Defines terms.
20. Makes conforming changes.
21. Becomes effective on the general effective date.

Governor's Veto Message

The Governor indicates in her [veto message](#) that the bill interferes with the relationship between a patient and doctor and that it is not the state's role to make such difficult medical decisions for patients.

Senate Action

HHS 2/14/23 DP 4-3-0
3rd Read 2/22/23 16-13-1

House Action

HHS 3/6/23 DP 5-4-0-0
3rd Read 3/30/23 32-26-2

Vetoed by the Governor 4/6/23

Prepared by Senate Research
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MM/slp