

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

# HOUSE BILL 2036

AN ACT

AMENDING SECTIONS 36-449.01, 36-449.03, 36-2151, 36-2152, 36-2153 AND 36-2156, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2158 AND 36-2159; AMENDING SECTION 36-2163, 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. Section 36-449.01, Arizona Revised Statutes, is amended to  
3 read:

4 36-449.01. Definitions

5 In this article, unless the context otherwise requires:

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

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

14 3. "Director" means the director of the department of health services.

15 4. "MEDICATION ABORTION" MEANS THE USE OF ANY MEDICATION, DRUG OR  
16 OTHER SUBSTANCE THAT IS INTENDED TO CAUSE OR INDUCE AN ABORTION.

17 ~~4.~~ 5. "Perform" includes the initial administration of any  
18 medication, drug or other substance intended to cause or induce an abortion.

19 6. "SURGICAL ABORTION" HAS THE SAME MEANING PRESCRIBED IN SECTION  
20 36-2151.

21 ~~5.~~ 7. "Viable fetus" has the same meaning prescribed in section  
22 36-2301.01.

23 Sec. 2. Section 36-449.03, Arizona Revised Statutes, is amended to  
24 read:

25 36-449.03. Abortion clinics; rules; civil penalties

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

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

30 2. Dressing rooms for staff and patients.

31 3. Appropriate lavatory areas.

32 4. Areas for preprocedure hand washing.

33 5. Private procedure rooms.

34 6. Adequate lighting and ventilation for abortion procedures.

35 7. Surgical or gynecologic examination tables and other fixed  
36 equipment.

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

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

40 10. Areas for cleaning and sterilizing instruments.

41 11. Adequate areas for the secure storage of medical records and  
42 necessary equipment and supplies.

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

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

5 1. Prescribe required equipment and supplies, including medications,  
6 required for the conduct, in an appropriate fashion, of any abortion  
7 procedure that the medical staff of the clinic anticipates performing and for  
8 monitoring the progress of each patient throughout the procedure and recovery  
9 period.

10 2. Require that the number or amount of equipment and supplies at the  
11 clinic is adequate at all times to assure sufficient quantities of clean and  
12 sterilized durable equipment and supplies to meet the needs of each patient.

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

17 4. Prescribe required equipment and supplies for required laboratory  
18 tests and requirements for protocols to calibrate and maintain laboratory  
19 equipment at the abortion clinic or operated by clinic staff.

20 5. Require ultrasound equipment ~~in those facilities that provide~~  
21 ~~abortions after twelve weeks' gestation.~~

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

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

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

29 2. Physicians performing ~~surgery~~ ABORTIONS are licensed pursuant to  
30 title 32, chapter 13 or 17, demonstrate competence in the procedure involved  
31 and are acceptable to the medical director of the abortion clinic.

32 3. A physician ~~with admitting privileges at an accredited hospital in~~  
33 ~~this state~~ is available: —

34 (a) FOR A SURGICAL ABORTION WHO HAS ADMITTING PRIVILEGES AT A HEALTH  
35 CARE INSTITUTION THAT IS CLASSIFIED BY THE DIRECTOR AS A HOSPITAL PURSUANT TO  
36 SECTION 36-405, SUBSECTION B AND THAT IS WITHIN THIRTY MILES OF THE ABORTION  
37 CLINIC.

38 (b) FOR A MEDICATION ABORTION WHO HAS ADMITTING PRIVILEGES AT A HEALTH  
39 CARE INSTITUTION THAT IS CLASSIFIED BY THE DIRECTOR AS A HOSPITAL PURSUANT TO  
40 SECTION 36-405, SUBSECTION B.

41 4. If a physician is not present, a registered nurse, nurse  
42 practitioner, licensed practical nurse or ~~physician's~~ PHYSICIAN assistant is  
43 present and remains at the clinic when abortions are performed to provide  
44 postoperative monitoring and care, OR MONITORING AND CARE AFTER INDUCING A

1 MEDICATION ABORTION, until each patient who had an abortion that day is  
2 discharged.

3 5. Surgical assistants receive training in counseling, patient  
4 advocacy and the specific responsibilities of the services the surgical  
5 assistants provide.

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

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

13 1. A medical history, including the following:

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

15 (b) Obstetric and gynecologic history.

16 (c) Past surgeries.

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

19 3. The appropriate laboratory tests, including:

20 (a) ~~For an abortion in which an ultrasound examination is not~~  
21 ~~performed before the abortion procedure,~~ Urine or blood tests for pregnancy  
22 performed before the abortion procedure.

23 (b) A test for anemia.

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

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

27 4. An ultrasound evaluation for all patients ~~who elect to have an~~  
28 ~~abortion after twelve weeks' gestation.~~ The rules shall require that if a  
29 person who is not a physician performs an ultrasound examination, that person  
30 shall have documented evidence that the person completed a course in the  
31 operation of ultrasound equipment as prescribed in rule. The physician or  
32 other health care professional shall review, at the request of the patient,  
33 the ultrasound evaluation results with the patient before the abortion  
34 procedure is performed, including the probable gestational age of the fetus.

35 5. That the physician is responsible for estimating the gestational  
36 age of the fetus based on the ultrasound examination and obstetric standards  
37 in keeping with established standards of care regarding the estimation of  
38 fetal age as defined in rule and shall write the estimate in the patient's  
39 medical history. The physician shall keep original prints of each ultrasound  
40 examination of a patient in the patient's medical history file.

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

43 1. That medical personnel is available to all patients throughout the  
44 abortion procedure.

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

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

6           4. The use of appropriate precautions, such as the establishment of  
7 intravenous access at least for patients undergoing second or third trimester  
8 abortions.

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

13           6. THAT ANY MEDICATION, DRUG OR OTHER SUBSTANCE USED TO INDUCE AN  
14 ABORTION IS ADMINISTERED IN COMPLIANCE WITH THE PROTOCOL THAT IS AUTHORIZED  
15 BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION AND THAT IS OUTLINED IN THE  
16 FINAL PRINTING LABELING INSTRUCTIONS FOR THAT MEDICATION, DRUG OR SUBSTANCE.

17           F. The director shall adopt rules that prescribe minimum recovery room  
18 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 a  
21 supervised recovery room for as long as the patient's condition warrants.

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

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

28           4. FOR A SURGICAL ABORTION, a physician with admitting privileges at  
29 ~~an accredited hospital in this state~~ A HEALTH CARE INSTITUTION THAT IS  
30 CLASSIFIED BY THE DIRECTOR AS A HOSPITAL PURSUANT TO SECTION 36-405,  
31 SUBSECTION B AND THAT IS WITHIN THIRTY MILES OF THE ABORTION CLINIC remains  
32 on the premises of the abortion clinic until all patients are stable and are  
33 ready to leave the recovery room and to facilitate the transfer of emergency  
34 cases if hospitalization of the patient or viable fetus is necessary. A  
35 physician shall sign the discharge order and be readily accessible and  
36 available until the last patient is discharged.

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

43           6. Written instructions with regard to postabortion coitus, signs of  
44 possible problems and general aftercare are given to each patient. Each

1 patient shall have specific instructions regarding access to medical care for  
2 complications, including a telephone number to call for medical emergencies.

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

5 8. The physician assures that a licensed health professional from the  
6 abortion clinic makes a good faith effort to contact the patient by  
7 telephone, with the patient's consent, within twenty-four hours after ~~surgery~~  
8 **A SURGICAL ABORTION** to assess the patient's recovery.

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

12 G. The director shall adopt rules that prescribe standards for  
13 follow-up visits. At a minimum these rules shall require that:

14 1. **FOR A SURGICAL ABORTION**, a postabortion medical visit is offered  
15 and, if requested, scheduled for three weeks after the abortion, including a  
16 medical examination and a review of the results of all laboratory tests. **FOR**  
17 **A MEDICATION ABORTION, THE RULES SHALL REQUIRE THAT A POSTABORTION MEDICAL**  
18 **VISIT IS SCHEDULED BETWEEN ONE WEEK AND THREE WEEKS AFTER THE INITIAL DOSE OF**  
19 **A MEDICATION ABORTION TO CONFIRM THE PREGNANCY IS COMPLETELY TERMINATED AND**  
20 **TO ASSESS THE DEGREE OF BLEEDING.**

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

25 H. The director shall adopt rules to prescribe minimum abortion clinic  
26 incident reporting. At a minimum these rules shall require that:

27 1. The abortion clinic records each incident resulting in a patient's  
28 or viable fetus' serious injury occurring at an abortion clinic and shall  
29 report them in writing to the department within ten days after the incident.  
30 For the purposes of this paragraph, "serious injury" means an injury that  
31 occurs at an abortion clinic and that creates a serious risk of substantial  
32 impairment of a major body organ **AND INCLUDES ANY INJURY OR CONDITION THAT**  
33 **REQUIRES AMBULANCE TRANSPORTATION OF THE PATIENT.**

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

37 3. Incident reports are filed with the department and appropriate  
38 professional regulatory boards.

39 **I. THE DIRECTOR SHALL ADOPT RULES RELATING TO ENFORCEMENT OF THIS**  
40 **ARTICLE. AT A MINIMUM, THESE RULES SHALL REQUIRE THAT:**

41 **1. FOR AN ABORTION CLINIC THAT IS NOT IN SUBSTANTIAL COMPLIANCE WITH**  
42 **THIS ARTICLE AND THE RULES ADOPTED PURSUANT TO THIS ARTICLE OR THAT IS IN**  
43 **SUBSTANTIAL COMPLIANCE BUT REFUSES TO CARRY OUT A PLAN OF CORRECTION**  
44 **ACCEPTABLE TO THE DEPARTMENT OF ANY DEFICIENCIES THAT ARE LISTED ON THE**  
45 **DEPARTMENT'S STATE OF DEFICIENCY, THE DEPARTMENT MAY DO ANY OF THE FOLLOWING:**

- 1 (a) ASSESS A CIVIL PENALTY PURSUANT TO SECTION 36-431.01.  
2 (b) IMPOSE AN INTERMEDIATE SANCTION PURSUANT TO SECTION 36-427.  
3 (c) SUSPEND OR REVOKE A LICENSE PURSUANT TO SECTION 36-427.  
4 (d) DENY A LICENSE.  
5 (e) BRING AN ACTION FOR AN INJUNCTION PURSUANT TO SECTION 36-430.  
6 2. IN DETERMINING THE APPROPRIATE ENFORCEMENT ACTION, THE DEPARTMENT  
7 CONSIDERS THE THREAT OF THE HEALTH, SAFETY AND WELFARE OF THE ABORTION  
8 CLINIC'S PATIENTS OR THE GENERAL PUBLIC, INCLUDING:  
9 (a) WHETHER THE ABORTION CLINIC HAS REPEATED VIOLATIONS OF STATUTES OR  
10 RULES.  
11 (b) WHETHER THE ABORTION CLINIC HAS ENGAGED IN A PATTERN OF  
12 NONCOMPLIANCE.  
13 (c) THE TYPE, SEVERITY AND NUMBER OF VIOLATIONS.  
14 ~~J.~~ J. The department shall not release personally identifiable  
15 patient or physician information.  
16 ~~K.~~ K. The rules adopted by the director pursuant to this section do  
17 not limit the ability of a physician or other health professional to advise a  
18 patient on any health issue.  
19 Sec. 3. Section 36-2151, Arizona Revised Statutes, is amended to read:  
20 36-2151. Definitions  
21 In this article, unless the context otherwise requires:  
22 1. "Abortion" means the use of any means to terminate the clinically  
23 diagnosable pregnancy of a woman with knowledge that the termination by those  
24 means will cause, with reasonable likelihood, the death of the unborn child.  
25 Abortion does not include birth control devices, oral contraceptives used to  
26 inhibit or prevent ovulation, conception or the implantation of a fertilized  
27 ovum in the uterus or the use of any means to ~~increase the probability of a~~  
28 ~~live birth~~ SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN CHILD, to  
29 preserve the life or health of the child after a live birth, to terminate an  
30 ectopic pregnancy or to remove a dead fetus.  
31 2. "Auscultation" means the act of listening for sounds made by  
32 internal organs of the unborn child, specifically for a heartbeat, using an  
33 ultrasound transducer and fetal heart rate monitor.  
34 3. "Conception" means the fusion of a human spermatozoon with a human  
35 ovum.  
36 4. "Gestational age" means the age of the unborn child as calculated  
37 from the first day of the last menstrual period of the pregnant woman.  
38 5. "Health professional" has the same meaning prescribed in section  
39 32-3201.  
40 6. "Medical emergency" means a condition that, on the basis of the  
41 physician's good faith clinical judgment, so complicates the medical  
42 condition of a pregnant woman as to necessitate the immediate abortion of her  
43 pregnancy to avert her death or for which a delay will create serious risk of  
44 substantial and irreversible impairment of a major bodily function.

1           7. "MEDICATION ABORTION" MEANS THE USE OF ANY MEDICATION, DRUG OR  
2 OTHER SUBSTANCE THAT IS INTENDED TO CAUSE OR INDUCE AN ABORTION.

3           ~~7-~~ 8. "Physician" means a person who is licensed pursuant to title  
4 32, chapter 13 or 17.

5           ~~8-~~ 9. "Pregnant" or "pregnancy" means a female reproductive condition  
6 of having a developing unborn child in the body and that begins with  
7 conception.

8           ~~9-~~ 10. "Probable gestational age" means the gestational age of the  
9 unborn child at the time the abortion is planned to be performed and as  
10 determined with reasonable probability by the attending physician.

11          ~~10-~~ 11. "Surgical abortion" means the use of a surgical instrument or  
12 a machine to terminate the clinically diagnosable pregnancy of a woman with  
13 knowledge that the termination by those means will cause, with reasonable  
14 likelihood, the death of the unborn child. Surgical abortion does not  
15 include the use of any means to increase the probability of a live birth, to  
16 preserve the life or health of the child after a live birth, to terminate an  
17 ectopic pregnancy or to remove a dead fetus. Surgical abortion does not  
18 include patient care incidental to the procedure.

19          ~~11-~~ 12. "Ultrasound" means the use of ultrasonic waves for diagnostic  
20 or therapeutic purposes to monitor a developing unborn child.

21          ~~12-~~ 13. "Unborn child" means the offspring of human beings from  
22 conception until birth.

23           Sec. 4. Section 36-2152, Arizona Revised Statutes, is amended to read:  
24           ~~36-2152.~~ Parental consent; exception; hearings; time limits;  
25   violation; classification; civil relief; statute of  
26   limitations

27           A. In addition to the OTHER requirements of ~~section 36-2153~~ THIS  
28 CHAPTER, a person shall not knowingly perform an abortion on a pregnant  
29 unemancipated minor unless the attending physician has secured the written  
30 and notarized consent from one of the minor's parents or the minor's guardian  
31 or conservator or unless a judge of the superior court authorizes the  
32 physician to perform the abortion pursuant to subsection B of this section.  
33 Notwithstanding section 41-319, the notarized statement of parental consent  
34 and the description of the document or notarial act recorded in the notary  
35 journal are confidential and are not public records.

36           B. A judge of the superior court, on petition or motion, and after an  
37 appropriate hearing, shall authorize a physician to perform the abortion if  
38 the judge determines that the pregnant minor is mature and capable of giving  
39 informed consent to the proposed abortion. If the judge determines that the  
40 pregnant minor is not mature or if the pregnant minor does not claim to be  
41 mature, the judge shall determine whether the performance of an abortion on  
42 her without the consent from one of her parents or her guardian or  
43 conservator would be in her best interests and shall authorize a physician to  
44 perform the abortion without consent if the judge concludes that the pregnant  
45 minor's best interests would be served.



1 C. If the pregnant minor claims to be mature at a proceeding held  
2 pursuant to subsection B of this section, the minor must prove by clear and  
3 convincing evidence that she is sufficiently mature and capable of giving  
4 informed consent without consulting her parent or legal guardian based on her  
5 experience level, perspective and judgment. In assessing the pregnant  
6 minor's experience level, the court may consider, among other relevant  
7 factors, the minor's age and experiences working outside the home, living  
8 away from home, traveling on her own, handling personal finances and making  
9 other significant decisions. In assessing the pregnant minor's perspective,  
10 the court may consider, among other relevant factors, what steps the minor  
11 took to explore her options and the extent to which she considered and  
12 weighed the potential consequences of each option. In assessing the pregnant  
13 minor's judgment, the court may consider, among other relevant factors, the  
14 minor's conduct since learning of her pregnancy and her intellectual ability  
15 to understand her options and to make an informed decision.

16 D. The pregnant minor may participate in the court proceedings on her  
17 own behalf. The court shall appoint a guardian ad litem for her. The court  
18 shall advise her that she has the right to court appointed counsel and, on  
19 her request, shall provide her with counsel unless she appears through  
20 private counsel or she knowingly and intelligently waives her right to  
21 counsel.

22 E. Proceedings in the court under this section are confidential and  
23 have precedence over other pending matters. Members of the public shall not  
24 inspect, obtain copies of or otherwise have access to records of court  
25 proceedings under this section unless authorized by law. A judge who  
26 conducts proceedings under this section shall make in writing specific  
27 factual findings and legal conclusions supporting the decision and shall  
28 order a confidential record of the evidence to be maintained, including the  
29 judge's own findings and conclusions. The minor may file the petition using  
30 a fictitious name. For purposes of this subsection, public does not include  
31 judges, clerks, administrators, professionals or other persons employed by or  
32 working under the supervision of the court or employees of other public  
33 agencies who are authorized by state or federal rule or law to inspect and  
34 copy closed court records.

35 F. The court shall hold the hearing and shall issue a ruling within  
36 forty-eight hours, excluding weekends and holidays, after the petition is  
37 filed. If the court fails to issue a ruling within this time period, the  
38 petition is deemed to have been granted and the consent requirement is  
39 waived.

40 G. An expedited confidential appeal is available to a pregnant minor  
41 for whom the court denies an order authorizing an abortion without parental  
42 consent. The appellate court shall hold the hearing and issue a ruling  
43 within forty-eight hours, excluding weekends and holidays, after the petition  
44 for appellate review is filed. Filing fees are not required of the pregnant  
45 minor at either the trial or the appellate level.

1 H. Parental consent or judicial authorization is not required under  
2 this section if either:

3 1. The pregnant minor certifies to the attending physician that the  
4 pregnancy resulted from sexual conduct with a minor by the minor's parent,  
5 stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or  
6 foster parent or by a person who lives in the same household with the minor  
7 and the minor's mother. The physician performing the abortion shall report  
8 the sexual conduct with a minor to the proper law enforcement officials  
9 pursuant to section 13-3620 and shall preserve and forward a sample of the  
10 fetal tissue to these officials for use in a criminal investigation.

11 2. The attending physician certifies in the pregnant minor's medical  
12 record that, on the basis of the physician's good faith clinical judgment,  
13 the pregnant minor has a condition that so complicates her medical condition  
14 as to necessitate the immediate abortion of her pregnancy to avert her death  
15 or for which a delay will create serious risk of substantial and irreversible  
16 impairment of major bodily function.

17 I. A person who performs an abortion in violation of this section is  
18 guilty of a class 1 misdemeanor. A person is not subject to any liability  
19 under this section if the person establishes by written evidence that the  
20 person relied on evidence sufficient to convince a careful and prudent person  
21 that the representations of the pregnant minor regarding information  
22 necessary to comply with this section are true.

23 J. In addition to other remedies available under the common or  
24 statutory law of this state, one or both of the minor's parents or the  
25 minor's guardian may bring a civil action in the superior court in the county  
26 in which the parents or the guardian resides to obtain appropriate relief for  
27 a violation of this section, unless the pregnancy resulted from the criminal  
28 conduct of the parent or guardian. The civil action may be based on a claim  
29 that failure to obtain consent was a result of simple negligence, gross  
30 negligence, wantonness, wilfulness, intention or any other legal standard of  
31 care. **THE CIVIL ACTION MAY BE BROUGHT AGAINST THE PERSON WHO PERFORMS THE  
32 ABORTION IN VIOLATION OF THIS SECTION AND ANY PERSON WHO CAUSES, AIDS OR  
33 ASSISTS A MINOR TO OBTAIN AN ABORTION WITHOUT MEETING THE REQUIREMENTS OF  
34 THIS SECTION.** Relief pursuant to this subsection includes the following:

35 1. Money damages for all psychological, emotional and physical  
36 injuries that result from the violation of this section.

37 2. Statutory damages in an amount equal to five thousand dollars or  
38 three times the cost of the abortion, whichever is greater.

39 3. Reasonable attorney fees and costs.

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

42 **L. THE CONSENT REQUIRED BY THIS SECTION MUST BE OBTAINED ON A FORM  
43 PRESCRIBED BY THE DEPARTMENT OF HEALTH SERVICES. AT A MINIMUM, THE FORM  
44 MUST:**



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

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

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

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

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

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

21           (f) THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT  
22 DESCRIBES THE UNBORN CHILD AND LISTS THE AGENCIES THAT OFFER ALTERNATIVES TO  
23 ABORTION.

24           (g) THE WOMAN HAS A RIGHT TO REVIEW THE WEBSITE AND THAT A PRINTED  
25 COPY OF THE MATERIALS ON THE WEBSITE WILL BE PROVIDED TO HER FREE OF CHARGE  
26 IF SHE CHOOSES TO REVIEW THESE MATERIALS.

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

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

34           B. If a medical emergency compels the performance of an abortion, the  
35 physician shall inform the woman, before the abortion if possible, of the  
36 medical indications supporting the physician's judgment that an abortion is  
37 necessary to avert the woman's death or to avert substantial and irreversible  
38 impairment of a major bodily function.

39           C. THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH A WEBSITE WITHIN  
40 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND  
41 SHALL ANNUALLY UPDATE THE WEBSITE. THE WEBSITE MUST INCLUDE A LINK TO A  
42 PRINTABLE VERSION OF ALL MATERIALS LISTED ON THE WEBSITE. THE MATERIALS MUST  
43 BE WRITTEN IN AN EASILY UNDERSTOOD MANNER AND PRINTED IN A TYPEFACE THAT IS  
44 LARGE ENOUGH TO BE CLEARLY LEGIBLE. THE WEBSITE MUST INCLUDE ALL OF THE  
45 FOLLOWING MATERIALS:

1           1. INFORMATION THAT IS ORGANIZED GEOGRAPHICALLY BY LOCATION AND THAT  
2 IS DESIGNED TO INFORM THE WOMAN ABOUT PUBLIC AND PRIVATE AGENCIES AND  
3 SERVICES THAT ARE AVAILABLE TO ASSIST A WOMAN THROUGH PREGNANCY, AT  
4 CHILDBIRTH AND WHILE HER CHILD IS DEPENDENT, INCLUDING ADOPTION AGENCIES.  
5 THE MATERIALS SHALL INCLUDE A COMPREHENSIVE LIST OF THE AGENCIES, A  
6 DESCRIPTION OF THE SERVICES THEY OFFER AND THE MANNER IN WHICH THESE AGENCIES  
7 MAY BE CONTACTED, INCLUDING THE AGENCIES' TELEPHONE NUMBERS AND WEBSITE  
8 ADDRESSES.

9           2. INFORMATION ON THE AVAILABILITY OF MEDICAL ASSISTANCE BENEFITS FOR  
10 PRENATAL CARE, CHILDBIRTH AND NEONATAL CARE.

11           3. A STATEMENT THAT IT IS UNLAWFUL FOR ANY PERSON TO COERCE A WOMAN TO  
12 UNDERGO AN ABORTION.

13           4. A STATEMENT THAT ANY PHYSICIAN WHO PERFORMS AN ABORTION ON A WOMAN  
14 WITHOUT OBTAINING THE WOMAN'S VOLUNTARY AND INFORMED CONSENT OR WITHOUT  
15 AFFORDING HER A PRIVATE MEDICAL CONSULTATION MAY BE LIABLE TO THE WOMAN FOR  
16 DAMAGES IN A CIVIL ACTION.

17           5. A STATEMENT THAT THE FATHER OF A CHILD IS LIABLE TO ASSIST IN THE  
18 SUPPORT OF THAT CHILD, EVEN IF THE FATHER HAS OFFERED TO PAY FOR AN ABORTION,  
19 AND THAT THE LAW ALLOWS ADOPTIVE PARENTS TO PAY COSTS OF PRENATAL CARE,  
20 CHILDBIRTH AND NEONATAL CARE.

21           6. INFORMATION THAT IS DESIGNED TO INFORM THE WOMAN OF THE PROBABLE  
22 ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE UNBORN CHILD AT TWO-WEEK  
23 GESTATIONAL INCREMENTS FROM FERTILIZATION TO FULL TERM, INCLUDING PICTURES OR  
24 DRAWINGS REPRESENTING THE DEVELOPMENT OF UNBORN CHILDREN AT TWO-WEEK  
25 GESTATIONAL INCREMENTS AND ANY RELEVANT INFORMATION ON THE POSSIBILITY OF THE  
26 UNBORN CHILD'S SURVIVAL. THE PICTURES OR DRAWINGS MUST CONTAIN THE  
27 DIMENSIONS OF THE UNBORN CHILD AND MUST BE REALISTIC AND APPROPRIATE FOR EACH  
28 STAGE OF PREGNANCY. THE INFORMATION PROVIDED PURSUANT TO THIS PARAGRAPH MUST  
29 BE OBJECTIVE, NONJUDGMENTAL AND DESIGNED TO CONVEY ONLY ACCURATE SCIENTIFIC  
30 INFORMATION ABOUT THE UNBORN CHILD AT THE VARIOUS GESTATIONAL AGES.

31           7. OBJECTIVE INFORMATION THAT DESCRIBES THE METHODS OF ABORTION  
32 PROCEDURES COMMONLY EMPLOYED, THE MEDICAL RISKS COMMONLY ASSOCIATED WITH EACH  
33 PROCEDURE, THE POSSIBLE DETRIMENTAL PSYCHOLOGICAL EFFECTS OF ABORTION AND THE  
34 MEDICAL RISKS COMMONLY ASSOCIATED WITH CARRYING A CHILD TO TERM.

35           ~~C.~~ D. An individual who is not a physician shall not perform a  
36 surgical abortion.

37           ~~D.~~ E. A person shall not write or communicate a prescription for a  
38 drug or drugs to induce an abortion or require or obtain payment for a  
39 service provided to a patient who has inquired about an abortion or scheduled  
40 an abortion until the expiration of the twenty-four hour reflection period  
41 required by subsection A OF THIS SECTION.

42           ~~E.~~ F. A person shall not intimidate or coerce in any way any person  
43 to obtain an abortion. A parent, A guardian or any other person shall not  
44 coerce a minor to obtain an abortion. If a minor is denied financial support  
45 by the minor's parents, guardians or custodian due to the minor's refusal to

1 have an abortion performed, the minor is deemed emancipated for the purposes  
2 of eligibility for public assistance benefits, except that the emancipated  
3 minor may not use these benefits to obtain an abortion.

4 G. AN ABORTION CLINIC AS DEFINED IN SECTION 36-449.01 SHALL  
5 CONSPICUOUSLY POST SIGNS THAT ARE VISIBLE TO ALL WHO ENTER THE ABORTION  
6 CLINIC, THAT ARE CLEARLY READABLE AND THAT STATE IT IS UNLAWFUL FOR ANY  
7 PERSON TO FORCE A WOMAN TO HAVE AN ABORTION AND A WOMAN WHO IS BEING FORCED  
8 TO HAVE AN ABORTION HAS THE RIGHT TO CONTACT ANY LOCAL OR STATE LAW  
9 ENFORCEMENT OR SOCIAL SERVICE AGENCY TO RECEIVE PROTECTION FROM ANY ACTUAL OR  
10 THREATENED PHYSICAL, EMOTIONAL OR PSYCHOLOGICAL ABUSE. THE SIGNS SHALL BE  
11 POSTED IN THE WAITING ROOM, CONSULTATION ROOMS AND PROCEDURE ROOMS.

12 H. A PERSON SHALL NOT REQUIRE A WOMAN TO OBTAIN AN ABORTION AS A  
13 PROVISION IN A CONTRACT OR AS A CONDITION OF EMPLOYMENT.

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

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

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

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

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

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

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

37 2. Statutory damages in an amount equal to five thousand dollars or  
38 three times the cost of the abortion, whichever is greater.

39 3. Reasonable attorney fees and costs.

40 ~~I.~~ L. A civil action brought pursuant to this section must be  
41 initiated within six years after the violation occurred.







1 (a) OF UP-TO-DATE, EVIDENCE-BASED INFORMATION CONCERNING THE RANGE OF  
2 OUTCOMES FOR INDIVIDUALS LIVING WITH THE DIAGNOSED CONDITION, INCLUDING  
3 PHYSICAL, DEVELOPMENTAL, EDUCATIONAL AND PSYCHOSOCIAL OUTCOMES.

4 (b) THAT THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT  
5 LISTS INFORMATION REGARDING SUPPORT SERVICES, HOTLINES, RESOURCE CENTERS OR  
6 CLEARINGHOUSES, NATIONAL AND LOCAL PEER SUPPORT GROUPS AND OTHER EDUCATION  
7 AND SUPPORT PROGRAMS AVAILABLE TO ASSIST THE WOMAN AND HER UNBORN CHILD, ANY  
8 NATIONAL OR LOCAL REGISTRIES OF FAMILIES WILLING TO ADOPT NEWBORNS WITH THE  
9 NONLETHAL FETAL CONDITION AND CONTACT INFORMATION FOR ADOPTION AGENCIES  
10 WILLING TO PLACE NEWBORNS WITH THE NONLETHAL FETAL CONDITION WITH FAMILIES  
11 WILLING TO ADOPT.

12 (c) THAT THE WOMAN HAS A RIGHT TO REVIEW THE WEBSITE AND THAT A  
13 PRINTED COPY OF THE MATERIALS ON THE WEBSITE WILL BE PROVIDED TO HER FREE OF  
14 CHARGE IF SHE CHOOSES TO REVIEW THESE MATERIALS.

15 3. THE WOMAN CERTIFIES IN WRITING BEFORE THE ABORTION THAT THE  
16 INFORMATION REQUIRED TO BE PROVIDED PURSUANT TO THIS SUBSECTION HAS BEEN  
17 PROVIDED.

18 B. THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH A WEBSITE WITHIN  
19 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND SHALL ANNUALLY  
20 UPDATE THE WEBSITE. THE WEBSITE SHALL INCLUDE THE INFORMATION PRESCRIBED IN  
21 SUBSECTION A, PARAGRAPH 1, SUBDIVISION (b) AND PARAGRAPH 2, SUBDIVISION (b)  
22 OF THIS SECTION.

23 C. A PHYSICIAN WHO KNOWINGLY VIOLATES THIS SECTION COMMITS AN ACT OF  
24 UNPROFESSIONAL CONDUCT AND IS SUBJECT TO LICENSE SUSPENSION OR REVOCATION  
25 PURSUANT TO TITLE 32, CHAPTER 13 OR 17.

26 D. IN ADDITION TO OTHER REMEDIES AVAILABLE UNDER THE COMMON OR  
27 STATUTORY LAW OF THIS STATE, ANY OF THE FOLLOWING INDIVIDUALS MAY FILE A  
28 CIVIL ACTION TO OBTAIN APPROPRIATE RELIEF FOR A VIOLATION OF THIS SECTION:

29 1. A WOMAN ON WHOM AN ABORTION HAS BEEN PERFORMED WITHOUT HER INFORMED  
30 CONSENT AS REQUIRED BY THIS SECTION.

31 2. THE FATHER OF THE UNBORN CHILD IF THE FATHER IS MARRIED TO THE  
32 MOTHER AT THE TIME SHE RECEIVED THE ABORTION, UNLESS THE PREGNANCY RESULTED  
33 FROM THE FATHER'S CRIMINAL CONDUCT.

34 3. THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD IF THE MOTHER WAS NOT  
35 AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION, UNLESS THE  
36 PREGNANCY RESULTED FROM EITHER OF THE MATERNAL GRANDPARENT'S CRIMINAL  
37 CONDUCT.

38 E. A CIVIL ACTION FILED PURSUANT TO SUBSECTION D OF THIS SECTION SHALL  
39 BE BROUGHT IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE WOMAN ON WHOM THE  
40 ABORTION WAS PERFORMED RESIDES AND MAY BE BASED ON A CLAIM THAT FAILURE TO  
41 OBTAIN INFORMED CONSENT WAS A RESULT OF SIMPLE NEGLIGENCE, GROSS NEGLIGENCE,  
42 WANTONNESS, WILFULNESS, INTENTION OR ANY OTHER LEGAL STANDARD OF CARE.  
43 RELIEF PURSUANT TO THIS SUBSECTION INCLUDES THE FOLLOWING:

44 1. MONEY DAMAGES FOR ALL PSYCHOLOGICAL, EMOTIONAL AND PHYSICAL  
45 INJURIES RESULTING FROM THE VIOLATION OF THIS SECTION.



1           1. A WOMAN ON WHOM AN ABORTION HAS BEEN PERFORMED IN VIOLATION OF THIS  
2 SECTION.

3           2. THE FATHER OF THE UNBORN CHILD IF THE FATHER IS MARRIED TO THE  
4 MOTHER AT THE TIME SHE RECEIVED THE ABORTION, UNLESS THE PREGNANCY RESULTED  
5 FROM THE FATHER'S CRIMINAL CONDUCT.

6           3. THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD IF THE MOTHER WAS NOT  
7 AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION, UNLESS THE  
8 PREGNANCY RESULTED FROM EITHER OF THE MATERNAL GRANDPARENT'S CRIMINAL  
9 CONDUCT.

10          F. A CIVIL ACTION FILED PURSUANT TO SUBSECTION E OF THIS SECTION SHALL  
11 BE BROUGHT IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE WOMAN ON WHOM THE  
12 ABORTION WAS PERFORMED RESIDES. RELIEF PURSUANT TO THIS SUBSECTION INCLUDES  
13 THE FOLLOWING:

14           1. MONEY DAMAGES FOR ALL PSYCHOLOGICAL, EMOTIONAL AND PHYSICAL  
15 INJURIES RESULTING FROM THE VIOLATION OF THIS SECTION.

16           2. STATUTORY DAMAGES IN AN AMOUNT EQUAL TO FIVE THOUSAND DOLLARS OR  
17 THREE TIMES THE COST OF THE ABORTION, WHICHEVER IS GREATER.

18           3. REASONABLE ATTORNEY FEES AND COSTS.

19          G. A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE INITIATED  
20 WITHIN SIX YEARS AFTER THE VIOLATION OCCURRED.

21          H. A WOMAN ON WHOM AN ABORTION IS PERFORMED OR INDUCED IN VIOLATION OF  
22 THIS SECTION MAY NOT BE PROSECUTED UNDER THIS SECTION OR FOR CONSPIRACY TO  
23 COMMIT A VIOLATION OF THIS SECTION.

24          Sec. 8. Section 36-2163, Arizona Revised Statutes, is amended to read:  
25 36-2163. Reports; confidentiality; annual statistical report;  
26 violations; classification; unprofessional conduct

27          A. A report required by this article shall not contain the name of the  
28 woman, common identifiers such as the woman's social security number, driver  
29 license number or insurance carrier identification numbers or any other  
30 information or identifiers that would make it possible to identify in any  
31 manner or under any circumstances an individual who has obtained or seeks to  
32 obtain an abortion.

33          B. The department of health services shall collect all abortion  
34 reports and complication reports and prepare a comprehensive annual  
35 statistical report based on the data gathered in the reports. The  
36 statistical report shall not lead to the disclosure of the identity of any  
37 person filing a report or about whom a report is filed. The department shall  
38 make the statistical report available on its website and for public  
39 inspection and copying.

40          C. The report prepared by the department pursuant to subsection B of  
41 this section shall include statistics from the administrative office of the  
42 courts containing the following information:

43           1. The number of petitions filed pursuant to section 36-2152,  
44 subsection B.

1           2. Of the petitions filed pursuant to section 36-2152, subsection B,  
2 the number in which the judge appointed a guardian ad litem or  
3 court-appointed counsel for the minor pursuant to section 36-2152,  
4 subsection D.

5           3. Of the petitions filed pursuant to section 36-2152, subsection B,  
6 the number in which the judge issued an order authorizing an abortion without  
7 parental consent.

8           4. Of the petitions filed pursuant to section 36-2152, subsection B,  
9 the number in which the judge issued an order denying the petition.

10          5. Of the petitions denied, the number appealed to the court of  
11 appeals.

12          6. The number of those appeals that resulted in the denials being  
13 affirmed.

14          7. The number of those appeals that resulted in the denial being  
15 reversed.

16          D. Except for a statistical report as provided in subsection B of this  
17 section, a report filed pursuant to this article is not a public record and  
18 is not available for public inspection, except that disclosure may be made to  
19 law enforcement officials on an order of a court after application showing  
20 good cause. The court may condition disclosure of the information on any  
21 appropriate safeguards it may impose.

22          E. Original copies of all reports filed pursuant to sections 36-2161  
23 and 36-2162 shall be available to the Arizona medical board and the Arizona  
24 board of osteopathic examiners in medicine and surgery for use in the  
25 performance of their official duties. The Arizona medical board and the  
26 Arizona board of osteopathic examiners in medicine and surgery shall maintain  
27 the confidentiality of any reports obtained pursuant to this subsection.

28          F. An employee, agent or contractor of the department who wilfully  
29 discloses any information obtained from reports filed pursuant to this  
30 article, other than disclosure authorized under subsections B, D and E of  
31 this section or as otherwise authorized by law, is guilty of a class 3  
32 misdemeanor.

33          G. A person who is required by this article to file a report, keep any  
34 records or supply any information and who wilfully fails to file that report,  
35 keep records or supply information as required by law is guilty of  
36 unprofessional conduct and is subject to discipline, including license  
37 suspension or revocation.

38          H. A person who wilfully delivers or discloses to the department any  
39 report, record or information known by that person to be false commits a  
40 class 1 misdemeanor.

41          I. In addition to the penalties prescribed by subsections F, G and H  
42 of this section, an organization or facility that wilfully violates the  
43 reporting requirements of this article is subject to discipline by the  
44 department including the ~~same~~ civil penalties ~~as~~ prescribed in section ~~36-126~~  
45 ~~36-431.01~~. IF AN ORGANIZATION OR FACILITY THAT IS LICENSED PURSUANT TO

1 CHAPTER 4, ARTICLE 10 OF THIS TITLE WILFULLY VIOLATES THE REPORTING  
2 REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY  
3 PURSUANT TO SECTION 36-431.01, IMPOSE AN INTERMEDIATE SANCTION PURSUANT TO  
4 SECTION 36-427, SUSPEND OR REVOKE A LICENSE PURSUANT TO SECTION 36-427, DENY  
5 A LICENSE OR BRING AN ACTION FOR AN INJUNCTION PURSUANT TO SECTION 36-430.

6 Sec. 9. Findings and purposes

7 A. The legislature finds that:

8 1. Abortion can cause serious both short-term and long-term physical  
9 and psychological complications for women, including but not limited to  
10 uterine perforation, uterine scarring, cervical perforation or other injury,  
11 infection, bleeding, hemorrhage, blood clots, failure to actually terminate  
12 the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory  
13 disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory  
14 arrest, renal failure, metabolic disorder, shock, embolism, coma, placenta  
15 previa in subsequent pregnancies, preterm delivery in subsequent pregnancies,  
16 free fluid in the abdomen, organ damage, adverse reactions to anesthesia and  
17 other drugs, psychological or emotional complications such as depression,  
18 anxiety or sleeping disorders and death. *See, e.g.,* P.K. Coleman, *Abortion*  
19 *and Mental Health: Quantitative Synthesis and Analysis of Research Published*  
20 *1995-2009*, *Brit. J. of Psychiatry* 199:180-86 (2011); P. Shah et al., *Induced*  
21 *termination of pregnancy and low birth weight and preterm birth: a systematic*  
22 *review and meta-analysis*, *B.J.O.G.* 116(11):1425 (2009); H.M. Swingle et al.,  
23 *Abortion and the Risk of Subsequent Preterm Birth: A Systematic Review and*  
24 *Meta-Analysis*, *J. Reprod. Med.* 54:95 (2009); R.H. van Oppenraaij et al.,  
25 *Predicting adverse obstetric outcome after early pregnancy events and*  
26 *complications: a review*, *Human Reprod. Update Advance Access* 1:1 (Mar. 7,  
27 2009); R.E. Behrman, *Preterm Birth: Causes, Consequences, and Prevention* 519  
28 (2006); J.M. Thorp et al., *Long-Term Physical and Psychological Health*  
29 *Consequences of Induced Abortion: Review of the Evidence*, *Obstet. & Gynecol.*  
30 *Survey* 58[1]:67, 75 (2003) J.M. Barrett, *Induced Abortion: A Risk Factor for*  
31 *Placenta Previa*, *Am. J. Obstet. & Gynecol.* 141:7 (1981).

32 2. Abortion has a higher medical risk when the procedure is performed  
33 later in pregnancy. Compared to an abortion at eight weeks of gestation or  
34 earlier, the relative risk increases exponentially at higher gestations.  
35 L. Bartlett et al., *Risk factors for legal induced abortion-related mortality*  
36 *in the United States*, *Obstetrics & Gynecology* 103(4):729-737 (2004).

37 3. The incidence of major complications is highest after twenty weeks  
38 of gestation. J. Pregler & A. DeCherney, *Women's Health: Principles and*  
39 *Clinical Practice* 232 (2002).

40 4. The risk of death associated with abortion increases with the  
41 length of pregnancy, from one death for every one million abortions at or  
42 before eight weeks gestation to one per 29,000 abortions at sixteen to twenty  
43 weeks and one per 11,000 abortions at twenty-one or more weeks. L. Bartlett  
44 et al., *Risk factors for legal induced abortion-related mortality in the*  
45 *United States*, *Obstetrics & Gynecology* 103(4):729-737 (2004). After the

1 first trimester, the risk of hemorrhage from an abortion, in particular, is  
2 greater, and the resultant complications may require a hysterectomy, other  
3 reparative surgery or a blood transfusion.

4 5. The State of Arizona has a legitimate concern for the public's  
5 health and safety. *Williamson v. Lee Optical*, 348 U.S. 483, 486 (1985);  
6 *Cohen v. State*, 121 Ariz. 6, 10, 588 P.2d 299, 303 (1978).

7 6. The State of Arizona "has legitimate interests from the outset of  
8 pregnancy in protecting the health of women." *Planned Parenthood of*  
9 *Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 847 (1992); *Planned*  
10 *Parenthood Arizona, Inc. v. American Ass'n of Pro-Life Obstetricians &*  
11 *Gynecologists*, 257 P.3d 181, 194 (Ariz. App. Div. 1, 2011). More  
12 specifically, Arizona "has a legitimate concern with the health of women who  
13 undergo abortions." *Akron v. Akron Ctr. for Reproductive Health, Inc.*, 462  
14 U.S. 416, 428-29 (1983).

15 7. There is substantial and well-documented medical evidence that an  
16 unborn child by at least twenty weeks of gestation has the capacity to feel  
17 pain during an abortion. K. Anand, Pain and its effects in the human neonate  
18 and fetus, *New England Journal of Medicine*, 317:1321-29 (1987).

19 8. The United States Food and Drug Administration approved the drug  
20 mifepristone, a first-generation (selective) progesterone receptor modulator  
21 ([S]PRM), as an abortion-inducing drug with a specific gestation, dosage and  
22 administration protocol.

23 9. As approved by the United States Food and Drug Administration, and  
24 as outlined in the drug label, an abortion by mifepristone consists of three  
25 200 mg tablets of mifepristone taken orally, followed by two 200 mcg tablets  
26 of misoprostol taken orally, through forty-nine days LMP (a gestational  
27 measurement using the first day of the woman's "last menstrual period" as a  
28 marker). The patient is to return for a follow-up visit in order to confirm  
29 that a complete termination of pregnancy has occurred. *Mifeprex Prescribing*  
30 *Information*, Danco Laboratories (July 2005), available at  
31 [http://www.accessdata.fda.gov/drugsatfda\\_docs/label/2005/020687s0131b1.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s0131b1.pdf);  
32 *Mifeprex Medication Guide*, Danco Laboratories (June 8, 2011), available at  
33 [www.accessdata.fda.gov/drugsatfda\\_docs/label/2011/020687s0141b1.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s0141b1.pdf).

34 10. The aforementioned treatment requires three office visits by the  
35 patient, and the dosages may only be administered in a clinic, medical office  
36 or hospital and under supervision of a physician.

37 11. Court testimony demonstrates that some abortion providers fail to  
38 follow the mifepristone protocol as tested and approved by the United States  
39 Food and Drug Administration, and as outlined in the drug label. See, e.g.,  
40 *Planned Parenthood v. Goddard*, CV2009-029110, Declaration of Beth Otterstein  
41 at 3 (Sept. 10, 2009); *Planned Parenthood v. Horne*, CV2010-030230,  
42 Declaration of Paul D. Blumenthal, M.D., M.P.H. (June 29, 2011); and *Planned*  
43 *Parenthood Cincinnati Region v. Taft*, 459 F. Supp. 2d 626, 630 n. 7 (S.D. Oh.  
44 2006).

1           12. The use of mifepristone presents significant medical risks to  
2 women, including but not limited to *C. sordellii* bacterial infection, septic  
3 shock, toxic shock syndrome, adult respiratory distress syndrome from sepsis,  
4 *Escheria coli* sepsis, group B *Streptococcus* septicemia, disseminated  
5 intravascular coagulopathy (DIC) with hepatic and renal failure, severe pelvic  
6 infection and massive hemorrhage.

7           13. Abortion-inducing drugs are associated with an increased risk of  
8 complications relative to surgical abortion. The risk of complications  
9 increases with increasing gestational age, and, in the instance of  
10 mifepristone, with failure to complete the two-step dosage process.

11           14. Medical studies have indicated that 1 to 2 out of every 1,000  
12 women who undergo mifepristone abortions will require emergency blood  
13 transfusion for massive hemorrhage. By April 30, 2011, the United States  
14 Food and Drug Administration reported that at least 339 women required blood  
15 transfusions for massive bleeding after mifepristone abortions. A total of  
16 612 United States women have been hospitalized due to complications, and  
17 fourteen women in the United States have died following administration of  
18 mifepristone. The majority of reported deaths in the United States were from  
19 fatal infection. Mifepristone U.S. Postmarketing Adverse Events Summary  
20 through 04/30/2011, United States Food and Drug Administration, available at  
21 [www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor)  
22 [PatientsandProviders/UCM263353.pdf](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor). This infection is atypical to the usual  
23 presentation of sepsis and may occur without the typical signs of infection,  
24 such as fever and tenderness. This atypical presentation requires that  
25 mifepristone be dispensed only in a closely supervised clinical setting under  
26 the direction of a licensed physician who has the direct ability to counsel  
27 the patient regarding the risks, and also to examine the patient prior to and  
28 after administration of mifepristone.

29           15. The absence of proper follow-up care after mifepristone  
30 abortions has resulted in at least 58 women having undetected  
31 ectopic pregnancies, including two deaths from ectopic rupture.  
32 Mifepristone U.S. Postmarketing Adverse Events Summary through 04/30/2011,  
33 United States Food and Drug Administration, available at  
34 [www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor)  
35 [PatientsandProviders/UCM263353.pdf](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor).

36           B. For these reasons, the legislature's purposes in promulgating this  
37 act include to:

38           1. Prohibit abortions at or after twenty weeks of gestation, except in  
39 cases of a medical emergency, based on the documented risks to women's health  
40 and the strong medical evidence that unborn children feel pain during an  
41 abortion at that gestational age.

42           2. Protect women from the dangerous and potentially deadly off-label  
43 use of abortion-inducing drugs, such as, for example, mifepristone.

1           3. Ensure that physicians abide by the protocol tested and approved by  
2 the United States Food and Drug Administration for such abortion-inducing  
3 drugs, as outlined in the drug labels.

4           Sec. 10. Exemption from rule making

5           For the purposes of this act, the department of health services is  
6 exempt from the rule making requirements of title 41, chapter 6, Arizona  
7 Revised Statutes, for two years after the effective date of this act.

8           Sec. 11. Construction

9           This act does not establish or recognize a right to an abortion and  
10 does not make lawful an abortion that is currently unlawful.

11          Sec. 12. Severability

12          If a provision of this act or its application to any person or  
13 circumstance is held invalid, the invalidity does not affect other provisions  
14 or applications of the act that can be given effect without the invalid  
15 provision or application, and to this end the provisions of this act are  
16 severable.