

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

**CHAPTER 250**  
**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.

45 B. The director shall adopt rules to prescribe abortion clinic  
46 supplies and equipment standards, including supplies and equipment that are

1 required to be immediately available for use or in an emergency. At a  
2 minimum these rules shall:

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

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

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

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

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

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

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

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

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

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

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

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

39 4. If a physician is not present, a registered nurse, nurse  
40 practitioner, licensed practical nurse or ~~physician's~~ PHYSICIAN assistant is  
41 present and remains at the clinic when abortions are performed to provide  
42 postoperative monitoring and care, OR MONITORING AND CARE AFTER INDUCING A  
43 MEDICATION ABORTION, until each patient who had an abortion that day is  
44 discharged.

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

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

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

11           1. A medical history, including the following:

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

13           (b) Obstetric and gynecologic history.

14           (c) Past surgeries.

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

17           3. The appropriate laboratory tests, including:

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

21           (b) A test for anemia.

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

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

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

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

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

41           1. That medical personnel is available to all patients throughout the  
42 abortion procedure.

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

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

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

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

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

14           F. The director shall adopt rules that prescribe minimum recovery room  
15 standards. At a minimum these rules shall require that:

16           1. FOR A SURGICAL ABORTION, immediate postprocedure care, OR CARE  
17 PROVIDED AFTER INDUCING A MEDICATION ABORTION, consists of observation in a  
18 supervised recovery room for as long as the patient's condition warrants.

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

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

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

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

40           6. Written instructions with regard to postabortion coitus, signs of  
41 possible problems and general aftercare are given to each patient. Each  
42 patient shall have specific instructions regarding access to medical care for  
43 complications, including a telephone number to call for medical emergencies.

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

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

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

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

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

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

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

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

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

33          3. Incident reports are filed with the department and appropriate  
34 professional regulatory boards.

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

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

- 42           (a) **ASSESS A CIVIL PENALTY PURSUANT TO SECTION 36-431.01.**
- 43           (b) **IMPOSE AN INTERMEDIATE SANCTION PURSUANT TO SECTION 36-427.**
- 44           (c) **SUSPEND OR REVOKE A LICENSE PURSUANT TO SECTION 36-427.**
- 45           (d) **DENY A LICENSE.**
- 46           (e) **BRING AN ACTION FOR AN INJUNCTION PURSUANT TO SECTION 36-430.**

1           2. IN DETERMINING THE APPROPRIATE ENFORCEMENT ACTION, THE DEPARTMENT  
2 CONSIDERS THE THREAT OF THE HEALTH, SAFETY AND WELFARE OF THE ABORTION  
3 CLINIC'S PATIENTS OR THE GENERAL PUBLIC, INCLUDING:

4           (a) WHETHER THE ABORTION CLINIC HAS REPEATED VIOLATIONS OF STATUTES OR  
5 RULES.

6           (b) WHETHER THE ABORTION CLINIC HAS ENGAGED IN A PATTERN OF  
7 NONCOMPLIANCE.

8           (c) THE TYPE, SEVERITY AND NUMBER OF VIOLATIONS.

9           ~~I.~~ J. The department shall not release personally identifiable  
10 patient or physician information.

11           ~~J.~~ K. The rules adopted by the director pursuant to this section do  
12 not limit the ability of a physician or other health professional to advise a  
13 patient on any health issue.

14           Sec. 3. Section 36-2151, Arizona Revised Statutes, is amended to read:  
15 36-2151. Definitions

16           In this article, unless the context otherwise requires:

17           1. "Abortion" means the use of any means to terminate the clinically  
18 diagnosable pregnancy of a woman with knowledge that the termination by those  
19 means will cause, with reasonable likelihood, the death of the unborn child.  
20 Abortion does not include birth control devices, oral contraceptives used to  
21 inhibit or prevent ovulation, conception or the implantation of a fertilized  
22 ovum in the uterus or the use of any means to ~~increase the probability of a~~  
23 ~~live birth~~ **SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN CHILD**, to  
24 preserve the life or health of the child after a live birth, to terminate an  
25 ectopic pregnancy or to remove a dead fetus.

26           2. "Auscultation" means the act of listening for sounds made by  
27 internal organs of the unborn child, specifically for a heartbeat, using an  
28 ultrasound transducer and fetal heart rate monitor.

29           3. "Conception" means the fusion of a human spermatozoon with a human  
30 ovum.

31           4. "Gestational age" means the age of the unborn child as calculated  
32 from the first day of the last menstrual period of the pregnant woman.

33           5. "Health professional" has the same meaning prescribed in section  
34 32-3201.

35           6. "Medical emergency" means a condition that, on the basis of the  
36 physician's good faith clinical judgment, so complicates the medical  
37 condition of a pregnant woman as to necessitate the immediate abortion of her  
38 pregnancy to avert her death or for which a delay will create serious risk of  
39 substantial and irreversible impairment of a major bodily function.

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

42           ~~7.~~ 8. "Physician" means a person who is licensed pursuant to title  
43 32, chapter 13 or 17.

44           ~~8.~~ 9. "Pregnant" or "pregnancy" means a female reproductive condition  
45 of having a developing unborn child in the body and that begins with  
46 conception.





1 other significant decisions. In assessing the pregnant minor's perspective,  
2 the court may consider, among other relevant factors, what steps the minor  
3 took to explore her options and the extent to which she considered and  
4 weighed the potential consequences of each option. In assessing the pregnant  
5 minor's judgment, the court may consider, among other relevant factors, the  
6 minor's conduct since learning of her pregnancy and her intellectual ability  
7 to understand her options and to make an informed decision.

8 D. The pregnant minor may participate in the court proceedings on her  
9 own behalf. The court shall appoint a guardian ad litem for her. The court  
10 shall advise her that she has the right to court appointed counsel and, on  
11 her request, shall provide her with counsel unless she appears through  
12 private counsel or she knowingly and intelligently waives her right to  
13 counsel.

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

27 F. The court shall hold the hearing and shall issue a ruling within  
28 forty-eight hours, excluding weekends and holidays, after the petition is  
29 filed. If the court fails to issue a ruling within this time period, the  
30 petition is deemed to have been granted and the consent requirement is  
31 waived.

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

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

40 1. The pregnant minor certifies to the attending physician that the  
41 pregnancy resulted from sexual conduct with a minor by the minor's parent,  
42 stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or  
43 foster parent or by a person who lives in the same household with the minor  
44 and the minor's mother. The physician performing the abortion shall report  
45 the sexual conduct with a minor to the proper law enforcement officials

1 pursuant to section 13-3620 and shall preserve and forward a sample of the  
2 fetal tissue to these officials for use in a criminal investigation.

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

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

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

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

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

31 3. Reasonable attorney fees and costs.

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

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

37 1. **LIST THE POSSIBLE MEDICAL RISKS THAT MAY OCCUR WITH ANY SURGICAL,  
38 MEDICAL OR DIAGNOSTIC PROCEDURE, INCLUDING THE POTENTIAL FOR INFECTION, BLOOD  
39 CLOTS, HEMORRHAGE, ALLERGIC REACTIONS AND DEATH.**

40 2. **LIST THE POSSIBLE MEDICAL RISKS THAT MAY OCCUR WITH A SURGICAL  
41 ABORTION, INCLUDING HEMORRHAGE, UTERINE PERFORATION, STERILITY, INJURY TO THE  
42 BOWEL OR BLADDER, A POSSIBLE HYSTERECTOMY AS A RESULT OF A COMPLICATION OR  
43 INJURY DURING THE PROCEDURE AND FAILURE TO REMOVE ALL PRODUCTS OF CONCEPTION  
44 THAT MAY RESULT IN AN ADDITIONAL PROCEDURE.**

45 3. **LIST THE POSSIBLE MEDICAL RISKS THAT MAY OCCUR WITH A MEDICATION  
46 ABORTION, INCLUDING HEMORRHAGE, INFECTION, FAILURE TO REMOVE ALL PRODUCTS OF**

1 CONCEPTION THAT MAY RESULT IN AN ADDITIONAL PROCEDURE, STERILITY AND THE  
2 POSSIBLE CONTINUATION OF THE PREGNANCY.

3 4. REQUIRE THE PREGNANT MINOR'S AND THE PREGNANT MINOR'S PARENT'S  
4 INITIALS ON EACH PAGE OF THE FORM AND A FULL SIGNATURE ON THE FINAL PAGE OF  
5 THE FORM.

6 5. INCLUDE A SPACE FOR THE NOTARY'S SIGNATURE AND SEAL ON THE FINAL  
7 PAGE OF THE FORM.

8 M. THE PHYSICIAN MUST MAINTAIN THE FORM IN THE PREGNANT MINOR'S  
9 RECORDS FOR SEVEN YEARS AFTER THE DATE OF THE PROCEDURE OR FIVE YEARS AFTER  
10 THE DATE OF THE MINOR'S MATURITY, WHICHEVER IS LONGER.

11 Sec. 5. Section 36-2153, Arizona Revised Statutes, is amended to read:  
12 36-2153. Informed consent; requirements; information; website;  
13 signs; violation; civil relief; statute of  
14 limitations

15 A. An abortion shall not be performed or induced without the voluntary  
16 and informed consent of the woman on whom the abortion is to be performed or  
17 induced. Except in the case of a medical emergency **AND IN ADDITION TO THE**  
18 **OTHER REQUIREMENTS OF THIS CHAPTER**, consent to an abortion is voluntary and  
19 informed only if all of the following are true:

20 1. At least twenty-four hours before the abortion, the physician who  
21 is to perform the abortion or the referring physician has informed the woman,  
22 orally and in person, of:

23 (a) The name of the physician who will perform the abortion.

24 (b) The nature of the proposed procedure or treatment.

25 (c) The immediate and long-term medical risks associated with the  
26 procedure that a reasonable patient would consider material to the decision  
27 of whether or not to undergo the abortion.

28 (d) Alternatives to the procedure or treatment that a reasonable  
29 patient would consider material to the decision of whether or not to undergo  
30 the abortion.

31 (e) The probable gestational age of the unborn child at the time the  
32 abortion is to be performed.

33 (f) The probable anatomical and physiological characteristics of the  
34 unborn child at the time the abortion is to be performed.

35 (g) The medical risks associated with carrying the child to term.

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

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

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

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

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

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

11 (f) THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT  
12 DESCRIBES THE UNBORN CHILD AND LISTS THE AGENCIES THAT OFFER ALTERNATIVES TO  
13 ABORTION.

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

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

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

24 B. If a medical emergency compels the performance of an abortion, the  
25 physician shall inform the woman, before the abortion if possible, of the  
26 medical indications supporting the physician's judgment that an abortion is  
27 necessary to avert the woman's death or to avert substantial and irreversible  
28 impairment of a major bodily function.

29 C. THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH A WEBSITE WITHIN  
30 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND  
31 SHALL ANNUALLY UPDATE THE WEBSITE. THE WEBSITE MUST INCLUDE A LINK TO A  
32 PRINTABLE VERSION OF ALL MATERIALS LISTED ON THE WEBSITE. THE MATERIALS MUST  
33 BE WRITTEN IN AN EASILY UNDERSTOOD MANNER AND PRINTED IN A TYPEFACE THAT IS  
34 LARGE ENOUGH TO BE CLEARLY LEGIBLE. THE WEBSITE MUST INCLUDE ALL OF THE  
35 FOLLOWING MATERIALS:

36 1. INFORMATION THAT IS ORGANIZED GEOGRAPHICALLY BY LOCATION AND THAT  
37 IS DESIGNED TO INFORM THE WOMAN ABOUT PUBLIC AND PRIVATE AGENCIES AND  
38 SERVICES THAT ARE AVAILABLE TO ASSIST A WOMAN THROUGH PREGNANCY, AT  
39 CHILDBIRTH AND WHILE HER CHILD IS DEPENDENT, INCLUDING ADOPTION AGENCIES.  
40 THE MATERIALS SHALL INCLUDE A COMPREHENSIVE LIST OF THE AGENCIES, A  
41 DESCRIPTION OF THE SERVICES THEY OFFER AND THE MANNER IN WHICH THESE AGENCIES  
42 MAY BE CONTACTED, INCLUDING THE AGENCIES' TELEPHONE NUMBERS AND WEBSITE  
43 ADDRESSES.

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

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

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

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

11           6. INFORMATION THAT IS DESIGNED TO INFORM THE WOMAN OF THE PROBABLE  
12 ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE UNBORN CHILD AT TWO-WEEK  
13 GESTATIONAL INCREMENTS FROM FERTILIZATION TO FULL TERM, INCLUDING PICTURES OR  
14 DRAWINGS REPRESENTING THE DEVELOPMENT OF UNBORN CHILDREN AT TWO-WEEK  
15 GESTATIONAL INCREMENTS AND ANY RELEVANT INFORMATION ON THE POSSIBILITY OF THE  
16 UNBORN CHILD'S SURVIVAL. THE PICTURES OR DRAWINGS MUST CONTAIN THE  
17 DIMENSIONS OF THE UNBORN CHILD AND MUST BE REALISTIC AND APPROPRIATE FOR EACH  
18 STAGE OF PREGNANCY. THE INFORMATION PROVIDED PURSUANT TO THIS PARAGRAPH MUST  
19 BE OBJECTIVE, NONJUDGMENTAL AND DESIGNED TO CONVEY ONLY ACCURATE SCIENTIFIC  
20 INFORMATION ABOUT THE UNBORN CHILD AT THE VARIOUS GESTATIONAL AGES.

21           7. OBJECTIVE INFORMATION THAT DESCRIBES THE METHODS OF ABORTION  
22 PROCEDURES COMMONLY EMPLOYED, THE MEDICAL RISKS COMMONLY ASSOCIATED WITH EACH  
23 PROCEDURE, THE POSSIBLE DETRIMENTAL PSYCHOLOGICAL EFFECTS OF ABORTION AND THE  
24 MEDICAL RISKS COMMONLY ASSOCIATED WITH CARRYING A CHILD TO TERM.

25           ~~E~~. D. An individual who is not a physician shall not perform a  
26 surgical abortion.

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

32           ~~E~~. F. A person shall not intimidate or coerce in any way any person  
33 to obtain an abortion. A parent, A guardian or any other person shall not  
34 coerce a minor to obtain an abortion. If a minor is denied financial support  
35 by the minor's parents, guardians or custodian due to the minor's refusal to  
36 have an abortion performed, the minor is deemed emancipated for the purposes  
37 of eligibility for public assistance benefits, except that the emancipated  
38 minor may not use these benefits to obtain an abortion.

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

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

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

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

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

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

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

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

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

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

28 3. Reasonable attorney fees and costs.

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

31 Sec. 6. Section 36-2156, Arizona Revised Statutes, is amended to read:

32 36-2156. Informed consent; ultrasound required; violation;  
33 civil relief; statute of limitations

34 A. An abortion shall not be performed or induced without the voluntary  
35 and informed consent of the woman on whom the abortion is to be performed or  
36 induced. Except in the case of a medical emergency and in addition to the  
37 OTHER requirements of ~~section 36-2153~~ THIS CHAPTER, consent to an abortion is  
38 voluntary and informed only if both of the following are true:

39 1. At least ~~one-hour~~ TWENTY-FOUR HOURS before the woman having any  
40 part of an abortion performed or induced, and before the administration of  
41 any anesthesia or medication in preparation for the abortion on the woman,  
42 the physician who is to perform the abortion, the referring physician or a  
43 qualified person working in conjunction with either physician shall:

44 (a) Perform fetal ultrasound imaging and auscultation of fetal heart  
45 tone services on the woman undergoing the abortion.

1 (b) Offer to provide the woman with an opportunity to view the active  
2 ultrasound image of the unborn child and hear the heartbeat of the unborn  
3 child if the heartbeat is audible. The active ultrasound image must be of a  
4 quality consistent with standard medical practice in the community, contain  
5 the dimensions of the unborn child and accurately portray the presence of  
6 external members and internal organs, if present or viewable, of the unborn  
7 child. The auscultation of fetal heart tone must be of a quality consistent  
8 with standard medical practice in the community.

9 (c) Offer to provide the woman with a simultaneous explanation of what  
10 the ultrasound is depicting, including the presence and location of the  
11 unborn child within the uterus, the number of unborn children depicted, the  
12 dimensions of the unborn child and the presence of any external members and  
13 internal organs, if present or viewable.

14 (d) Offer to provide the patient with a physical picture of the  
15 ultrasound image of the unborn child.

16 2. The woman certifies in writing before the abortion that she has  
17 been given the opportunity to view the active ultrasound image and hear the  
18 heartbeat of the unborn child if the heartbeat is audible and that she opted  
19 to view or not view the active ultrasound image and hear or not hear the  
20 heartbeat of the unborn child.

21 B. A physician who knowingly violates this section commits an act of  
22 unprofessional conduct and is subject to license suspension or revocation  
23 pursuant to title 32, chapter 13 or 17.

24 C. In addition to other remedies available under the common or  
25 statutory law of this state, any of the following may file a civil action to  
26 obtain appropriate relief for a violation of this section:

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

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

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

35 D. A civil action filed pursuant to subsection C of this section shall  
36 be brought in the superior court in the county in which the woman on whom the  
37 abortion was performed resides and may be based on a claim that failure to  
38 obtain informed consent was a result of simple negligence, gross negligence,  
39 wantonness, wilfulness, intention or any other legal standard of care.  
40 Relief pursuant to subsection C of this section includes any of the  
41 following:

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

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

46 3. Reasonable attorney fees and costs.

1 E. A civil action brought pursuant to this section must be initiated  
2 within six years after the violation occurred.

3 Sec. 7. Title 36, chapter 20, article 1, Arizona Revised Statutes, is  
4 amended by adding sections 36-2158 and 36-2159, to read:

5 36-2158. Informed consent; fetal condition; website; violation;  
6 civil relief; statute of limitations; definitions

7 A. A PERSON SHALL NOT PERFORM OR INDUCE AN ABORTION WITHOUT FIRST  
8 OBTAINING THE VOLUNTARY AND INFORMED CONSENT OF THE WOMAN ON WHOM THE  
9 ABORTION IS TO BE PERFORMED OR INDUCED. EXCEPT IN THE CASE OF A MEDICAL  
10 EMERGENCY AND IN ADDITION TO THE OTHER REQUIREMENTS OF THIS CHAPTER, CONSENT  
11 TO AN ABORTION IS VOLUNTARY AND INFORMED ONLY IF ALL OF THE FOLLOWING OCCUR:

12 1. IN THE CASE OF A WOMAN SEEKING AN ABORTION OF HER UNBORN CHILD  
13 DIAGNOSED WITH A LETHAL FETAL CONDITION, AT LEAST TWENTY-FOUR HOURS BEFORE  
14 THE ABORTION THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OR THE REFERRING  
15 PHYSICIAN HAS INFORMED THE WOMAN, ORALLY AND IN PERSON, THAT:

16 (a) PERINATAL HOSPICE SERVICES ARE AVAILABLE AND THE PHYSICIAN HAS  
17 OFFERED THIS CARE AS AN ALTERNATIVE TO ABORTION.

18 (b) THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT LISTS  
19 PERINATAL HOSPICE PROGRAMS THAT ARE AVAILABLE BOTH IN THIS STATE AND  
20 NATIONALLY AND THAT ARE ORGANIZED GEOGRAPHICALLY BY LOCATION.

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

24 2. IN THE CASE OF A WOMAN SEEKING AN ABORTION OF HER UNBORN CHILD  
25 DIAGNOSED WITH A NONLETHAL FETAL CONDITION, AT LEAST TWENTY-FOUR HOURS BEFORE  
26 THE ABORTION THE PHYSICIAN WHO IS TO PERFORM THE ABORTION OR THE REFERRING  
27 PHYSICIAN HAS INFORMED THE WOMAN, ORALLY AND IN PERSON:

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

31 (b) THAT THE DEPARTMENT OF HEALTH SERVICES MAINTAINS A WEBSITE THAT  
32 LISTS INFORMATION REGARDING SUPPORT SERVICES, HOTLINES, RESOURCE CENTERS OR  
33 CLEARINGHOUSES, NATIONAL AND LOCAL PEER SUPPORT GROUPS AND OTHER EDUCATION  
34 AND SUPPORT PROGRAMS AVAILABLE TO ASSIST THE WOMAN AND HER UNBORN CHILD, ANY  
35 NATIONAL OR LOCAL REGISTRIES OF FAMILIES WILLING TO ADOPT NEWBORNS WITH THE  
36 NONLETHAL FETAL CONDITION AND CONTACT INFORMATION FOR ADOPTION AGENCIES  
37 WILLING TO PLACE NEWBORNS WITH THE NONLETHAL FETAL CONDITION WITH FAMILIES  
38 WILLING TO ADOPT.

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

42 3. THE WOMAN CERTIFIES IN WRITING BEFORE THE ABORTION THAT THE  
43 INFORMATION REQUIRED TO BE PROVIDED PURSUANT TO THIS SUBSECTION HAS BEEN  
44 PROVIDED.

45 B. THE DEPARTMENT OF HEALTH SERVICES SHALL ESTABLISH A WEBSITE WITHIN  
46 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND SHALL ANNUALLY



1 UPDATE THE WEBSITE. THE WEBSITE SHALL INCLUDE THE INFORMATION PRESCRIBED IN  
2 SUBSECTION A, PARAGRAPH 1, SUBDIVISION (b) AND PARAGRAPH 2, SUBDIVISION (b)  
3 OF THIS SECTION.

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

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

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

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

15 3. THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD IF THE MOTHER WAS NOT  
16 AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION, UNLESS THE  
17 PREGNANCY RESULTED FROM EITHER OF THE MATERNAL GRANDPARENT'S CRIMINAL  
18 CONDUCT.

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

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

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

29 3. REASONABLE ATTORNEY FEES AND COSTS.

30 F. A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE INITIATED  
31 WITHIN SIX YEARS AFTER THE VIOLATION OCCURRED.

32 G. FOR THE PURPOSES OF THIS SECTION:

33 1. "LETHAL FETAL CONDITION" MEANS A FETAL CONDITION THAT IS DIAGNOSED  
34 BEFORE BIRTH AND THAT WILL RESULT, WITH REASONABLE CERTAINTY, IN THE DEATH OF  
35 THE UNBORN CHILD WITHIN THREE MONTHS AFTER BIRTH.

36 2. "NONLETHAL FETAL CONDITION" MEANS A FETAL CONDITION THAT IS  
37 DIAGNOSED BEFORE BIRTH AND THAT WILL NOT RESULT IN THE DEATH OF THE UNBORN  
38 CHILD WITHIN THREE MONTHS AFTER BIRTH BUT MAY RESULT IN PHYSICAL OR MENTAL  
39 DISABILITY OR ABNORMALITY.

40 3. "PERINATAL HOSPICE" MEANS COMPREHENSIVE SUPPORT TO THE PREGNANT  
41 WOMAN AND HER FAMILY THAT INCLUDES SUPPORTIVE CARE FROM THE TIME OF DIAGNOSIS  
42 THROUGH THE TIME OF BIRTH AND DEATH OF THE INFANT AND THROUGH THE POSTPARTUM  
43 PERIOD. SUPPORTIVE CARE MAY INCLUDE COUNSELING AND MEDICAL CARE BY  
44 MATERNAL-FETAL MEDICAL SPECIALISTS, OBSTETRICIANS, NEONATOLOGISTS, ANESTHESIA  
45 SPECIALISTS, CLERGY, SOCIAL WORKERS AND SPECIALTY NURSES WHO ARE FOCUSED ON

1 ALLEVIATING FEAR AND ENSURING THAT THE WOMAN AND HER FAMILY EXPERIENCE THE  
2 LIFE AND DEATH OF THE CHILD IN A COMFORTABLE AND SUPPORTIVE ENVIRONMENT.

3 36-2159. Abortion; gestational age; violation; classification;  
4 statute of limitations

5 A. EXCEPT IN A MEDICAL EMERGENCY, A PERSON SHALL NOT PERFORM, INDUCE  
6 OR ATTEMPT TO PERFORM OR INDUCE AN ABORTION UNLESS THE PHYSICIAN OR THE  
7 REFERRING PHYSICIAN HAS FIRST MADE A DETERMINATION OF THE PROBABLE  
8 GESTATIONAL AGE OF THE UNBORN CHILD. IN MAKING THAT DETERMINATION, THE  
9 PHYSICIAN OR REFERRING PHYSICIAN SHALL MAKE ANY INQUIRIES OF THE PREGNANT  
10 WOMAN AND PERFORM OR CAUSE TO BE PERFORMED ALL MEDICAL EXAMINATIONS, IMAGING  
11 STUDIES AND TESTS AS A REASONABLY PRUDENT PHYSICIAN IN THE COMMUNITY,  
12 KNOWLEDGEABLE ABOUT THE MEDICAL FACTS AND CONDITIONS OF BOTH THE WOMAN AND  
13 THE UNBORN CHILD INVOLVED, WOULD CONSIDER NECESSARY TO PERFORM AND CONSIDER  
14 IN MAKING AN ACCURATE DIAGNOSIS WITH RESPECT TO GESTATIONAL AGE.

15 B. EXCEPT IN A MEDICAL EMERGENCY, A PERSON SHALL NOT KNOWINGLY  
16 PERFORM, INDUCE OR ATTEMPT TO PERFORM OR INDUCE AN ABORTION ON A PREGNANT  
17 WOMAN IF THE PROBABLE GESTATIONAL AGE OF HER UNBORN CHILD HAS BEEN DETERMINED  
18 TO BE AT LEAST TWENTY WEEKS.

19 C. A PERSON WHO KNOWINGLY VIOLATES THIS SECTION COMMITS A CLASS 1  
20 MISDEMEANOR.

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

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

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

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

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

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

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

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

44 3. REASONABLE ATTORNEY FEES AND COSTS.

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

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

4 Sec. 8. Section 36-2163, Arizona Revised Statutes, is amended to read:  
5 36-2163. Reports; confidentiality; annual statistical report;  
6 violations; classification; unprofessional conduct

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

13 B. The department of health services shall collect all abortion  
14 reports and complication reports and prepare a comprehensive annual  
15 statistical report based on the data gathered in the reports. The  
16 statistical report shall not lead to the disclosure of the identity of any  
17 person filing a report or about whom a report is filed. The department shall  
18 make the statistical report available on its website and for public  
19 inspection and copying.

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

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

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

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

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

34 5. Of the petitions denied, the number appealed to the court of  
35 appeals.

36 6. The number of those appeals that resulted in the denials being  
37 affirmed.

38 7. The number of those appeals that resulted in the denial being  
39 reversed.

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

1 E. Original copies of all reports filed pursuant to sections 36-2161  
2 and 36-2162 shall be available to the Arizona medical board and the Arizona  
3 board of osteopathic examiners in medicine and surgery for use in the  
4 performance of their official duties. The Arizona medical board and the  
5 Arizona board of osteopathic examiners in medicine and surgery shall maintain  
6 the confidentiality of any reports obtained pursuant to this subsection.

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

12 G. A person who is required by this article to file a report, keep any  
13 records or supply any information and who wilfully fails to file that report,  
14 keep records or supply information as required by law is guilty of  
15 unprofessional conduct and is subject to discipline, including license  
16 suspension or revocation.

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

20 I. In addition to the penalties prescribed by subsections F, G and H  
21 of this section, an organization or facility that wilfully violates the  
22 reporting requirements of this article is subject to discipline by the  
23 department including the ~~same~~ civil penalties ~~as~~ prescribed in section ~~36-126~~  
24 ~~36-431.01. IF AN ORGANIZATION OR FACILITY THAT IS LICENSED PURSUANT TO~~  
25 ~~CHAPTER 4, ARTICLE 10 OF THIS TITLE WILFULLY VIOLATES THE REPORTING~~  
26 ~~REQUIREMENTS OF THIS ARTICLE, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY~~  
27 ~~PURSUANT TO SECTION 36-431.01, IMPOSE AN INTERMEDIATE SANCTION PURSUANT TO~~  
28 ~~SECTION 36-427, SUSPEND OR REVOKE A LICENSE PURSUANT TO SECTION 36-427, DENY~~  
29 ~~A LICENSE OR BRING AN ACTION FOR AN INJUNCTION PURSUANT TO SECTION 36-430.~~

30 Sec. 9. Findings and purposes

31 A. The legislature finds that:

32 1. Abortion can cause serious both short-term and long-term physical  
33 and psychological complications for women, including but not limited to  
34 uterine perforation, uterine scarring, cervical perforation or other injury,  
35 infection, bleeding, hemorrhage, blood clots, failure to actually terminate  
36 the pregnancy, incomplete abortion (retained tissue), pelvic inflammatory  
37 disease, endometritis, missed ectopic pregnancy, cardiac arrest, respiratory  
38 arrest, renal failure, metabolic disorder, shock, embolism, coma, placenta  
39 previa in subsequent pregnancies, preterm delivery in subsequent pregnancies,  
40 free fluid in the abdomen, organ damage, adverse reactions to anesthesia and  
41 other drugs, psychological or emotional complications such as depression,  
42 anxiety or sleeping disorders and death. See, e.g., P.K. Coleman, *Abortion*  
43 *and Mental Health: Quantitative Synthesis and Analysis of Research Published*  
44 *1995-2009*, Brit. J. of Psychiatry 199:180-86 (2011); P. Shah et al., *Induced*  
45 *termination of pregnancy and low birth weight and preterm birth: a systematic*  
46 *review and meta-analysis*, B.J.O.G. 116(11):1425 (2009); H.M. Swingle et al.,

1 *Abortion and the Risk of Subsequent Preterm Birth: A Systematic Review and*  
2 *Meta-Analysis*, J. Reprod. Med. 54:95 (2009); R.H. van Oppenraaij et al.,  
3 *Predicting adverse obstetric outcome after early pregnancy events and*  
4 *complications: a review*, Human Reprod. Update Advance Access 1:1 (Mar. 7,  
5 2009); R.E. Behrman, *Preterm Birth: Causes, Consequences, and Prevention* 519  
6 (2006); J.M. Thorp et al., *Long-Term Physical and Psychological Health*  
7 *Consequences of Induced Abortion: Review of the Evidence*, Obstet. & Gynecol.  
8 Survey 58[1]:67, 75 (2003) J.M. Barrett, *Induced Abortion: A Risk Factor for*  
9 *Placenta Previa*, Am. J. Obstet. & Gynecol. 141:7 (1981).

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

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

18 4. The risk of death associated with abortion increases with the  
19 length of pregnancy, from one death for every one million abortions at or  
20 before eight weeks gestation to one per 29,000 abortions at sixteen to twenty  
21 weeks and one per 11,000 abortions at twenty-one or more weeks. L. Bartlett  
22 et al., *Risk factors for legal induced abortion-related mortality in the*  
23 *United States*, *Obstetrics & Gynecology* 103(4):729-737 (2004). After the  
24 first trimester, the risk of hemorrhage from an abortion, in particular, is  
25 greater, and the resultant complications may require a hysterectomy, other  
26 reparative surgery or a blood transfusion.

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

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

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

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

1           9. As approved by the United States Food and Drug Administration, and  
2 as outlined in the drug label, an abortion by mifepristone consists of three  
3 200 mg tablets of mifepristone taken orally, followed by two 200 mcg tablets  
4 of misopristol taken orally, through forty-nine days LMP (a gestational  
5 measurement using the first day of the woman's "last menstrual period" as a  
6 marker). The patient is to return for a follow-up visit in order to confirm  
7 that a complete termination of pregnancy has occurred. *Mifeprex Prescribing*  
8 *Information*, Danco Laboratories (July 2005), available at  
9 [http://www.accessdata.fda.gov/drugsatfda\\_docs/label/2005/020687s0131b1.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s0131b1.pdf);  
10 *Mifeprex Medication Guide*, Danco Laboratories (June 8, 2011), available at  
11 [www.accessdata.fda.gov/drugsatfda\\_docs/label/2011/020687s0141b1.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2011/020687s0141b1.pdf).

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

15           11. Court testimony demonstrates that some abortion providers fail to  
16 follow the mifepristone protocol as tested and approved by the United States  
17 Food and Drug Administration, and as outlined in the drug label. See, e.g.,  
18 *Planned Parenthood v. Goddard*, CV2009-029110, Declaration of Beth Otterstein  
19 at 3 (Sept. 10, 2009); *Planned Parenthood v. Horne*, CV2010-030230,  
20 Declaration of Paul D. Blumenthal, M.D., M.P.H. (June 29, 2011); and *Planned*  
21 *Parenthood Cincinnati Region v. Taft*, 459 F. Supp. 2d 626, 630 n. 7 (S.D. Oh.  
22 2006).

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

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

33           14. Medical studies have indicated that 1 to 2 out of every 1,000  
34 women who undergo mifepristone abortions will require emergency blood  
35 transfusion for massive hemorrhage. By April 30, 2011, the United States  
36 Food and Drug Administration reported that at least 339 women required blood  
37 transfusions for massive bleeding after mifepristone abortions. A total of  
38 612 United States women have been hospitalized due to complications, and  
39 fourteen women in the United States have died following administration of  
40 mifepristone. The majority of reported deaths in the United States were from  
41 fatal infection. *Mifepristone U.S. Postmarketing Adverse Events Summary*  
42 through 04/30/2011, United States Food and Drug Administration, available at  
43 [www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor)  
44 [PatientsandProviders/UCM263353.pdf](http://www.fda.gov/downloads/Drugs/DrugSafety/PostmarketDrugSafetyInformationfor). This infection is atypical to the usual  
45 presentation of sepsis and may occur without the typical signs of infection,  
46 such as fever and tenderness. This atypical presentation requires that

1 mifepristone be dispensed only in a closely supervised clinical setting under  
2 the direction of a licensed physician who has the direct ability to counsel  
3 the patient regarding the risks, and also to examine the patient prior to and  
4 after administration of mifepristone.

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

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

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

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

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

23 Sec. 10. Exemption from rule making

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

27 Sec. 11. Construction

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

30 Sec. 12. Severability

31 If a provision of this act or its application to any person or  
32 circumstance is held invalid, the invalidity does not affect other provisions  
33 or applications of the act that can be given effect without the invalid  
34 provision or application, and to this end the provisions of this act are  
35 severable.

APPROVED BY THE GOVERNOR APRIL 12, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2012.