



Arizona | RANKING: 1 |

Over the last several years, Arizona has garnered national attention for its efforts to protect women from the well-documented harms inherent in abortion and from the substandard care given at some abortion clinics.

ABORTION

- The Arizona Supreme Court has suggested that equal protection issues that involve abortion may be subjected to strict scrutiny, but stopped short of holding that a fundamental “right” to abortion exists under the state constitution.
- Arizona’s Women’s Health Defense Act, limiting abortion at or after 5 months (i.e., 20 weeks) gestation and predicated on the significant risks of later-term abortions to maternal health (and also concerns for fetal pain) is permanently enjoined.
- In 2002, the Arizona Supreme Court concluded that state taxpayers must fund “medically necessary” abortions for women eligible for public assistance, suggesting but not holding that a broader state constitutional right to abortion may exist than that interpreted in the U.S. Constitution. However, a law passed in 2010 prohibits state funds from being used to pay or provide coverage for abortion, unless it is necessary to avoid “irreversible impairment of a major bodily function” or save the life of the mother.
- One parent must provide written, notarized consent before a physician may perform an abortion on a minor under the age of 18, unless the minor is the victim of incest by someone in her home, there is a medical emergency, or she obtains a court order. Arizona prohibits a third party from interfering with parental rights and assisting a minor in obtaining an abortion without the requisite parental consent.
- Arizona prohibits partial-birth abortion.
- Arizona makes it a felony to perform an abortion knowing that the abortion is sought based on the sex or race of the child or the race of a parent. Further, it is a felony to use force or the threat of force to



intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-based abortion.

- At least 24 hours prior to an abortion, a woman must receive information about the nature of the procedure, the immediate and long-term risks of abortion, the risks of childbirth, alternatives to abortion, and the probable gestational age and anatomical and physiological characteristics of her unborn child. She must also receive information about medical assistance benefits, the father's liability for child support, and the public and private agencies available to assist her. Arizona also requires abortion providers to inform women about alternatives to abortion.
- Arizona requires that an ultrasound be performed at least 24 hours prior to an abortion.
- A woman who is seeking abortion because of fetal anomalies must be informed about perinatal hospice programs.
- A woman considering an abortion must be informed that it is illegal for a person to intimidate or coerce her into having an abortion.
- Arizona law requires that if a woman has not yet taken the second drug in the abortion regimen and consults an abortion clinic questioning her decision to abort or seeking information regarding the health of her fetus or the effectiveness of the abortion drug regimen, abortion clinic staff shall inform her that the use of mifepristone (the first drug in the RU-486 regime) alone to end a pregnancy is not always effective and that she should immediately consult a physician if she would like more information.
- Arizona has comprehensive licensing requirements for abortion clinics, including regulations related to administration, incident reporting, personnel qualifications and records, staffing requirements, patient rights, abortion procedures, patient transfer and discharge, medications and controlled substances, medical records, and environmental and safety standards. Arizona allows unannounced inspections of abortion facilities to ensure compliance with state abortion laws and regulations. Two provisions, one regulating the minimum equipment standards for abortions performed at 20 weeks or more and one requiring medication abortions to comply with FDA protocol, are permanently enjoined.
- Only licensed physicians may perform surgical abortions. Physicians who perform abortions must maintain admitting privileges at a local hospital and must submit verification that they have the requisite admitting privileges. Further, a physician assistant may not prescribe, dispense, or administer prescription medicine to induce an abortion, and the state board of nursing may not decree that the scope of practice for registered nurse practitioners includes performing abortions.



- Arizona has an enforceable abortion reporting law but does not require the reporting of information to the Centers for Disease Control (CDC). The measure applies to both surgical and nonsurgical abortions and requires abortion providers to report short-term complications as well as any abortions that result in live birth. In 2018, Arizona amended the law to require abortion providers include specific information about the reason for obtaining the abortion, known medical complications as a result of the abortion, how the patient was admitted to the clinic or hospital, and other important information.
- Arizona requires that Medicaid providers cover family planning services that do not include abortion or abortion counseling.
- Arizona prohibits public funding for training to perform abortions or the use of “monies paid by students as part of tuition or fees to a state university or a community college” for abortions.
- Organizations that receive state funds through Women’s Services programs may not use those funds to provide abortions or abortion referrals, and grantees cannot provide the grant money to entities that promote, refer, or perform abortions.
- A state statute permitting a tax credit for voluntary cash contributions by a taxpayer or on a taxpayer’s behalf to charitable organizations does not permit donations to qualify for the credits if the beneficiary organizations provide, pay for, promote, provide coverage of, or provide referrals for abortion or financially support any other entity that does so.
- A woman may not obtain an abortion at any university facility under the jurisdiction of the Arizona Board of Regents unless the procedure is necessary to save her life.
- Arizona prohibits insurance companies from offering abortion coverage within state insurance Exchanges established pursuant to the federal healthcare law, except in cases involving rape, incest, or threats to a woman’s life or health.
- Arizona further prohibits the use of state funds “directly or indirectly to pay the costs, premiums or charges associated with a health insurance policy, contract or plan that provides coverage, benefits or services related to the performance of any abortion” except in cases of life endangerment or substantial and irreversible impairment of a major bodily function.
- Arizona offers “Choose Life” license plates. The proceeds from the sale of the plates benefit organizations providing abortion alternatives.



LEGAL RECOGNITION AND PROTECTION OF THE UNBORN AND NEWLY BORN

- Arizona law defines the killing of an unborn child at any stage of development as manslaughter.
- It defines a nonfatal assault on an unborn child as a criminal offense.
- Arizona provides enhanced sentencing for domestic violence offenses when the victim is pregnant.
- Arizona allows a wrongful death (civil) action when a viable unborn child is killed through a negligent or criminal act.
- Arizona has created a specific affirmative duty of physicians to provide medical care and treatment to infants born alive at any stage of development.
- Arizona maintains a Dangerous Crimes Against Children Act which allows for the prosecution of a woman for prenatal drug use or abuse that causes harm or injury to her unborn child. Under the law, the woman can be charged with child abuse and/or drug transfer to a minor under 12 years of age. It further requires healthcare professionals to report suspected prenatal drug exposure.
- Arizona prohibits the use of an aborted human fetus or embryo in animal or human research, experimentation on a fetus or embryo intended to be aborted, offering or performing an abortion solely for the purpose of research, and the sale of body parts of deceased infants.

BIOETHICS LAWS

- Arizona prohibits destructive embryo research, human cloning, and the creation, transfer, and transportation of human-animal hybrids.
- It also prohibits taxpayer funding of human cloning and denies special tax credits to entities engaged in destructive embryo research.
- Arizona requires healthcare professionals to notify patients in the second trimester of pregnancy of post-delivery options related to stem cells contained in umbilical cord blood and options for their donation or storage in a family donor banking program.



- It also requires that women providing eggs receive information on the risks of human egg harvesting and prohibits payment for human eggs when the eggs are to be used for research purposes.
- Arizona passed a law that establishes custody of in vitro human embryos in the case of dissolution of marriage.

END OF LIFE LAWS

- In Arizona, suicide by physician is considered manslaughter.

HEALTHCARE FREEDOM OF CONSCIENCE

PARTICIPATION IN ABORTION AND CONTRACEPTION

- Arizona law protects healthcare providers who conscientiously object to participation in abortions. Under the law, healthcare providers must object in writing, and objections must be based on moral or religious beliefs.
- A pharmacy, hospital, or healthcare professional is not required to participate in or provide an abortion, abortion medication, “emergency contraception,” or any medicine or device intended to inhibit or prevent implantation of a fertilized egg.
- Arizona also allows a “religiously-affiliated employer” to offer a health plan that does not cover contraceptives based on the religious beliefs of the employer or a beneficiary. “Religiously-affiliated employer” is defined as either a non-profit that primarily employs and serves individuals who share the non-profit’s religious beliefs or as an organization that has incorporating documents that clearly state that religious beliefs are “central to the organization’s operating principles.”

PARTICIPATION IN RESEARCH HARMFUL TO HUMAN LIFE

- Arizona currently provides no protection for the rights of healthcare providers who conscientiously object to participation in human cloning, destructive embryo research, or other forms of medical research that violate a provider’s moral or religious beliefs.



DID YOU KNOW?

- In 2018, Arizona amended its Abortion Reporting Act to include information on the reason for the abortion, the fetal health diagnosis that led to the abortion, and known medical complications resulting from the abortion. The bill also added requirements for the physician to submit information on the number of abortions performed as the result of a medical emergency and the number of women for whom the physician or another qualified person performed an ultrasound.
- Arizona also rejected a bill that would have legalized suicide by physician.

WHAT HAPPENS AFTER ROE IS OVERTURNED?

- Abortion will not be legal. Pre-Roe Statute currently in place.



RECOMMENDATIONS

for Arizona

Women’s Protection Project Priorities

- Enhanced penalties and enforcement mechanisms for the state’s abortion laws
 - Components of the Drug-Induced Abortion Information & Reporting Act
 - Components of the Parental Involvement Enhancement Act
 - Child Protection Act
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Infants’ Protection Project Priorities

- Unborn Wrongful Death Act (for a pre-viable child)
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Patient Protection Act Priorities

- Joint Resolution Opposing Suicide by Physician
 - “Charlie Gard Act” (formerly the “Life Sustaining Care Act”)
 - Pain Medicine Education Act
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Additional Priorities

Abortion

- State Constitutional Amendment (affirming that there is no state constitutional right to abortion)
- Defunding the Abortion Industry and Advancing Women’s Health Act

Legal Recognition and Protection for the Unborn

- Statutory prohibition on wrongful birth lawsuits
- Pregnant Woman’s Protection Act

Bioethics

- Assisted Reproductive Technologies Disclosure and Risk Reduction Act

Healthcare Freedom of Conscience

- Healthcare Freedom of Conscience Act