

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

# SENATE BILL 1367

AN ACT

AMENDING SECTIONS 36-449.03, 36-2161, 36-2163 AND 36-2301, 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 36-449.03, Arizona Revised Statutes, is amended  
3 to read:

4 36-449.03. Abortion clinics; rules; civil penalties

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

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

9 2. Dressing rooms for staff and patients.

10 3. Appropriate lavatory areas.

11 4. Areas for preprocedure hand washing.

12 5. Private procedure rooms.

13 6. Adequate lighting and ventilation for abortion procedures.

14 7. Surgical or gynecologic examination tables and other fixed  
15 equipment.

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

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

19 10. Areas for cleaning and sterilizing instruments.

20 11. Adequate areas for the secure storage of medical records and  
21 necessary equipment and supplies.

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

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

29 1. Prescribe required equipment and supplies, including  
30 medications, required for the conduct, in an appropriate fashion, of any  
31 abortion procedure that the medical staff of the clinic anticipates  
32 performing and for monitoring the progress of each patient throughout the  
33 procedure and recovery period.

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

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

42 4. Prescribe required equipment and supplies for required  
43 laboratory tests and requirements for protocols to calibrate and maintain  
44 laboratory equipment at the abortion clinic or operated by clinic staff.

45 5. Require ultrasound equipment.

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

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

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

8           2. Physicians performing abortions are licensed pursuant to title  
9 32, chapter 13 or 17, demonstrate competence in the procedure involved and  
10 are acceptable to the medical director of the abortion clinic.

11           3. A physician is available:

12           (a) For a surgical abortion who has admitting privileges at a  
13 health care institution that is classified by the director as a hospital  
14 pursuant to section 36-405, subsection B and that is within thirty miles  
15 of the abortion clinic.

16           (b) For a medication abortion who has admitting privileges at a  
17 health care institution that is classified by the director as a hospital  
18 pursuant to section 36-405, subsection B.

19           4. If a physician is not present, a registered nurse, nurse  
20 practitioner, licensed practical nurse or physician assistant is present  
21 and remains at the clinic when abortions are performed to provide  
22 postoperative monitoring and care, or monitoring and care after inducing a  
23 medication abortion, until each patient who had an abortion that day is  
24 discharged.

25           5. Surgical assistants receive training in counseling, patient  
26 advocacy and the specific responsibilities of the services the surgical  
27 assistants provide.

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

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

35           1. A medical history, including the following:

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

38           (b) Obstetric and gynecologic history.

39           (c) Past surgeries.

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

42           3. The appropriate laboratory tests, including:

43           (a) Urine or blood tests for pregnancy performed before the  
44 abortion procedure.

45           (b) A test for anemia.

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

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

4 4. An ultrasound evaluation for all patients. The rules shall  
5 require that if a person who is not a physician performs an ultrasound  
6 examination, that person shall have documented evidence that the person  
7 completed a course in the operation of ultrasound equipment as prescribed  
8 in rule. The physician or other health care professional shall review, at  
9 the request of the patient, the ultrasound evaluation results with the  
10 patient before the abortion procedure is performed, including the probable  
11 gestational age of the fetus.

12 5. That the physician is responsible for estimating the gestational  
13 age of the fetus based on the ultrasound examination and obstetric  
14 standards in keeping with established standards of care regarding the  
15 estimation of fetal age as defined in rule and shall write the estimate in  
16 the patient's medical history. The physician shall keep original prints  
17 of each ultrasound examination of a patient in the patient's medical  
18 history file.

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

21 1. That medical personnel is available to all patients throughout  
22 the abortion procedure.

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

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

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

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

35 6. FOR ABORTION CLINICS PERFORMING OR INDUCING AN ABORTION FOR A  
36 WOMAN WHOSE UNBORN CHILD IS THE GESTATIONAL AGE AS DEFINED IN SECTION  
37 36-2151 OF TWENTY WEEKS OR MORE, MINIMUM EQUIPMENT STANDARDS TO ASSIST THE  
38 PHYSICIAN IN COMPLYING WITH SECTION 36-2301.

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

41 1. For a surgical abortion, immediate postprocedure care, or care  
42 provided after inducing a medication abortion, consists of observation in  
43 a supervised recovery room for as long as the patient's condition  
44 warrants.

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

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

7           4. For a surgical abortion, a physician with admitting privileges  
8 at a health care institution that is classified by the director as a  
9 hospital pursuant to section 36-405, subsection B and that is within  
10 thirty miles of the abortion clinic remains on the premises of the  
11 abortion clinic until all patients are stable and are ready to leave the  
12 recovery room and to facilitate the transfer of emergency cases if  
13 hospitalization of the patient or viable fetus is necessary. A physician  
14 shall sign the discharge order and be readily accessible and available  
15 until the last patient is discharged.

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

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

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

30           8. The physician assures that a licensed health professional from  
31 the abortion clinic makes a good faith effort to contact the patient by  
32 telephone, with the patient's consent, within twenty-four hours after a  
33 surgical abortion to assess the patient's recovery.

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

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

39           1. For a surgical abortion, a postabortion medical visit is offered  
40 and, if requested, scheduled for three weeks after the abortion, including  
41 a medical examination and a review of the results of all laboratory tests.  
42 For a medication abortion, the rules shall require that a postabortion  
43 medical visit is scheduled between one week and three weeks after the  
44 initial dose for a medication abortion to confirm the pregnancy is  
45 completely terminated and to assess the degree of bleeding.

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

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

7           1. The abortion clinic records each incident resulting in a  
8 patient's or viable fetus' serious injury occurring at an abortion clinic  
9 and shall report them in writing to the department within ten days after  
10 the incident. For the purposes of this paragraph, "serious injury" means  
11 an injury that occurs at an abortion clinic and that creates a serious  
12 risk of substantial impairment of a major body organ and includes any  
13 injury or condition that requires ambulance transportation of the patient.

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

17           3. Incident reports are filed with the department and appropriate  
18 professional regulatory boards.

19           I. The director shall adopt rules relating to enforcement of this  
20 article. At a minimum, these rules shall require that:

21           1. For an abortion clinic that is not in substantial compliance  
22 with this article and the rules adopted pursuant to this article [AND](#)  
23 [SECTION 36-2301](#) or that is in substantial compliance but refuses to carry  
24 out a plan of correction acceptable to the department of any deficiencies  
25 that are listed on the department's statement of deficiency, the  
26 department may do any of the following:

- 27           (a) Assess a civil penalty pursuant to section 36-431.01.
- 28           (b) Impose an intermediate sanction pursuant to section 36-427.
- 29           (c) Suspend or revoke a license pursuant to section 36-427.
- 30           (d) Deny a license.
- 31           (e) Bring an action for an injunction pursuant to section 36-430.

32           2. In determining the appropriate enforcement action, the  
33 department consider the threat to the health, safety and welfare of the  
34 abortion clinic's patients or the general public, including:

- 35           (a) Whether the abortion clinic has repeated violations of statutes  
36 or rules.
- 37           (b) Whether the abortion clinic has engaged in a pattern of  
38 noncompliance.
- 39           (c) The type, severity and number of violations.

40           J. The department shall not release personally identifiable patient  
41 or physician information.

42           K. The rules adopted by the director pursuant to this section do  
43 not limit the ability of a physician or other health professional to  
44 advise a patient on any health issue.

1           Sec. 2. Section 36-2161, Arizona Revised Statutes, is amended to  
2 read:

3           36-2161. Abortions; reporting requirements

4           A. A hospital or facility in this state where abortions are  
5 performed must submit to the department of health services on a form  
6 prescribed by the department a report of each abortion performed in the  
7 hospital or facility. The report shall not identify the individual  
8 patient by name but must include the following information:

9           1. The name and address of the facility where the abortion was  
10 performed.

11           2. The type of facility where the abortion was performed.

12           3. The county where the abortion was performed.

13           4. The woman's age.

14           5. The woman's educational background by highest grade completed  
15 and, if applicable, level of college completed.

16           6. The county and state in which the woman resides.

17           7. The woman's race and ethnicity.

18           8. The woman's marital status.

19           9. The number of prior pregnancies and prior abortions of the  
20 woman.

21           10. The number of previous spontaneous terminations of pregnancy of  
22 the woman.

23           11. The gestational age of the unborn child at the time of the  
24 abortion.

25           12. The reason for the abortion, including whether the abortion is  
26 elective or due to maternal or fetal health considerations.

27           13. The type of procedure performed or prescribed and the date of  
28 the abortion.

29           14. Any preexisting medical conditions of the woman that would  
30 complicate pregnancy and any known medical complication that resulted from  
31 the abortion.

32           15. The basis for any medical judgment that a medical emergency  
33 existed that excused the physician from compliance with the requirements  
34 of this chapter.

35           16. The physician's statement if required pursuant to section  
36 36-2301.01.

37           17. If applicable, the weight of the aborted fetus for any abortion  
38 performed pursuant to section 36-2301.01.

39           18. Whether ~~an infant~~ A FETUS OR EMBRYO was ~~born~~ DELIVERED alive AS  
40 DEFINED IN SECTION 36-2301 during or immediately after an attempted  
41 abortion and the efforts made to promote, preserve and maintain the life  
42 of the ~~infant~~ FETUS OR EMBRYO pursuant to section 36-2301.

43           19. STATEMENTS BY THE PHYSICIAN AND ALL STAFF PRESENT DURING THE  
44 ABORTION CERTIFYING UNDER PENALTY OF PERJURY THAT THE ABORTED FETUS OR  
45 EMBRYO WAS NOT DELIVERED ALIVE AS DEFINED IN SECTION 36-2301.

1           B. The report must be signed by the physician who performed the  
2 abortion or, if a health professional other than a physician is authorized  
3 by law to prescribe or administer abortion medication, the signature and  
4 title of the person who prescribed or administered the abortion  
5 medication. The form may be signed electronically and shall indicate that  
6 the person who signs the report is attesting that the information in the  
7 report is correct to the best of the person's knowledge. The hospital or  
8 facility must transmit the report to the department within fifteen days  
9 after the last day of each reporting month.

10           C. Any report filed pursuant to this section shall be filed  
11 electronically at an internet website that is designated by the department  
12 unless the person required to file the report applies for a waiver from  
13 electronic reporting by submitting a written request to the department.

14           Sec. 3. Section 36-2163, Arizona Revised Statutes, is amended to  
15 read:

16           36-2163. Reports; confidentiality; annual statistical report;  
17                                   violations; classification; unprofessional  
18                                   conduct; penalties

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

25           B. The department of health services shall collect all abortion  
26 reports and complication reports and prepare a comprehensive annual  
27 statistical report based on the data gathered in the reports. **THE**  
28 **STATISTICAL REPORT SHALL INCLUDE A BREAKDOWN OF THE NUMBER OF ABORTIONS BY**  
29 **GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME OF THE ABORTION AND THE**  
30 **TYPE OF PROCEDURE PERFORMED OR PRESCRIBED.** The statistical report shall  
31 not lead to the disclosure of the identity of any person filing a report  
32 or about whom a report is filed. The department shall make the  
33 statistical report available on its website and for public inspection and  
34 copying.

35           C. The **STATISTICAL** report prepared by the department pursuant to  
36 subsection B of this section shall include statistics from the  
37 administrative office of the courts containing the following information:

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

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



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

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

6           5. Of the petitions denied, the number appealed to the court of  
7 appeals.

8           6. The number of those appeals that resulted in the denials being  
9 affirmed.

10          7. The number of those appeals that resulted in the denial being  
11 reversed.

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

18          E. Original copies of all reports filed pursuant to sections  
19 36-2161 and 36-2162 shall be available to the Arizona medical board and  
20 the Arizona board of osteopathic examiners in medicine and surgery for use  
21 in the performance of their official duties. The Arizona medical board  
22 and the Arizona board of osteopathic examiners in medicine and surgery  
23 shall maintain the confidentiality of any reports obtained pursuant to  
24 this subsection.

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

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

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

38          I. In addition to the penalties prescribed by subsections F, G and  
39 H of this section, an organization or facility that wilfully violates the  
40 reporting requirements of this article is subject to discipline by the  
41 department, including the civil penalties prescribed in section 36-431.01.  
42 If an organization or facility that is licensed pursuant to chapter 4,  
43 article 10 of this title wilfully violates the reporting requirements of  
44 this article, the department may assess a civil penalty pursuant to  
45 section 36-431.01, impose an intermediate sanction pursuant to section

1 36-427, suspend or revoke a license pursuant to section 36-427, deny a  
2 license or bring an action for an injunction pursuant to section 36-430.

3 Sec. 4. Section 36-2301, Arizona Revised Statutes, is amended to  
4 read:

5 36-2301. Duty to promote life of fetus or embryo delivered  
6 alive; rules; judicial enforcement; civil action;  
7 damages; definition

8 A. If an abortion is performed and a human fetus or embryo is  
9 delivered alive, it is the duty of any physician performing such AN  
10 abortion and any additional physician in attendance as required by section  
11 36-2301.01 to see that all available means and medical skills are used to  
12 promote, preserve and maintain the life of such A fetus or embryo.

13 B. IF A HUMAN FETUS OR EMBRYO IS DELIVERED ALIVE, THE PHYSICIAN  
14 PERFORMING THE ABORTION SHALL DOCUMENT AND REPORT TO THE DEPARTMENT THE  
15 MEASURES THE PHYSICIAN PERFORMED TO MAINTAIN THE LIFE OF THE FETUS OR  
16 EMBRYO.

17 C. THE DIRECTOR SHALL PRESCRIBE RULES REQUIRING AN ABORTION CLINIC  
18 OR A HOSPITAL THAT PERFORMS OR INDUCES AN ABORTION AT OR AFTER TWENTY  
19 WEEKS' GESTATIONAL AGE AS DEFINED IN SECTION 36-2151 TO ESTABLISH,  
20 DOCUMENT AND IMPLEMENT POLICIES AND PROCEDURES TO ENSURE COMPLIANCE WITH  
21 THIS SECTION. AT A MINIMUM, THESE POLICIES AND PROCEDURES SHALL REQUIRE  
22 THAT:

23 1. IN THE CASE OF AN ABORTION CLINIC, A PERSON IS DESIGNATED TO  
24 CONTACT EMERGENCY SERVICES IMMEDIATELY AT THE BIRTH OF A FETUS OR EMBRYO  
25 DELIVERED ALIVE TO ARRANGE TRANSFER TO A HOSPITAL.

26 2. AT LEAST ONE PERSON WHO IS TRAINED IN NEONATAL RESUSCITATION IS  
27 PRESENT IN THE ROOM WHERE THE ABORTION TAKES PLACE FOR ANY ABORTION  
28 PERFORMED OR INDUCED AT OR AFTER TWENTY WEEKS' GESTATIONAL AGE.

29 3. ESTABLISH A PROTOCOL FOR RAPID NEONATAL RESUSCITATION OF A FETUS  
30 OR EMBRYO DELIVERED ALIVE, INCLUDING ASSESSING RESPIRATION AND HEART RATE,  
31 CLEARING SECRETIONS, POSITIONING THE AIRWAY, PROVIDING WARMTH, DRYING AND  
32 ADMINISTERING OXYGEN AS NEEDED.

33 D. A HOSPITAL THAT IS NOT IN SUBSTANTIAL COMPLIANCE WITH THE RULES  
34 OR POLICIES AND PROCEDURES ADOPTED PURSUANT TO THIS SECTION MAY BE SUBJECT  
35 TO THE PENALTIES AND SANCTIONS SPECIFIED IN SECTIONS 36-427 AND 36-431.01.

36 E. AN ACTION TO ENFORCE THIS SECTION SHALL BE BROUGHT IN THE NAME  
37 OF THE STATE BY THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY IN THE  
38 SUPERIOR COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED.

39 F. IN ADDITION TO OTHER REMEDIES AVAILABLE UNDER THE COMMON OR  
40 STATUTORY LAW OF THIS STATE, ANY OF THE FOLLOWING PERSONS MAY FILE A CIVIL  
41 ACTION TO OBTAIN APPROPRIATE RELIEF FOR A VIOLATION OF THIS SECTION:

42 1. THE MOTHER OF THE HUMAN FETUS OR EMBRYO DELIVERED ALIVE.

43 2. THE FATHER OF THE HUMAN FETUS OR EMBRYO DELIVERED ALIVE, UNLESS  
44 THE PREGNANCY RESULTED FROM THE PLAINTIFF'S CRIMINAL CONDUCT.

1           3. A MATERNAL GRANDPARENT OF THE HUMAN FETUS OR EMBRYO DELIVERED  
2 ALIVE IF THE MOTHER WAS NOT AT LEAST EIGHTEEN YEARS OF AGE AT THE TIME OF  
3 THE ABORTION, UNLESS THE PREGNANCY RESULTED FROM THE PLAINTIFF'S CRIMINAL  
4 CONDUCT.

5           G. A CIVIL ACTION FILED PURSUANT TO SUBSECTION F OF THIS SECTION  
6 SHALL BE BROUGHT IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE WOMAN ON  
7 WHOM THE ABORTION WAS PERFORMED RESIDES AND MAY BE BASED ON A CLAIM THAT  
8 THE FAILURE TO SEE THAT ALL AVAILABLE MEANS AND MEDICAL SKILLS WERE USED  
9 TO PROMOTE, PRESERVE AND MAINTAIN THE LIFE OF THE HUMAN FETUS OR EMBRYO  
10 WAS A RESULT OF SIMPLE NEGLIGENCE, GROSS NEGLIGENCE OR WANTON, WILFUL OR  
11 INTENTIONAL MISCONDUCT OR ANY OTHER LEGAL STANDARD OF CARE. RELIEF FOR A  
12 CIVIL ACTION FILED PURSUANT TO SUBSECTION F OF THIS SECTION MAY INCLUDE  
13 ANY OF THE FOLLOWING:

14           1. MONETARY DAMAGES FOR 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           H. A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE  
20 INITIATED WITHIN TEN YEARS AFTER THE VIOLATION OCCURRED.

21           I. FOR THE PURPOSES OF THIS SECTION, "DELIVERED ALIVE" MEANS THE  
22 COMPLETE EXPULSION OR EXTRACTION FROM THE MOTHER OF A FETUS OR EMBRYO,  
23 REGARDLESS OF THE STATE OF GESTATIONAL DEVELOPMENT, WHO, AFTER EXPULSION  
24 OR EXTRACTION, WHETHER OR NOT THE UMBILICAL CORD HAS BEEN CUT OR THE  
25 PLACENTA IS ATTACHED, SHOWS ANY EVIDENCE OF LIFE, INCLUDING ONE OR MORE OF  
26 THE FOLLOWING:

27           1. BREATHING.

28           2. A HEARTBEAT.

29           3. UMBILICAL CORD PULSATION.

30           4. DEFINITE MOVEMENT OF VOLUNTARY MUSCLES.

31           Sec. 5. Legislative findings and purpose

32           A. The legislature finds that:

33           1. This state has a paramount interest in protecting all human  
34 life.

35           2. If an attempted abortion results in the live delivery of an  
36 infant, the infant is a person for all purposes under the laws of this  
37 state.

38           3. It is not an infringement on the right to abortion articulated  
39 by the United States supreme court for this state to assert its interest  
40 in protecting an infant whose live delivery occurred as the result of an  
41 attempted abortion.

42           4. Due to advances in neonatal care, the gestational age at which  
43 an infant may survive if delivered alive continues to decrease.

1           5. Two recent reports of incidents in this state demonstrate that  
2 some doctors are not using all available means to promote, preserve and  
3 maintain the lives of infants delivered alive as required by section  
4 36-2301, Arizona Revised Statutes, as amended by this act. See *911 tapes;*  
5 *Aborted fetus was breathing*, 12NEWS.COM,  
6 [http://www.12news.com/mb/news/local/valley/911-tapes-aborted-fetus-was-](http://www.12news.com/mb/news/local/valley/911-tapes-aborted-fetus-was-breathing/208414143)  
7 [breathing/208414143](http://www.12news.com/mb/news/local/valley/911-tapes-aborted-fetus-was-breathing/208414143) (last visited Jan. 20, 2017); Gary Grado, *FBI agent's*  
8 *description raises question about whether aborted baby was born alive*,  
9 ARIZ. CAP. TIMES (June 5, 2015, 4:58 AM)  
10 [http://azcapitoltimes.com/news/2015/06/05/fbi-agents-description-raises-](http://azcapitoltimes.com/news/2015/06/05/fbi-agents-description-raises-question-about-whether-aborted-baby-was-born-alive/)  
11 [question-about-whether-aborted-baby-was-born-alive/](http://azcapitoltimes.com/news/2015/06/05/fbi-agents-description-raises-question-about-whether-aborted-baby-was-born-alive/).

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

14           1. Ensure the protection and promotion of the health and well-being  
15 of all infants delivered alive in this state.

16           2. Require providers to document the life-saving and  
17 life-sustaining medical care and treatment given to all infants delivered  
18 alive as a result of an attempted abortion.

19           Sec. 6. Construction

20           This act does not create or recognize a right to abortion. It is  
21 not the intention of this act to make lawful an abortion that is currently  
22 unlawful.

23           Sec. 7. Severability

24           If a provision of this act or its application to any person or  
25 circumstance is held invalid, the invalidity does not affect other  
26 provisions or applications of the act that can be given effect without the  
27 invalid provision or application, and to this end the provisions of this  
28 act are severable.