

State of Arizona
Senate
Forty-second Legislature
Second Regular Session
1996

FILED

**Jane Dee Hull
Secretary of State**

CHAPTER 90

SENATE BILL 1012

AN ACT

REPEALING SECTIONS 36-2152 AND 36-2153, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-2152; RELATING TO ABORTION.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Repeal

Sections 36-2152 and 36-2153, Arizona Revised Statutes, are repealed.

Sec. 2. Title 36, chapter 20, article 1, Arizona Revised Statutes, is amended by adding a new section 36-2152, to read:

36-2152. Parental consent; violation; classification; definitions

A. A PERSON SHALL NOT KNOWINGLY PERFORM AN ABORTION ON A PREGNANT UNEMANCIPATED MINOR UNLESS THE ATTENDING PHYSICIAN HAS SECURED THE WRITTEN CONSENT FROM ONE OF THE MINOR'S PARENTS OR THE MINOR'S GUARDIAN OR CONSERVATOR OR UNLESS A JUDGE OF THE SUPERIOR COURT AUTHORIZES THE PHYSICIAN TO PERFORM THE ABORTION PURSUANT TO SUBSECTION B.

B. A JUDGE OF THE SUPERIOR COURT SHALL, ON PETITION OR MOTION, AND AFTER AN APPROPRIATE HEARING, AUTHORIZE A PHYSICIAN TO PERFORM THE ABORTION IF THE JUDGE DETERMINES THAT THE PREGNANT MINOR IS MATURE AND CAPABLE OF GIVING INFORMED CONSENT TO THE PROPOSED ABORTION. IF THE JUDGE DETERMINES THAT THE PREGNANT MINOR IS NOT MATURE OR IF THE PREGNANT MINOR DOES NOT CLAIM TO BE MATURE, THE JUDGE SHALL DETERMINE WHETHER THE PERFORMANCE OF AN ABORTION ON HER WITHOUT THE CONSENT FROM ONE OF HER PARENTS OR HER GUARDIAN OR CONSERVATOR WOULD BE IN HER BEST INTERESTS AND SHALL AUTHORIZE A PHYSICIAN

1 TO PERFORM THE ABORTION WITHOUT CONSENT IF THE JUDGE CONCLUDES THAT THE
2 PREGNANT MINOR'S BEST INTERESTS WOULD BE SERVED.

3 C. THE PREGNANT MINOR MAY PARTICIPATE IN THE COURT PROCEEDINGS ON HER
4 OWN BEHALF. THE COURT MAY APPOINT A GUARDIAN AD LITEM FOR HER. THE COURT
5 SHALL ADVISE HER THAT SHE HAS THE RIGHT TO COURT APPOINTED COUNSEL AND SHALL,
6 ON HER REQUEST, PROVIDE HER WITH COUNSEL UNLESS SHE APPEARS THROUGH PRIVATE
7 COUNSEL OR SHE KNOWINGLY AND INTELLIGENTLY WAIVES HER RIGHT TO COUNSEL.

8 D. PROCEEDINGS IN THE COURT UNDER THIS SECTION ARE CONFIDENTIAL AND
9 HAVE PRECEDENCE OVER OTHER PENDING MATTERS. THE COURT SHALL REACH A DECISION
10 PROMPTLY AND WITHOUT DELAY TO SERVE THE BEST INTERESTS OF THE PREGNANT
11 MINOR. A JUDGE WHO CONDUCTS PROCEEDINGS UNDER THIS SECTION SHALL MAKE IN
12 WRITING SPECIFIC FACTUAL FINDINGS AND LEGAL CONCLUSIONS SUPPORTING THE
13 DECISION AND SHALL ORDER A CONFIDENTIAL RECORD OF THE EVIDENCE TO BE
14 MAINTAINED INCLUDING THE JUDGE'S OWN FINDINGS AND CONCLUSIONS.

15 E. AN EXPEDITED CONFIDENTIAL APPEAL IS AVAILABLE TO A PREGNANT MINOR
16 FOR WHOM THE COURT DENIES AN ORDER AUTHORIZING AN ABORTION WITHOUT PARENTAL
17 CONSENT. FILING FEES ARE NOT REQUIRED OF THE PREGNANT MINOR AT EITHER THE
18 TRIAL OR THE APPELLATE LEVEL. ACCESS TO THE TRIAL COURT FOR THE PURPOSES OF
19 A PETITION OR MOTION, AND ACCESS TO THE APPELLATE COURTS FOR PURPOSES OF
20 MAKING AN APPEAL FROM DENIAL OF THE PETITION OR MOTION IS AVAILABLE TWENTY-
21 FOUR HOURS A DAY, SEVEN DAYS A WEEK.

22 F. PARENTAL CONSENT OR JUDICIAL AUTHORIZATION IS NOT REQUIRED UNDER
23 THIS SECTION IF THE ATTENDING PHYSICIAN CERTIFIES IN THE PREGNANT MINOR'S
24 MEDICAL RECORD THAT, ON THE BASIS OF THE PHYSICIAN'S GOOD FAITH CLINICAL
25 JUDGMENT, THE PREGNANT MINOR HAS A CONDITION THAT SO COMPLICATES HER MEDICAL
26 CONDITION AS TO NECESSITATE THE IMMEDIATE ABORTION OF HER PREGNANCY TO AVERT
27 HER DEATH OR FOR WHICH A DELAY WILL CREATE SERIOUS RISK OF SUBSTANTIAL AND
28 IRREVERSIBLE IMPAIRMENT OF MAJOR BODILY FUNCTION AND THERE IS INSUFFICIENT
29 TIME TO OBTAIN THE REQUIRED PARENTAL CONSENT OR JUDICIAL AUTHORIZATION.

30 G. A PERSON WHO PERFORMS AN ABORTION IN VIOLATION OF THIS SECTION IS
31 GUILTY OF A CLASS 1 MISDEMEANOR AND IS SUBJECT TO A CIVIL ACTION BY A PERSON
32 WHO WAS WRONGFULLY DENIED THE RIGHT TO CONSENT. A PERSON IS NOT SUBJECT TO
33 CIVIL OR CRIMINAL LIABILITY UNDER THIS SECTION IF THE PERSON ESTABLISHES BY
34 WRITTEN EVIDENCE THAT THE PERSON RELIED ON EVIDENCE SUFFICIENT TO CONVINCE
35 A CAREFUL AND PRUDENT PERSON THAT THE REPRESENTATIONS OF THE PREGNANT MINOR
36 REGARDING INFORMATION NECESSARY TO COMPLY WITH THIS SECTION ARE TRUE.

37 H. FOR PURPOSES OF THIS SECTION:

38 1. "ABORTION" MEANS THE USE OF ANY MEANS TO TERMINATE THE PREGNANCY
39 OF A FEMALE KNOWN TO BE PREGNANT WITH KNOWLEDGE THAT THE TERMINATION WITH
40 THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH OF THE FETUS.

41 2. "FETUS" MEANS ANY INDIVIDUAL HUMAN ORGANISM FROM FERTILIZATION
42 UNTIL BIRTH.

APPROVED BY THE GOVERNOR APRIL 4, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 4, 1996