

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2443

AN ACT

AMENDING TITLE 13, CHAPTER 36, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3603.02; AMENDING TITLE 36, CHAPTER 20, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2156; 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. Title 13, chapter 36, Arizona Revised Statutes, is amended
3 by adding section 13-3603.02, to read:
4 13-3603.02. Abortion; sex and race selection; injunctive and
5 civil relief; failure to report; definition
6 A. A PERSON WHO KNOWINGLY DOES ANY OF THE FOLLOWING IS GUILTY OF A
7 CLASS 3 FELONY:
8 1. PERFORMS AN ABORTION KNOWING THAT THE ABORTION IS SOUGHT BASED ON
9 THE SEX OR RACE OF THE CHILD OR THE RACE OF A PARENT OF THAT CHILD.
10 2. USES FORCE OR THE THREAT OF FORCE TO INTENTIONALLY INJURE OR
11 INTIMIDATE ANY PERSON FOR THE PURPOSE OF COERCING A SEX-SELECTION OR
12 RACE-SELECTION ABORTION.
13 3. SOLICITS OR ACCEPTS MONIES TO FINANCE A SEX-SELECTION OR
14 RACE-SELECTION ABORTION.
15 B. THE ATTORNEY GENERAL OR THE COUNTY ATTORNEY MAY BRING AN ACTION IN
16 SUPERIOR COURT TO ENJOIN THE ACTIVITY DESCRIBED IN SUBSECTION A OF THIS
17 SECTION.
18 C. THE FATHER OF THE UNBORN CHILD WHO IS MARRIED TO THE MOTHER AT THE
19 TIME SHE RECEIVES A SEX-SELECTION OR RACE-SELECTION ABORTION, OR, IF THE
20 MOTHER HAS NOT ATTAINED EIGHTEEN YEARS OF AGE AT THE TIME OF THE ABORTION,
21 THE MATERNAL GRANDPARENTS OF THE UNBORN CHILD, MAY BRING A CIVIL ACTION ON
22 BEHALF OF THE UNBORN CHILD TO OBTAIN APPROPRIATE RELIEF WITH RESPECT TO A
23 VIOLATION OF SUBSECTION A OF THIS SECTION. THE COURT MAY AWARD REASONABLE
24 ATTORNEY FEES AS PART OF THE COSTS IN AN ACTION BROUGHT PURSUANT TO THIS
25 SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "APPROPRIATE RELIEF"
26 INCLUDES MONETARY DAMAGES FOR ALL INJURIES, WHETHER PSYCHOLOGICAL, PHYSICAL
27 OR FINANCIAL, INCLUDING LOSS OF COMPANIONSHIP AND SUPPORT, RESULTING FROM THE
28 VIOLATION OF SUBSECTION A OF THIS SECTION.
29 D. A PHYSICIAN, PHYSICIAN'S ASSISTANT, NURSE, COUNSELOR OR OTHER
30 MEDICAL OR MENTAL HEALTH PROFESSIONAL WHO KNOWINGLY DOES NOT REPORT KNOWN
31 VIOLATIONS OF THIS SECTION TO APPROPRIATE LAW ENFORCEMENT AUTHORITIES SHALL
32 BE SUBJECT TO A CIVIL FINE OF NOT MORE THAN TEN THOUSAND DOLLARS.
33 E. A WOMAN ON WHOM A SEX-SELECTION OR RACE-SELECTION ABORTION IS
34 PERFORMED IS NOT SUBJECT TO CRIMINAL PROSECUTION OR CIVIL LIABILITY FOR ANY
35 VIOLATION OF THIS SECTION OR FOR A CONSPIRACY TO VIOLATE THIS SECTION.
36 F. FOR THE PURPOSES OF THIS SECTION, "ABORTION" HAS THE SAME MEANING
37 PRESCRIBED IN SECTION 36-2151.
38 Sec. 2. Title 36, chapter 20, article 1, Arizona Revised Statutes, is
39 amended by adding section 36-2156, to read:
40 36-2156. Affidavit
41 A PERSON SHALL NOT KNOWINGLY PERFORM OR INDUCE AN ABORTION BEFORE THAT
42 PERSON COMPLETES AN AFFIDAVIT THAT:

1 1. STATES THAT THE PERSON MAKING THE AFFIDAVIT IS NOT ABORTING THE
2 CHILD BECAUSE OF THE CHILD'S SEX OR RACE AND HAS NO KNOWLEDGE THAT THE CHILD
3 TO BE ABORTED IS BEING ABORTED BECAUSE OF THE CHILD'S SEX OR RACE.

4 2. IS SIGNED BY THE PERSON PERFORMING OR INDUCING THE ABORTION.

5 Sec. 3. Purpose

6 Evidence shows that minorities are targeted for abortion and that
7 sex-selection abortion is also occurring in our country. There is no place
8 for such discrimination and inequality in human society. Sex-selection and
9 race-selection abortions are elective procedures that do not in any way
10 implicate a woman's health. The purpose of this legislation is to protect
11 unborn children from prenatal discrimination in the form of being subjected
12 to abortion based on the child's sex or race by prohibiting sex-selection or
13 race-selection abortions.

14 Sec. 4. Construction

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

17 Sec. 5. Severability

18 If a provision of this act or its application to any person or
19 circumstance is held invalid, the invalidity does not affect other provisions
20 or applications of the act that can be given effect without the invalid
21 provision or application, and to this end the provisions of this act are
22 severable.

23 Sec. 6. Short title

24 This act may be cited as the "Susan B. Anthony and Frederick Douglass
25 Prenatal Nondiscrimination Act of 2011".