

REFERENCE TITLE: **abortion regulation; benefits**

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2138

Introduced by
Representatives Salman: De Los Santos, Ortiz, Stahl Hamilton

AN ACT

AMENDING TITLE 36, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3; 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 36, chapter 20, Arizona Revised Statutes, is
3 amended by adding article 3, to read:

4 ARTICLE 3. STATE BENEFITS FOR PREGNANCY

5 36-2166. Requirement to carry a pregnancy to term; state
6 benefits; case management; right of civil action

7 A. A PREGNANT WOMAN WHO, PURSUANT TO SECTION 1-219, CHAPTER 23 OF
8 THIS TITLE OR THIS CHAPTER, IS BARRED FROM SEEKING AN ABORTION AND WHO IS
9 COMPELLED BY THIS STATE TO CARRY THE PREGNANCY TO TERM AND GIVE BIRTH TO A
10 CHILD IS ENTITLED TO ALL OF THE FOLLOWING BENEFITS FROM THIS STATE:

11 1. COMPENSATION FOR REASONABLE LIVING, LEGAL, MEDICAL,
12 PSYCHOLOGICAL AND PSYCHIATRIC EXPENSES THAT ARE DIRECTLY RELATED TO
13 PRENATAL, INTRAPARTAL AND POSTPARTAL PERIODS OF THE WOMAN'S PREGNANCY AND
14 BIRTH.

15 2. ELIGIBILITY TO CLAIM THE UNBORN CHILD AS A CHILD FOR THE
16 PURPOSES OF ANY CHILD-RELATED STATE INCOME TAX CREDIT OR DEDUCTION,
17 INCLUDING THE CHILD TAX CREDIT, THE CHILD AND DEPENDENT CARE TAX CREDIT
18 AND THE EARNED INCOME TAX CREDIT.

19 3. AUTOMATIC ELIGIBILITY FOR AND ENTITLEMENT TO PARTICIPATE IN THIS
20 STATE'S NURSE-FAMILY PARTNERSHIP PROGRAM THROUGH WHICH A PREGNANT WOMAN IS
21 PAIRED WITH A SPECIALLY TRAINED NURSE WHO PROVIDES HOME VISITS FROM EARLY
22 PREGNANCY THROUGH THE CHILD'S SECOND BIRTHDAY.

23 4. AUTOMATIC ELIGIBILITY FOR AND ENTITLEMENT TO ANY PUBLIC
24 ASSISTANCE AVAILABLE PURSUANT TO TITLE 46, INCLUDING TEMPORARY ASSISTANCE
25 FOR NEEDY FAMILIES AND SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS,
26 WHICH MAY NOT BE REDUCED OR SUSPENDED BEFORE THE CHILD REACHES EIGHTEEN
27 YEARS OF AGE.

28 5. IF THE WOMAN OR UNBORN CHILD, OR BOTH, DIE DURING THE
29 GESTATIONAL PERIOD OR DURING LABOR AND DELIVERY, REIMBURSEMENT OF ALL
30 ASSOCIATED FUNERAL AND BURIAL EXPENSES.

31 6. IF THE WOMAN DEVELOPS A DISABILITY AS A RESULT OF CARRYING THE
32 UNBORN CHILD TO TERM, COMPENSATION FOR ANY MEDICAL EXPENSES ASSOCIATED
33 WITH THE WOMAN'S DISABILITY, INCLUDING COSTS ASSOCIATED WITH RECOMMENDED
34 SURGERY, TREATMENT AND PHYSICAL OR OCCUPATIONAL THERAPY AND OTHER MEDICAL
35 EXPENSES, AS LONG AS THE WOMAN HAS A DISABILITY.

36 7. IF THE CHILD IS BORN WITH A CONGENITAL ABNORMALITY OR
37 DISABILITY, COMPENSATION FOR ANY MEDICAL EXPENSES ASSOCIATED WITH THE CARE
38 OF THAT ABNORMALITY OR DISABILITY, INCLUDING THE COSTS OF HOSPITALIZATION,
39 THERAPEUTIC TREATMENT, EQUIPMENT AND ACCOMMODATIONS THAT COMPLY WITH THE
40 AMERICANS WITH DISABILITIES ACT, AND LONG-TERM CARE AND TREATMENT FOR THE
41 LIFE OF THE CHILD.

42 8. COMPENSATION FOR COSTS ASSOCIATED WITH HEALTH, DENTAL AND VISION
43 INSURANCE FOR THE CHILD UNTIL THE AGE OF EIGHTEEN, INCLUDING PAYMENT OF
44 ANY PREMIUMS, COPAYS, DEDUCTIBLES AND OTHER EXPENSES.

1 9. IN THE CASE OF AN UNMARRIED WOMAN, IF THE BIOLOGICAL FATHER OF
2 THE CHILD IS UNKNOWN OR UNABLE TO PROVIDE SUPPORT, CHILD SUPPORT PURSUANT
3 TO TITLE 25, CHAPTER 5.

4 10. IF THE PREGNANCY WAS CAUSED BY RAPE OR INCEST, CHILD SUPPORT
5 PURSUANT TO TITLE 25, CHAPTER 5.

6 11. A FULLY FUNDED COLLEGE SAVINGS PLAN ESTABLISHED PURSUANT TO
7 SECTION 529 OF THE INTERNAL REVENUE CODE FOR THE BENEFIT OF THE CHILD.

8 B. TO OBTAIN THE BENEFITS PROVIDED IN SUBSECTION A OF THIS SECTION,
9 A WOMAN SHALL FILE AN AFFIDAVIT WITH THE DEPARTMENT OF ECONOMIC SECURITY
10 INDICATING THAT, BUT FOR SECTION 1-219, CHAPTER 23 OF THIS TITLE OR THIS
11 CHAPTER, THE WOMAN WOULD HAVE CHOSEN TO TERMINATE THE PREGNANCY AND NOT
12 GIVE BIRTH TO THE CHILD. THE AFFIDAVIT MAY BE FILED ANY TIME AFTER THE
13 WOMAN BECOMES AWARE OF THE PREGNANCY AND BEFORE THE BIRTH OF THE CHILD.

14 C. ON RECEIPT OF AN AFFIDAVIT FILED BY A WOMAN PURSUANT TO THIS
15 SECTION, THE DEPARTMENT OF ECONOMIC SECURITY SHALL ASSIGN A CASE MANAGER
16 TO THE WOMAN IN ORDER TO DEVELOP A CASE PLAN TO ENSURE THAT THE WOMAN IS
17 RECEIVING ADEQUATE PRENATAL CARE AND TO DETERMINE ANY AVAILABLE
18 STATE-FUNDED PROGRAMS AND SERVICES FOR WHICH THE WOMAN AND UNBORN CHILD
19 ARE ELIGIBLE. THE CASE MANAGER MUST MEET IN PERSON WITH THE PREGNANT
20 WOMAN MONTHLY TO ENSURE THAT THE PREGNANCY IS CONTINUING AND THAT THE
21 REQUISITE PROGRAMS, SERVICES AND FUNDING ARE ACCESSIBLE. AS PART OF THE
22 PRENATAL VISITS, THE CASE MANAGER SHALL REVIEW ALL REPORTS OF THE NURSE
23 ASSIGNED THROUGH THE NURSE-FAMILY PARTNERSHIP PROGRAM TO ENSURE THAT THE
24 WOMAN IS MAINTAINING A NUTRITIOUS, HEALTHY LIFESTYLE FOR DEVELOPMENT OF
25 THE UNBORN CHILD. AFTER THE BIRTH OF THE CHILD, THE CASE MANAGER SHALL
26 MAKE A REASONABLE NUMBER OF FACE-TO-FACE VISITS, AS DETERMINED BY
27 DEPARTMENT RULES, TO ENSURE THAT THE REQUISITE PROGRAMS, SERVICES AND
28 FUNDING CONTINUE TO BE ACCESSIBLE FOR THE WOMAN AND HER CHILD.

29 D. THE LEGISLATURE SHALL ANNUALLY APPROPRIATE SUFFICIENT MONIES TO
30 AWARD THE BENEFITS AUTHORIZED AND REQUIRED BY THIS SECTION AND TO FUND THE
31 OPERATIONAL COSTS INCURRED BY THE DEPARTMENT OF ECONOMIC SECURITY IN
32 FULFILLING THE DUTIES PRESCRIBED IN SUBSECTION A OF THIS SECTION.

33 E. ANY STATE AGENCY OR DIVISION OF A STATE AGENCY THAT DETERMINES
34 ELIGIBILITY FOR AND AWARD OF ANY BENEFITS PRESCRIBED IN THIS SECTION,
35 INCLUDING TEMPORARY ASSISTANCE FOR NEEDY FAMILIES, SUPPLEMENTAL NUTRITION
36 ASSISTANCE PROGRAM BENEFITS, CHILD SUPPORT, WOMEN, INFANT AND CHILDREN
37 PROGRAM BENEFITS AND NURSE-FAMILY PARTNERSHIP PROGRAM BENEFITS, SHALL
38 COOPERATE WITH THE DEPARTMENT OF ECONOMIC SECURITY AS THE DEPARTMENT
39 PROCESSES THE AWARD OF THE BENEFITS IN ACCORDANCE WITH SUBSECTION A OF
40 THIS SECTION. THE DEPARTMENT OF ECONOMIC SECURITY SHALL PROCESS ANY
41 CLAIMS FOR BENEFITS PURSUANT TO THIS SECTION IN A TIMELY MANNER.

1 F. IN ADDITION TO THE BENEFITS A WOMAN IS ENTITLED TO RECEIVE
2 PURSUANT TO SUBSECTION A OF THIS SECTION:

3 1. NOTWITHSTANDING ANY OTHER LAW, IF THE WOMAN DIES AS A RESULT OF
4 THE PREGNANCY OR CHILD BIRTH, THE ESTATE OF THE WOMAN MAY PURSUE A CIVIL
5 ACTION AGAINST THIS STATE FOR COMPENSABLE AND PUNITIVE DAMAGES.

6 2. NOTWITHSTANDING ANY OTHER LAW, IF THE WOMAN SUFFERS A
7 MISCARRIAGE AS A RESULT OF THE PREGNANCY, THE WOMAN MAY PURSUE A CIVIL
8 ACTION AGAINST THIS STATE FOR COMPENSABLE AND PUNITIVE DAMAGES.

9 3. IN THE CASE OF AN UNMARRIED WOMAN, IF THE BIOLOGICAL FATHER IS
10 KNOWN, BY ADMISSION OR DETERMINATION OF PATERNITY THROUGH DNA TESTING AT
11 ANY TIME DURING THE PREGNANCY OR AFTER BIRTH, CHILD SUPPORT MUST BE PAID
12 BY THE BIOLOGICAL FATHER TO THE WOMAN AND IS RETROACTIVE TO THE EARLIER OF
13 THE DATE ON WHICH THE WOMAN BECAME AWARE OF THE PREGNANCY OR THE DATE ON
14 WHICH THE WOMAN COULD NO LONGER TERMINATE THE PREGNANCY PURSUANT TO
15 SECTION 1-219, CHAPTER 23 OF THIS TITLE OR THIS CHAPTER.

16 4. IN THE CASE OF AN UNMARRIED WOMAN, IF THE BIOLOGICAL FATHER
17 WILFULLY ACCRUES MORE THAN \$5,000 IN CHILD SUPPORT ARREARAGES, THE
18 BIOLOGICAL FATHER IS GUILTY OF A MISDEMEANOR AND, ON CONVICTION, SHALL BE
19 IMPRISONED FOR NOT MORE THAN THREE YEARS. THE COURT MAY SUSPEND ANY
20 PORTION OF THE PRISON SENTENCE IF THE FATHER CONSENTS TO A VOLUNTARY
21 VASECTOMY AND TO PAYMENT OF RESTITUTION TO THE WOMAN IN THE AMOUNT OF THE
22 CHILD SUPPORT ARREARAGES OWED.

23 Sec. 2. Short title

24 This act may be cited as the "Arizona Pro Birth Accountability Act".