



# **FAMILY ISSUE FACT SHEET**

**No. 2016-03 (February 2016)**

## **SB 1474 – HUMAN FETUS; EMBRYO; PROHIBITED ACTIONS**

### **EXECUTIVE SUMMARY**

In the summer of 2015, America’s eyes were opened to the trafficking of aborted baby parts. Undercover videos were released that shocked the nation as Planned Parenthood executives were shown discussing harvesting aborted babies. Due to a loophole in federal law and previous litigation, it is currently legal to carry out those practices within Arizona. To ensure these horrific practices cannot occur here, SB 1474 prohibits using aborted babies or their body parts for research or experimentation. SB 1474 also prohibits the transfer or sale of aborted babies or their body parts for research or experimentation.

### **BACKGROUND**

In 1983 the Arizona legislature enacted A.R.S. § 36-2302 to prohibit experimenting on or conducting a scientific or medical investigation on an aborted fetus or embryo. An exception was included for “routine pathological examinations conducted by a medical examiner or hospital laboratory.”<sup>1</sup> Other than a minor amendment to this law the following year, this prohibition was the law in Arizona for over a decade.

In addition to Arizona’s prohibition, in 1993 U.S. Senator Ted Kennedy sponsored the National Institutes of Health Revitalization Act of 1993, which imposed criminal penalties for “acquiring, receiving, or otherwise transferring human fetal tissue for valuable consideration.” However, “valuable consideration” was defined as not including “reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.”<sup>2</sup> This exception created a federal loophole because it allows for the transfer and trafficking of human fetal tissue, including aborted fetal tissue, so long as payments are categorized under this exception.

In 1998 Planned Parenthood and a group of individuals (four people diagnosed with Parkinson’s disease, a board member of the Arizona Chapter of the American Parkinson’s Disease Association, and three doctors) challenged Arizona’s law in federal court. The Ninth Circuit Court of Appeals found A.R.S. § 36-2302 to be unconstitutional and in violation of the Due Process Clause of the Fourteenth Amendment. Specifically, “a criminal statute such as A.R.S. § 36-2302 that prohibits medical experimentation but provides no guidance as to where the state should draw the line between experiment and treatment gives doctors no constructive notice, and gives police, prosecutors, juries, and judges no standards to focus the statute’s reach. The dearth of notice and standards for enforcement arising from the ambiguity of the words ‘experimentation,’ ‘investigation,’ and ‘routine’ thus renders the statute unconstitutionally vague.” Due to this decision, Arizona’s prohibition on experimentation and research is permanently enjoined and unenforceable.<sup>3</sup>

## The Center for Medical Progress Videos

Last summer, the Center for Medical Progress and citizen journalist David Daleiden released a series of undercover videos exposing Planned Parenthood and the horrific practices that go on within their clinics. High level Planned Parenthood officials were filmed admitting to routinely peddling and trafficking the bodies and parts of babies aborted within their clinics.

Although Planned Parenthood has claimed they do not engage in these practices within Arizona, the reality is that because of the legal challenge against Arizona's law *that was led by Planned Parenthood* and due to the glaring loophole within the federal law, Arizona is in a position that is ripe for this to occur.

SB 1474 simply ensures that no experimentation or research may be done on aborted babies or their body parts, and also that no peddling or trafficking of aborted fetal remains may occur within Arizona. The bill includes an exception for pathological study and for diagnostic or remedial procedures seeking to determine the life or health of the human fetus or embryo or the mother.

## Impact on Research and Study

Supporters of harvesting and experimenting on aborted baby body parts claim that prohibiting those actions will cut off much-needed research and that previous research has produced "life-saving results." However, the track record of fetal tissue research hardly backs up those claims. As Dr. Michelle Cretella, President of the American College of Pediatricians, has noted: "Fetal tissue research, like embryonic stem cell research, has failed to produce a single successful treatment for human disease, and both have been associated with significant side-effects including overgrowth of cells and the need for immunosuppressive chemotherapy."<sup>4</sup>

In addition to the lack of results of fetal tissue research, there are also ethical concerns with using aborted fetal tissue for experimental studies. In 2001 for example, a controlled study to treat Parkinson's disease went terribly wrong. As reported by the New York Times, "implanting cells from aborted fetuses into patients' brains not only failed to show an overall benefit but also revealed a disastrous side effect. In about 15 percent of patients, the cells apparently grew too well, churning out so much of a chemical that controls movement that the patients writhed and jerked uncontrollably."<sup>5</sup> This horrible result caused researchers to advise additional patients to forgo implantation.

The reality is that fetal tissue presents no advantage to medical research, and raises grave ethical concerns. America has been exposed to the horrendous practices of trafficking in aborted baby body parts, and SB 1474 ensures Arizona will have no part of it.

## TALKING POINTS

- **Aborted babies should never be harvested and sold as commodities.** The Planned Parenthood videos pulled back the curtain for the entire country to see the trafficking of aborted baby body parts, and SB 1474 ensures Arizona has no part of it.
- **If Planned Parenthood claims they don't traffic in aborted baby body parts, then they should have no issues with this bill.** Planned Parenthood only has itself to blame for spearheading a lawsuit to overturn Arizona's previous law prohibiting these horrific practices.
- **Due to a major loophole in federal law and no state law in effect, Arizona must act to ensure the trafficking of aborted baby body parts cannot occur within our state.**

## CONCLUSION

The Center for Medical Progress undercover videos showed the entire country the previously unseen underbelly of America's largest abortion provider. The videos also highlighted a huge need for legislation to cut off these practices. SB 1474 ensures no trafficking, harvesting, or experimenting in aborted baby body parts can occur within Arizona.

---

<sup>1</sup> Ariz.Rev. Stat. § 36-2302.

<sup>2</sup> National Institutes of Health Revitalization Act of 1993, PL-103-43, June 10, 1993, 107 Stat 122.

<sup>3</sup> *Forbes v. Napolitano*, 236 F.3d 1009, 1013 (9th Cir. 2000).

<sup>4</sup> Susan Berry, *Doctors Refute Planned Parenthood's Defense it Uses Aborted Fetal Tissue for Scientific Progress*, Breitbart, July 21, 2015, [www.breitbart.com/big-government/2015/07/21/doctors-refute-planned-parenthoods-defense-it-uses-aborted-fetal-tissue-for-scientific-progress/](http://www.breitbart.com/big-government/2015/07/21/doctors-refute-planned-parenthoods-defense-it-uses-aborted-fetal-tissue-for-scientific-progress/).

<sup>5</sup> Gina Kolata, *Parkinson's Research is Set Back by Failure of Fetal Cell Implants*, NYTimes.com, March 8, 2001, available at [www.nytimes.com/2001/03/08/health/08PARK.html](http://www.nytimes.com/2001/03/08/health/08PARK.html).