



FAMILY ISSUE FACT SHEET

No. 2017-02 (Updated March 2017)

SB 1367 – ABORTION; LIVE DELIVERY; REPORT; DEFINITION

EXECUTIVE SUMMARY

Arizona law requires any physician performing an abortion to use all available means and medical skills to promote, preserve, and maintain the life of a baby who is delivered alive. Tragically, recent incidents reported in Arizona have demonstrated that this law is not adequate to protect babies delivered alive following an attempted abortion. SB 1367 strengthens the law by requiring the Department of Health Services to create rules concerning the minimum equipment standards and standards of care necessary to comply with the law. The bill also expands the abortion reporting requirements to include a statement from the physician and all staff in attendance at an abortion certifying that the infant was not delivered alive or detailing the care provided if the infant was delivered alive. Finally, the bill adds a definition of “delivered alive” to clarify that physicians performing an abortion must try to save a baby that is delivered breathing, moving, or with a heartbeat.

BACKGROUND

In May 2015, news outlets began reporting the story of Chalice Zeitner. Ms. Zeitner fraudulently obtained a second trimester abortion paid for by Arizona taxpayers through the AHCCCS program.¹ In the course of investigating the fraud, the FBI report revealed a chilling detail: the baby, delivered at 22 weeks gestational age, was born alive and breathing, yet received no medical intervention.² The baby was left without care for over an hour before she died.³

On the heels of that tragic story followed an equally troubling report after the release of 911 tapes in which an abortion clinic worker at Family Planning Associates in Phoenix stated that a baby delivered alive after an attempted abortion was breathing.⁴ “We can’t provide that care, except for oxygen, and we’re trying to keep the fetus stable until someone arrives,” the clinic worker said.⁵ The baby was pronounced dead by the time it arrived at the hospital.⁶

Current Arizona law requires that all available means and medical skills be used to promote, preserve, and maintain the life of a fetus or embryo delivered alive as the result of an attempted abortion. Ariz. Rev. Stat. § 36-2301. Federal law also protects infants born alive by including them in the definition of “person” for the purposes of federal law. 1 U.S.C. § 8. Yet these laws were inadequate to protect the lives of the babies delivered alive in these two stories that have been publicized in Arizona.

SB 1367 strengthens Arizona law to protect infants born alive from being mercilessly left for dead. First, the bill directs the Department of Health Services to add new rules for abortion clinics that establish minimum equipment standards for caring for infants delivered alive for facilities that perform abortions after twenty weeks gestational age. The rules will also identify

the appropriate standard of care to promote, preserve, and maintain the life of an infant delivered alive.

Second, the proposed Arizona bill enhances the reporting requirements by requiring the doctor and all staff present at an abortion to certify under penalty of perjury that the baby was not delivered alive. If the baby is delivered alive, the report must detail the efforts made to promote, preserve, and maintain the infant's life.

Finally, the bill adds a definition of "delivered alive" to close any loopholes that would leave babies delivered alive vulnerable to being left for dead. The definition states that any baby that is breathing, has a heartbeat, is moving its voluntary muscles, or has a pulsing umbilical cord is considered alive and all available means and medical skills must be used to save the child's life.

The bill also clarifies jurisdiction for the attorney general or the county attorney to enforce the law.

TALKING POINTS

- **It's no longer an abortion when the baby is delivered alive: it is a birth.** Doctors and nurses must be equipped to do everything they can to save that live baby.
- **It is inhumane to leave a premature baby without medical care while it takes its last breaths.** Abortion clinics must have the proper equipment and follow an appropriate standard of care to try to save the baby's life.
- **Roe v. Wade does not guarantee an abortion, and it surely does not allow for the killing of a live baby – even by neglect.** Once the baby is born alive, it has every legal right to life-saving measures, just the same as every baby born in this state.

CONCLUSION

SB 1367 provides desperately needed changes to ensure that any baby delivered alive following an attempted abortion in Arizona is not left for dead. The law already requires life-saving care to promote, preserve, and maintain the life of any baby delivered alive, and SB 1367 requires abortion clinics to have the appropriate equipment on hand to follow the law.

¹ See, e.g., Jon Erickson, *Charges: Chalice Zeitner made up cancer story to qualify for tax-funded abortion*, ABC15.COM, <http://www.abc15.com/news/region-phoenix-metro/central-phoenix/charges-woman-makes-up-cancer-story-to-qualify-for-tax-funded-abortion> (May 7, 2015) (last visited Jan. 27, 2017).

² Gary Grado, *FBI agent's description raises question about whether aborted baby was born alive*, ARIZ. CAPITOL TIMES (June 5, 2015), <http://azcapitoltimes.com/news/2015/06/05/fbi-agents-description-raises-question-about-whether-aborted-baby-was-born-alive/>.

³ *Id.*

⁴ *911 tapes; Aborted fetus was breathing*, 12NEWS.COM, <http://www.12news.com/mb/news/local/valley/911-tapes-aborted-fetus-was-breathing/208414143> (last visited Jan. 27, 2017).

⁵ *Id.*

⁶ *Id.*