



Arizona: A Strong and Consistent Force for Life

Despite the judicial decree of the United States Supreme Court that abortion is a constitutional right, state legislatures across the country have made great strides in recent years in protecting the health and safety of mothers and expressing profound respect for the lives of preborn children. Arizona has been a national leader for the pro-life cause, adding or updating over forty laws relating to abortion since 2009. Americans United for Life awarded Arizona the title “Most Pro-Life State in the Nation” for 2018 and 2019.¹ Arizona continues to rank in the top five states for promoting human life and is described as “a strong and consistent force” in protecting women and their preborn children.²

This success is the result of the dedicated efforts of Center for Arizona Policy, along with CAP’s steadfast allies and champion legislators. Arizona maintains sixty-two laws on the books relating to abortion (eight are not currently enforceable and thirteen are the subject of a current lawsuit).³ CAP has contributed to the enactment of forty-nine of these laws over its twenty-five year history. Because of these laws, women’s health and safety are being protected and women seeking abortion are being provided with basic information about risks and alternatives, raising abortion to the standard of care expected for every other medical procedure.

Arizona has seen a decline in the number of abortions over the last nine years since detailed reporting began, especially among teenagers.⁴ The overall number of abortions performed in Arizona dropped from 14,401 in 2011 to 13,097 in 2019 (1,304 fewer). For Arizona residents, the abortion rate (the number of abortions per 1,000 women) has also dropped from 10.7 to 9.4 in that same time frame, at a time when the population of women has risen dramatically. The number of abortions per 1,000 girls less than 15 years of age declined by an astonishing 266% from 2011 to 2019. The number per 1,000 girls ages 15-19 also declined by about 55% during the same time period. These encouraging numbers bear witness to the fact that women are now

receiving more adequate information and are more often choosing life over abortion for their preborn children.

Scholarly research over the past two decades, even among abortion advocates, supports the consensus that laws restricting public funding of abortion and requiring parental involvement decrease the number of abortions in the states where those laws are enforced.⁵ Though not as widely agreed upon, recent scholarship also makes a compelling case for the effectiveness of laws that provide women with adequate information and time to consider that information in reducing the overall number of abortions.⁶

It is not surprising that more women are choosing life for their preborn children when laws compel abortion providers to treat women with respect by giving them full and accurate information - instead of herding them through the abortion process at a hurried pace that benefits only the abortion providers' bottom line. Nationwide, more and more people are identifying themselves as pro-life, and the number of abortions in the United States has been on a steady decline for the past twenty years.⁷ Arizona is in line with these national trends of declining abortions and more favorable public opinion toward a pro-life viewpoint.

Arizona's abortion providers are scrambling to protect their business model, as Planned Parenthood claims in a current lawsuit that it provided 40% fewer abortions in 2019 than it did in 2011 and that it is providing abortions in fewer locations.⁸ Planned Parenthood is hoping that the courts will tilt the circumstances back in their favor by striking down Arizona's safety standards, which have merely brought abortion to the status quo for medical procedures. Abortion providers are bolstered in their effort to shortchange women by two damaging U.S. Supreme Court decisions in the last four years that have shown reckless disregard for women's safety.⁹

Arizona's pro-women, pro-safety laws have contributed toward the growing culture of life, but those gains are not assured, and there is still much work to be done. Even though the total number of abortions performed in Arizona has declined by about 9% since 2011, the number of live births to Arizona residents has declined, too, keeping the percent of all pregnancies ending in abortion relatively steady (around 13-14%). Promoting positive alternatives to abortion by supporting the work of pregnancy care centers and adoption agencies should remain a high priority, as this has proven effective in other states.¹⁰ By vigorously defending the state's abortion laws from legal and political attacks and continuing to pass reasonable measures to protect women and their preborn children, Arizona can look forward to a brighter future in which more and more women choose life.

¹ Center for Arizona Policy, Breaking News: Arizona Again Most Pro-Life State! (Jan. 10, 2019), <https://www.azpolicy.org/2019/01/10/breaking-news-arizona-again-most-pro-life-state/>.

² Americans United for Life, State Report Card: Arizona, *Defending Life 2020* (2020), <https://aul.org/wp-content/uploads/2020/01/Arizona.pdf>.

³ A chart listing each of these laws is included as Appendix A.

⁴ All statistics on abortion and pregnancy in Arizona in this paper are taken from the Arizona Department of Health's annual abortion reports, with the 2019 report being the most recent available. Ariz. Dep't of Health Services, *Abortion in Arizona: 2019 Report* (2020), available at

<https://www.azdhs.gov/documents/preparedness/public-health-statistics/abortions/2019-arizona-abortion-report.pdf>. Additional statistics on pregnancy and birth in Arizona were taken from the Department's various vital statistics reports, which can be accessed from <https://pub.azdhs.gov/health-stats/index.php>.

⁵ Stanley K. Henshaw et al., *Restrictions on Medicaid Funding for Abortions: A Literature Review* (2009), available at https://www.guttmacher.org/sites/default/files/report_pdf/medicaidlitreview.pdf; Marshall Medoff, *Price, Restrictions and Abortion Demand*, 28 J. of Fam. and Econ. Issues 583 (2007); Deborah Haas-Wilson, *The Impact of State Abortion Restrictions on Minors' Demand for Abortions*, 31 J. of Hum. Resources 140 (1996). Note that Arizona is included as prohibiting taxpayer funding of abortion in some studies and not in others due to the ambiguity of "medically necessary" abortions that must be paid for by AHCCCS (the state Medicaid program) pursuant to *Simat Corp. v. Ariz. Health Care Cost Containment System*, 56 P.3d 28 (Ariz. 2002). In practice, the number of abortions paid for through AHCCCS because of the court ruling has historically been very low (around 10-20).

⁶ Michael J. New, *Analyzing the Effect of Anti-Abortion U.S. State Legislation in the Post-Casey Era*, 11 St. Pol. and Pol'y Q. 28 (2011); Ted Joyce & Robert Kaestner, *The Impact of Mississippi's Mandatory Delay Law on the Timing of Abortion*, 32 Fam. Planning Persp. 4 (2000); but see Marshall H. Medoff & Christopher Dennis, *A Critical Reexamination of the Effect of Antiabortion Legislation in the Post-Casey Era*, 14 St. Pol. and Pol'y Q. 207 (2014).

⁷ Gallup, *Abortion* <https://news.gallup.com/poll/1576/abortion.aspx> (last visited Aug. 7, 2020); Tara C. Jatlaoui et al., *Abortion Surveillance – United States, 2016*, 68 Morbidity and Mortality Wkly. Rep. Surveillance Summary 1 (2019), available at <https://www.cdc.gov/mmwr/volumes/68/ss/ss6811a1.htm>.

⁸ Complaint at 19-20, *Planned Parenthood v. Brnovich*, No. CV-00207 (Apr. 11, 2019), available at <https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/planned-parenthood-arizona-v.-brnovich/planned-parenthood-arizona-v-brnovich---complaint.pdf>.

⁹ *Whole Woman's Health v. Hellerstedt*, 579 U.S. ___, 136 S.Ct. 2292 (2016) and *June Medical Services v. Russo*, 591 U.S. ___, No. 18-1323 (2020).

¹⁰ See, e.g., Texas Health and Human Services Commission, *Alternatives to Abortion*, <https://hhs.texas.gov/services/health/women-children/alternatives-abortion> (last visited Aug. 7, 2020); WallBuilders ProFamily Legislative Network, *The Texas Model: A National Leader in Building a Culture of Life* (2020) (describing how the Legislature's support for pregnancy resource centers has increased over 241% since 1988, resulting in a significant increase in the number of pro-life organizations helping pregnant women).

Appendix A: Arizona Laws Relating to Abortion (by order of statute section number)¹

Description	Ariz. Rev. Stat. §	Currently Enforceable?	CAP-Supported? (Date Enacted)
<i>The Department of Child Safety may not consent to abortions for children in the department's temporary or legal custody.</i>	8-514.05	Yes	No (2003)
<i>Excludes health care institutions, including abortion clinics, from legal privilege for internal audit documents.</i>	12-2328	Yes	Yes (2013)
<i>Prohibits abortion except to save the life of the mother.</i>	13-3603	No	No (originally from Territorial Law c. 1901)
<i>Prohibits partial-birth abortion.</i>	13-3603.01	Yes	Yes (1997/2009)
<i>Prohibits abortions for the purpose of race-selection or sex-selection.</i>	13-3603.02	Yes	Yes (2011)
<i>Prohibits soliciting an abortion.</i>	13-3604	No	No (originally from Territorial Law c. 1901)
<i>Prohibits advertising for abortion or contraception.</i>	13-3605	No	No (originally from Territorial Law c. 1901)
<i>Promotes childbirth and adoption over abortion in public schools.</i>	15-115	Yes	Yes (2012)
<i>Prohibits abortion at state university medical facilities.</i>	15-1630	Yes	No (1981)
<i>Prohibits insurance coverage of abortion in state health care exchange.</i>	20-121	Yes	Yes (2010/2015)
<i>Allows religious employers to purchase insurance coverage through a hospital or medical service corporation that does not cover abortion or contraception.</i>	20-826	Yes	Yes (2012)
<i>Allows religious employers to purchase insurance coverage through a health care service organization that does not cover abortion or contraception.</i>	20-1057.08	Yes	Yes (2012)
<i>Allows religious employers to purchase group disability coverage that does not cover abortion or contraception.</i>	20-1402	Yes	Yes (2012)
<i>Allows religious employers to purchase blanket disability coverage that does not cover abortion or contraception.</i>	20-1404	Yes	Yes (2012)

¹ Note that there are dozens of other pro-life laws that do not directly deal with abortion: laws limiting cloning and other destructive research on human embryos, laws protecting patients who cannot communicate their health decisions, laws including preborn children in the criminal statutes for manslaughter and murder, laws that indirectly support the work of pregnancy resource centers through tax credits, etc. In the interest of maintaining a specific focus on abortion, those laws are not included in this chart. For more information on these and other pro-life laws supported by Center for Arizona Policy, please visit azpolicy.org.

Description	Ariz. Rev. Stat. §	Currently Enforceable?	CAP-Supported? (Date Enacted)
<i>Allows religious employers to purchase health insurance coverage through an accountable health plan that does not cover abortion or contraception.</i>	20-2329	Yes	Yes (2012)
<i>Prohibits nurses from helping patients obtain a criminal abortion.</i>	32-1601	No	No (original statute enacted in 1952)
<i>Clarifies that authority of Board of Nursing does not include authorizing nurses to perform abortions.</i>	32-1606	Yes*	Yes (2011)
<i>Clarifies that the practice of pharmacy does not include prescribing medication abortions.</i>	32-1901	Yes	Yes (2016)
<i>Clarifies that surgical abortion is not within the scope of practice for physician assistants.</i>	32-2501	Yes*	Yes (2002)
<i>Clarifies that surgical abortion is not within the scope of practice for physician assistants.</i>	32-2531	Yes*	Yes (2010)
<i>Clarifies that physician assistants may not prescribe medication abortions.</i>	32-2532	Yes*	Yes (2011)
<i>Clarifies that volunteer service registration for health professionals is available only if the services are rendered at a free medical clinic that does not provide abortions.</i>	32-3217	Yes	Yes (2014)
<i>Repeals the multi-state medical licensure compact if it is used to undermine state abortion laws.</i>	32-3246	Yes	Yes (2016)
<i>Prohibiting public funding of abortion and abortion training.</i>	35-196.02	Yes (except abortions that are "medically necessary" because of AZ Supreme Court's decision in <i>Simat</i>)	No (original statute enacted in 1980) Yes as to some portions (2010/2011)
<i>Prioritizing family planning services funding to medical entities that do not perform abortions and prohibiting abortion providers from receiving contracts or federal grants for family planning through the state.</i>	35-196.05	No	Yes (2012)
<i>Directs the Department of Health Services to apply for family planning grants from the federal government so the money is not given to abortion clinics.</i>	36-145	Yes	Yes (2017)
<i>Permit to transport human remains not required for abortion clinics or hospitals if unborn child is under 20 weeks gestational age or 350 grams weight.</i>	36-326	Yes	Yes (2004)
<i>Requires a fetal death certificate for an abortion performed after 20 weeks gestational age.</i>	36-329	Yes	Yes (2004)
<i>Excludes abortion clinics from licensing exemptions for private medical offices.</i>	36-402	Yes	Yes (1999)

* Subject to pending lawsuit.

Description	Ariz. Rev. Stat. §	Currently Enforceable?	CAP-Supported? (Date Enacted)
<i>Excludes abortion clinics from entities that can begin operating before licensing inspection is completed.</i>	36-422	Yes	Yes (2010)
<i>Requires licensing of abortion clinics and establishes basic standards to maintain safety and health.</i>	36-449.01 36-449.02 36-449.03	Yes (as revised by lawsuit, some still under litigation)	Yes (1999/2000/2014/2015/2016/2017)
<i>Definitions relating to regulations on abortion.</i>	36-2151	Yes	Yes (2009)
<i>Requires notarized parental consent before an abortion is performed on a minor (allows judicial bypass only after consideration of certain factors to determine the minor's maturity).</i>	36-2152	Yes	Yes (1996/2000/2009)
<i>Requires that women seeking abortion are provided full information about fetal development, abortion risks, and alternatives and are given twenty-four hours to consider the decision before the procedure is performed or medication administered.</i>	36-2153	Yes* (portion relating to reversal of medication abortion has been struck down by court and rewritten)	Yes (2009/2012/2016)
<i>Protects providers' rights of conscience relating to abortion and contraception.</i>	36-2154	Yes	Yes as to some portions (2009)
<i>Prohibits non-doctors from performing surgical abortions.</i>	36-2155	Yes*	Yes (2009)
<i>Requires that women seeking abortion are given an opportunity to view an ultrasound and hear the heartbeat of the preborn child and are given twenty-four hours to consider the decision before the procedure is performed or medication administered.</i>	36-2156	Yes*	Yes (2011)
<i>Requires an affidavit that abortion is not being performed for race-selection or sex-selection.</i>	36-2157	Yes	Yes (2011)
<i>Requires that women seeking abortion because of a fetal condition be provided specific information about resources available for support and comfort and be given twenty-four hours to consider the decision before the procedure is performed or medication is administered.</i>	36-2158	Yes*	Yes (2012)
<i>Prohibits abortions if the gestational age of the preborn child is twenty weeks or more.</i>	36-2159	No	Yes (2012)
<i>Requires abortion providers to report each abortion performed along with non-identifying information including demographics, the reason for the abortion, and any complications to the Department of Health Services.</i>	36-2161	Yes*	Yes (2010/2018)

* Subject to pending lawsuit.

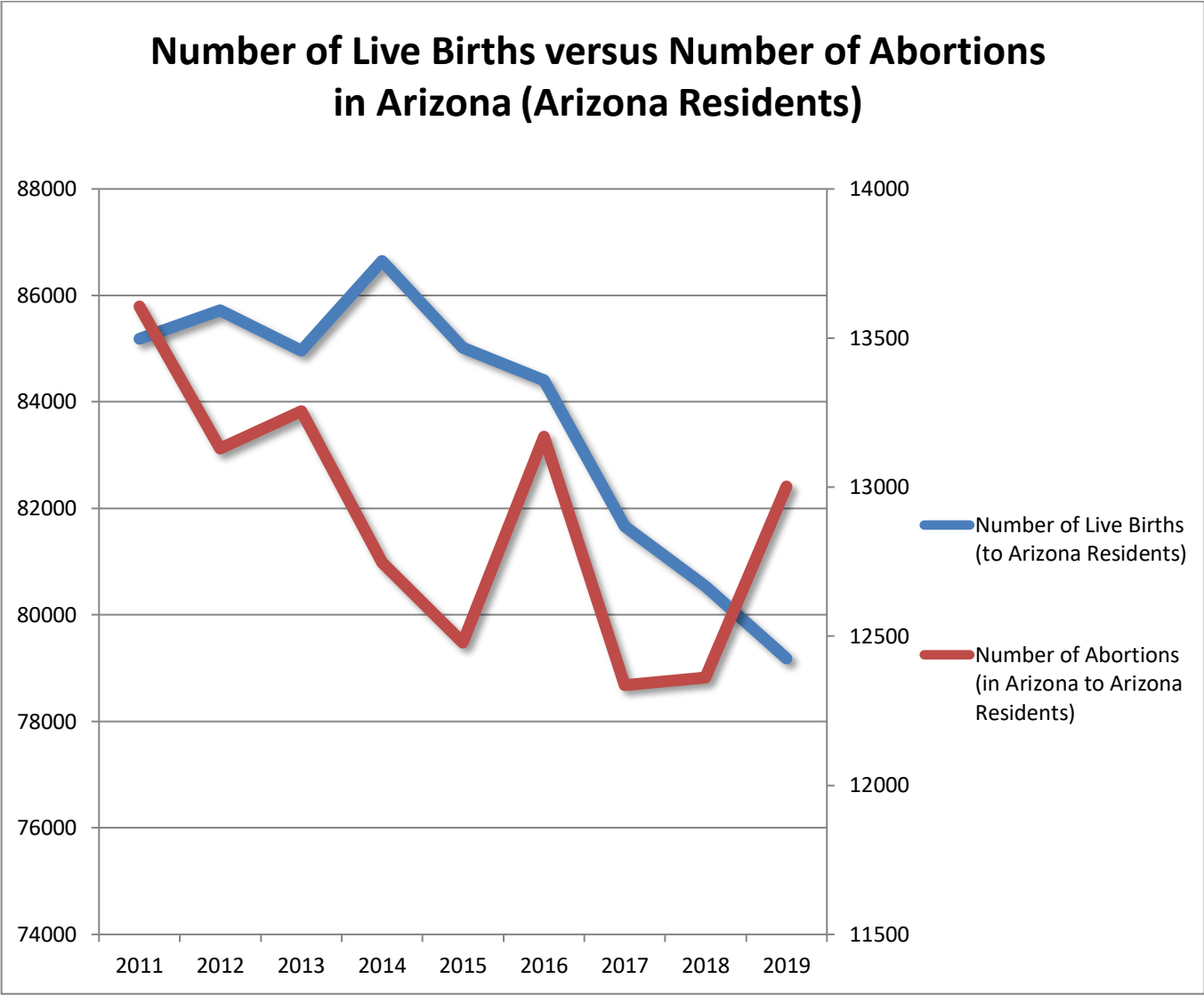
Description	Ariz. Rev. Stat. §	Currently Enforceable?	CAP-Supported? (Date Enacted)
<i>Requires any provider who treats a woman for complications following an abortion to file a report with the Department of Health Services.</i>	36-2162	Yes	Yes (2010/2018)
<i>Requires abortion providers to report the number of women who were provided with informed consent information, whether or not an abortion was ultimately performed.</i>	36-2162.01	Yes*	Yes (2018)
<i>Requires the Department of Health Services to create an annual statistical report on abortions, abortion complications, informed consent, judicial bypass of parental consent, and abortions paid for with taxpayer dollars.</i>	36-2163	Yes	Yes (2010/2018)
<i>Clarifies that reporting statutes do not create or recognize a right to abortion.</i>	36-2164	Yes	Yes (2010)
<i>Affirms that a physician performing an abortion has a duty to preserve and maintain the life of any infant delivered alive.</i>	36-2301	Yes*	No (original language added in 1975) Yes as to some portions (2017)
<i>Prohibits abortions after the point where the preborn child is viable, except to save the life or health of the mother.</i>	36-2301.01	Yes	No (original statute passed in 1984) Yes as to some portions (1999/2000)
<i>Requires that ultrasound be performed to estimate gestational age past twelve weeks (part of clinic regulations).</i>	36-2301.02	No. Sections B and C struck down, remainder modified by lawsuit settlement. Generally superseded by other ultrasound requirements.	Yes (1999/2000)
<i>Prohibiting experimentation and research on human body parts from aborted babies. Also prohibits selling or donating human body parts from aborted babies for experimentation.</i>	36-2302	Yes	Yes (2016)

* Subject to pending lawsuit.

Description	Ariz. Rev. Stat. §	Currently Enforceable?	CAP-Supported? (Date Enacted)
<i>Makes it a felony to violate the laws concerning babies delivered alive, babies aborted past the point of viability, and research on aborted babies and their parts.</i>	36-2303	Yes	No (1975)
<i>Providers through state Medicaid coverage (AHCCCS) may provide family planning services that do not include abortion, and providers who do not wish to provide family planning services are not required to do so.</i>	36-2907	Yes	No (1988)
<i>Tightens loopholes to prevent Medicaid providers, including abortion providers, from overcharging for prescription drugs.</i>	36-2930.03	Yes	Yes (2016)
<i>Allows the state Medicaid program (AHCCCS) to exclude providers who bill for procedures relating to an abortion, fail to separate funding for abortion services, or fail to report sexual abuse.</i>	36-2930.05	Yes	Yes (2016)
<i>Providers through state healthcare program for children (CHIP) may provide family planning services that do not include abortion, and providers who do not wish to provide family planning services are not required to do so.</i>	36-2989	Yes	No (2010)
<i>Prohibits the use of telemedicine for abortion.</i>	36-3604	Yes*	Yes (2011)
<i>Excludes abortion providers from donations through the state payroll deduction program.</i>	38-612	Yes	Yes (2016)
<i>Exempts rules relating to abortion clinics from statute allowing petitions for deregulation.</i>	41-1033	Yes	Yes (2018)
<i>Excludes donations to abortion providers from the charitable tax credit.</i>	43-1088	Yes	Yes (2011/2012)
<i>Ensures that programs implemented by the Department of Health Services to reduce pregnancies and births among unwed mothers do not increase the number of abortions.</i>	46-151	(outdated)	No (1997)
<i>Medical facilities constructed through a health service district may not provide or contract for abortion services.</i>	48-2212	Yes	No (1977)

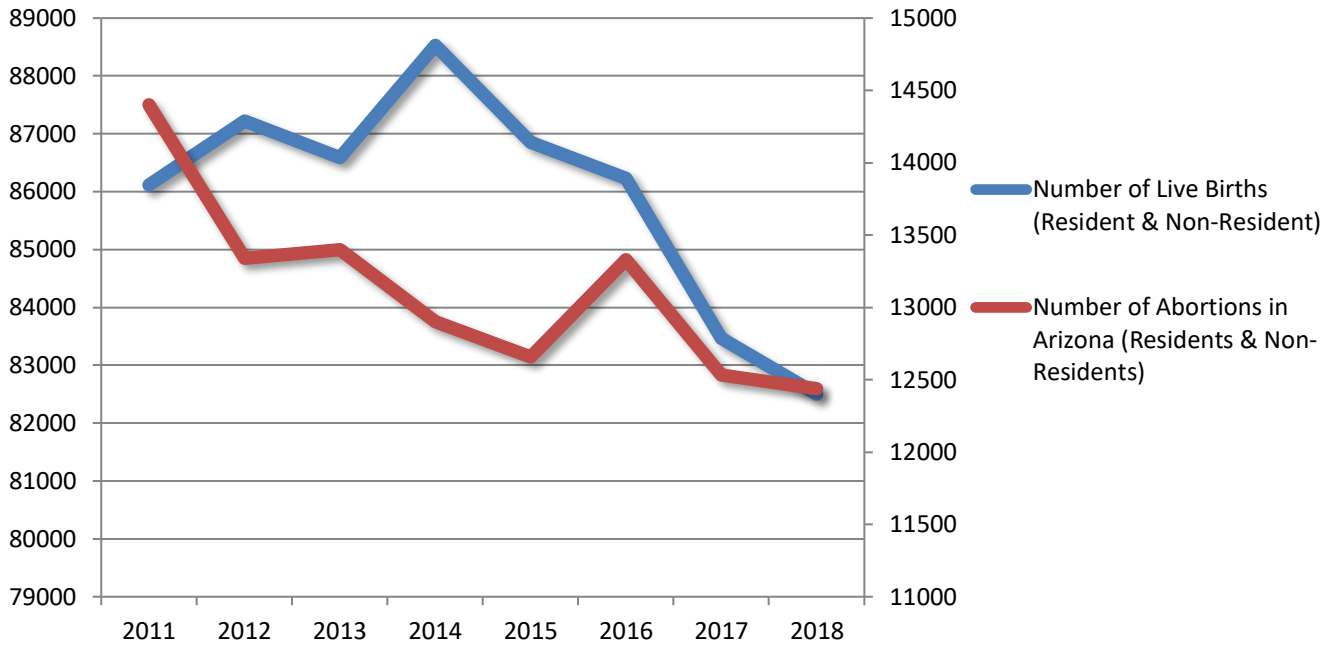
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Appendix B: Graphs of Arizona Abortion and Pregnancy Trends²

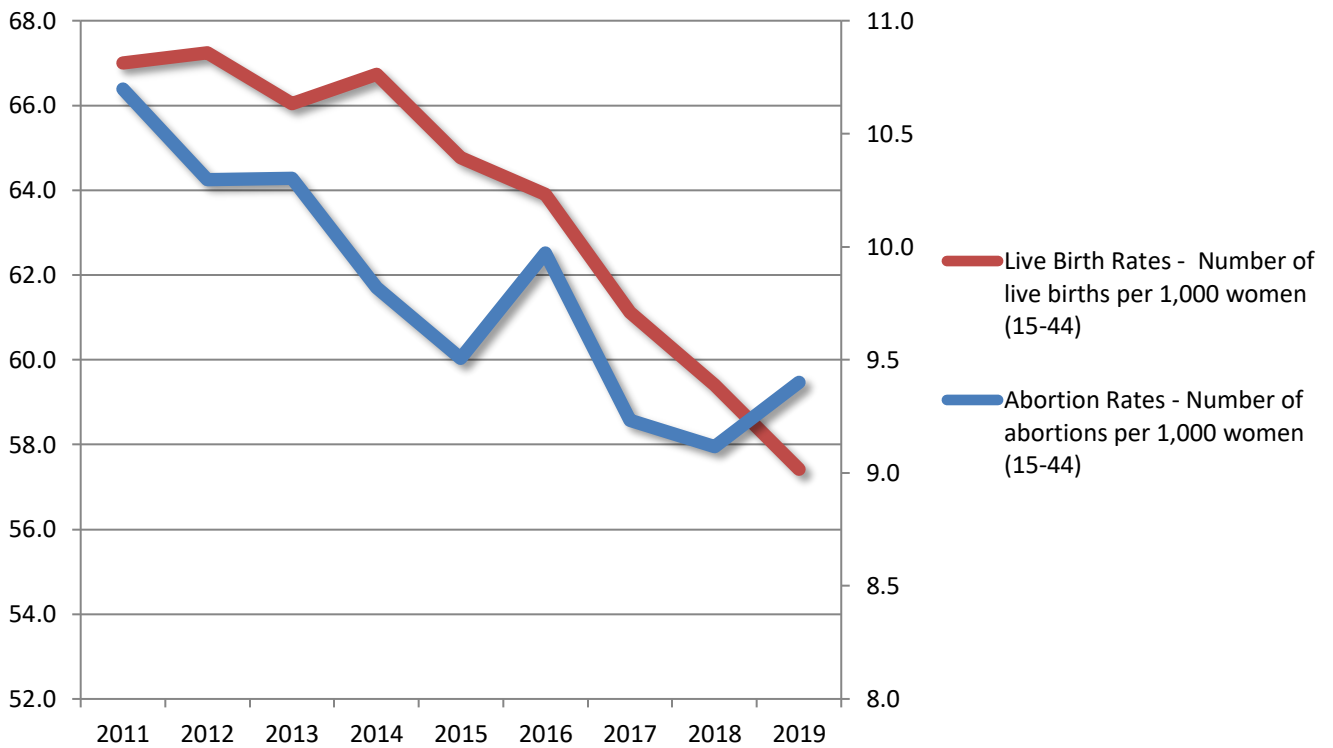


² Note: There are minor discrepancies in comparing live births to abortions due to differences in reporting. The Arizona resident numbers for live birth include births to residents that occurred outside of the state. No such number is reported for abortions performed outside of the state on Arizona residents. Additionally, 2019 data for live births to non-residents has not yet been released.

Number of Live Births versus Number of Abortions (Arizona Residents & Non-Residents)

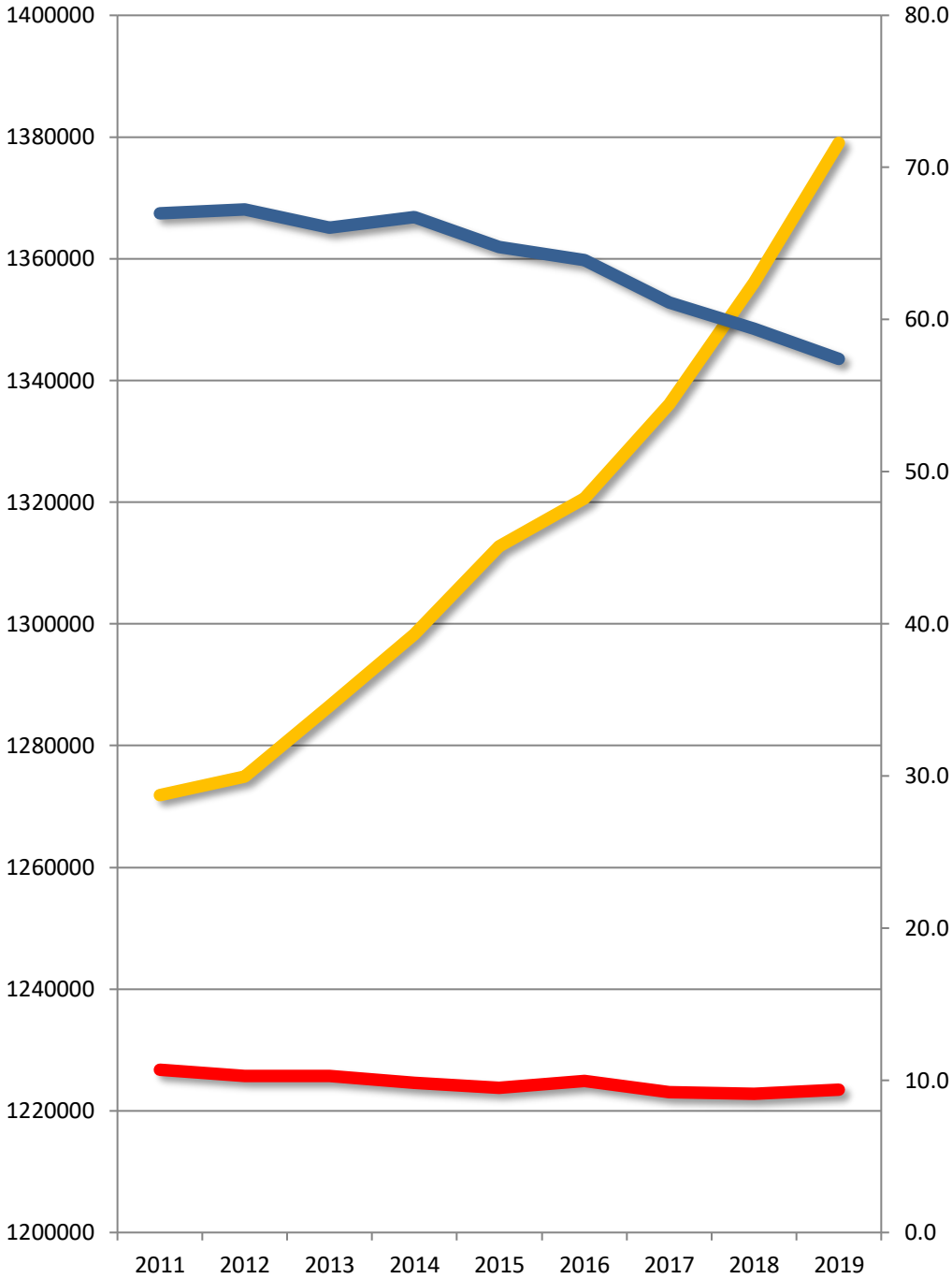


Rates: Live Births versus Abortions (per 1000 Arizona Resident Women, Ages 15-44)

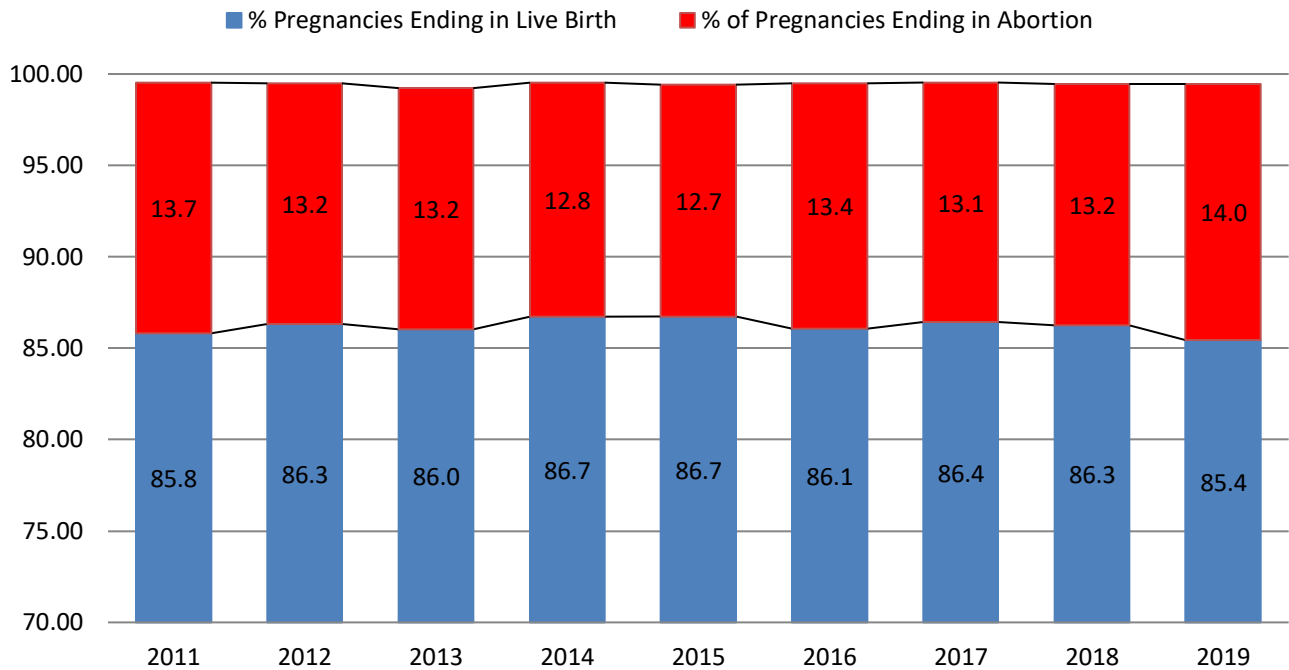


Population of Arizona Women (ages 15-44) versus Birth and Abortion Rates for Arizona Residents

- Number of Women (ages 15-44)
- Live Birth Rates - Number of live births per 1,000 women (15-44)
- Abortion Rates - Number of abortions per 1,000 women (15-44)



Change from 2011-2019 in Percent of Pregnancies Ending in Live Birth versus Ending in Abortion (Arizona Residents)



Percent Change Year-to-Year in Births and Abortions from 2011-2019 (Arizona Residents)

