

## Status of Abortion Law in Arizona

**Abortion has been illegal under Arizona law since statehood and up until January 22, 1973.**

This law states:

*A person who provides, supplies or administers to a pregnant woman, or procures such woman to take any medicine, drugs or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless it is necessary to save her life, shall be punished by imprisonment in the state prison for not less than two years nor more than five years (A.R.S. § 13-3603).*

Here, the term intent to procure miscarriage means abortion.

The year before the U.S. Supreme Court decided *Roe v. Wade*, an Arizona state court upheld the abortion law as constitutional. However, when the U.S. Supreme Court handed down the *Roe* opinion in 1973, that same state court stopped enforcement of the abortion law based on *Roe*.

**Thus, the day before the *Roe* decision, abortion was illegal in Arizona. The day after the *Roe* decision, abortion was legal.**

**Now that *Roe* is overturned, Arizona's pre-*Roe* abortion law should be the law of the state.**

Arizona's abortion law has never been repealed even after *Roe* made it unenforceable. Over time, some lawmakers have filed bills and amendments to repeal it, but the Arizona Legislature has chosen to keep it time and again. Just last year, the Legislature repealed a different pre-*Roe* law punishing a woman for getting an abortion but kept the pre-*Roe* law above that punishes the abortionists. The Legislature's intent is clear—to stop abortion while supporting both the pregnant woman and her child.

Arizona Attorney General Mark Brnovich has publicly stated that the pre-*Roe* abortion ban is good law in Arizona and enforceable. On July 13, 2022, Attorney General Brnovich [filed](#) to have the 50-year injunction on the abortion law from 1973 lifted.

On September 23, 2022, Pima County Superior Court Judge Kellie Johnson issued a 7-page ruling in which she ordered the 1973 injunction of the law to be lifted. The abortion industry appealed Judge Johnson's ruling. On October 7, 2022, a three-judge panel on the Arizona Court of Appeals, Division Two blocked enforcement of the pre-*Roe* law. On December 30, 2022, the court ruled the pre-*Roe* law does not apply to physicians, effectively eviscerating the law pending further appeal. The court held that the Arizona law limiting abortion after 15 weeks is the governing law, and thus physicians can perform elective abortions on unborn children through 14 weeks gestational age. Read the opinion [here](#).

Alliance Defending Freedom (ADF)—an intervenor in the case representing unborn infants—filed an appeal with the Arizona Supreme Court. On August 22, 2023, the Court granted their petition for review and heard oral argument on December 12, 2023.

**What about Arizona’s law limiting abortion after 15 weeks?** In 2022, the Arizona Legislature passed a bill, [SB 1164](#), prohibiting abortions after 15 weeks gestational age. It passed the law just in case the Supreme Court placed the abortion prohibition line at 15 weeks instead of overturning *Roe*. The 15-week law specifically and clearly states it does not repeal the pre-*Roe* abortion ban on abortion.

**On April 9, 2024**, the Arizona Supreme Court upheld the pre-*Roe* law on statutory interpretation grounds by a 4-2 vote. Justices John R. Lopez IV, Clint Bolick, James P. Beene, and Kathryn H. King formed the majority, with Lopez authoring the majority opinion. Vice Chief Justice Ann A. Scott Timmer wrote a dissenting opinion, joined by Chief Justice Robert M. Brutinel.

The Court stayed enforcement for 14 days to give proponents time assert a constitutional challenge to the pre-*Roe* law and seek a new injunction. Another case in Maricopa County Superior Court stays enforcement for 45 days.

Weeks later, the Arizona legislature voted by narrow margins to repeal the pre-*Roe* law and Governor Hobbs signed the repeal although it will not go into effect for 90 days from the end the legislative session. However, additional orders from the Arizona Supreme Court stayed enforcement of the pre-*Roe* law yet again meaning that the 15-weeks ban is the abortion law of Arizona.