

REFERENCE TITLE: reproductive procedures; consent; violation; liability

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1055

Introduced by
Senator Steele

AN ACT

AMENDING TITLE 12, CHAPTER 5.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 12-574; AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED
STATUTES, BY ADDING SECTION 13-3731; RELATING TO REPRODUCTIVE PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 5.1, article 1, Arizona Revised
3 Statutes, is amended by adding section 12-574, to read:

4 12-574. Civil liability; reproductive procedures; definitions

5 A. THE FOLLOWING PERSONS MAY BRING A CIVIL ACTION AGAINST A HEALTH
6 CARE PROVIDER WHO, IN THE COURSE OF PERFORMING OR ASSISTING AN ASSISTED
7 REPRODUCTION PROCEDURE ON A PATIENT, KNOWINGLY USES GAMETES FROM A DONOR
8 AND THE PATIENT DID NOT EXPRESSLY CONSENT TO THE USE OF THAT DONOR'S
9 GAMETES:

10 1. A PATIENT WHO GIVES BIRTH TO A CHILD AFTER BEING TREATED THROUGH
11 ASSISTED REPRODUCTION BY THE HEALTH CARE PROVIDER.

12 2. A SPOUSE OR PARTNER OF A PATIENT DESCRIBED IN PARAGRAPH 1 OF
13 THIS SUBSECTION.

14 3. A SURVIVING SPOUSE OR PARTNER OF A PATIENT DESCRIBED IN
15 PARAGRAPH 1 OF THIS SUBSECTION.

16 4. A CHILD BORN AS A RESULT OF THE ACTIONS OF THE HEALTH CARE
17 PROVIDER.

18 B. A PLAINTIFF WHO PREVAILS IN AN ACTION PURSUANT TO THIS SECTION
19 IS ENTITLED TO REASONABLE ATTORNEY FEES AND EITHER:

20 1. ALL DAMAGES REASONABLY NECESSARY TO COMPENSATE THE PLAINTIFF FOR
21 ANY INJURIES SUFFERED AS A RESULT OF THE HEALTH CARE PROVIDER'S ACTIONS,
22 INCLUDING EMOTIONAL OR MENTAL DISTRESS.

23 2. LIQUIDATED DAMAGES OF \$50,000.

24 C. A PERSON WHO BRINGS AN ACTION PURSUANT TO THIS SECTION HAS A
25 SEPARATE CAUSE OF ACTION FOR EACH CHILD BORN AS A RESULT OF THE ASSISTED
26 REPRODUCTION PROCEDURE.

27 D. THIS SECTION DOES NOT PROHIBIT A PERSON FROM PURSUING ANY OTHER
28 REMEDY PROVIDED BY LAW.

29 E. FOR THE PURPOSES OF THIS SECTION:

30 1. "ASSISTED REPRODUCTION":

31 (a) MEANS A METHOD OF CAUSING PREGNANCY THROUGH MEANS OTHER THAN BY
32 SEXUAL INTERCOURSE.

33 (b) INCLUDES ALL OF THE FOLLOWING:

34 (i) INTRAUTERINE OR INTRACERVICAL INSEMINATION.

35 (ii) DONATION OF EGGS OR SPERM.

36 (iii) DONATION OF EMBRYOS.

37 (iv) IN VITRO FERTILIZATION AND EMBRYO TRANSFER.

38 (v) INTRACYTOPLASMIC SPERM INJECTION.

39 2. "DONOR" MEANS AN INDIVIDUAL WHO EXPRESSLY PROVIDES CONSENT TO
40 PROVIDE DONATED EGGS, SPERM OR EMBRYOS FOR A PATIENT FOR ASSISTED
41 REPRODUCTION.

42 3. "GAMETES":

43 (a) MEANS ONE OR MORE CELLS THAT CONTAIN A HAPLOID COMPLEMENT OF
44 DEOXYRIBONUCLEIC ACID AND THAT HAVE THE POTENTIAL TO FORM AN EMBRYO WHEN
45 COMBINED WITH ANOTHER GAMETE.

1 (b) INCLUDES SPERM AND EGGS.

2 (c) MAY CONSIST OF NUCLEAR DEOXYRIBONUCLEIC ACID FROM ONE HUMAN
3 BEING COMBINED WITH THE CYTOPLASM, INCLUDING CYTOPLASMIC DEOXYRIBONUCLEIC
4 ACID, OF ANOTHER HUMAN BEING.

5 4. "HEALTH CARE PROVIDER" MEANS ANY INDIVIDUAL WHO IS AUTHORIZED TO
6 PRACTICE SOME COMPONENT OF THE HEALING ARTS AND WHO IS LICENSED, CERTIFIED
7 OR REGISTERED PURSUANT TO TITLE 32.

8 Sec. 2. Title 13, chapter 37, Arizona Revised Statutes, is amended
9 by adding section 13-3731, to read:

10 13-3731. Misuse of gametes; classification; definitions

11 A. A HEALTH CARE PROVIDER COMMITS MISUSE OF GAMETES IF THE HEALTH
12 CARE PROVIDER KNOWINGLY TREATS OR ASSISTS IN THE TREATMENT OF A PATIENT
13 THROUGH ASSISTED REPRODUCTION BY USING GAMETES FROM A DONOR AND THE
14 PATIENT DID NOT EXPRESSLY CONSENT TO THE USE OF THAT DONOR'S GAMETES.

15 B. MISUSE OF GAMETES IS A CLASS 6 FELONY.

16 C. FOR THE PURPOSES OF THIS SECTION:

17 1. "ASSISTED REPRODUCTION":

18 (a) MEANS A METHOD OF CAUSING PREGNANCY THROUGH MEANS OTHER THAN BY
19 SEXUAL INTERCOURSE.

20 (b) INCLUDES ALL OF THE FOLLOWING:

21 (i) INTRAUTERINE OR INTRACERVICAL INSEMINATION.

22 (ii) DONATION OF EGGS OR SPERM.

23 (iii) DONATION OF EMBRYOS.

24 (iv) IN VITRO FERTILIZATION AND EMBRYO TRANSFER.

25 (v) INTRACYTOPLASMIC SPERM INJECTION.

26 2. "DONOR" MEANS AN INDIVIDUAL WHO EXPRESSLY PROVIDES CONSENT TO
27 PROVIDE DONATED EGGS, SPERM OR EMBRYOS FOR A PATIENT FOR ASSISTED
28 REPRODUCTION.

29 3. "GAMETES":

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31 DEOXYRIBONUCLEIC ACID AND THAT HAVE THE POTENTIAL TO FORM AN EMBRYO WHEN
32 COMBINED WITH ANOTHER GAMETE.

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35 BEING COMBINED WITH THE CYTOPLASM, INCLUDING CYTOPLASMIC DEOXYRIBONUCLEIC
36 ACID, OF ANOTHER HUMAN BEING.

37 4. "HEALTH CARE PROVIDER" MEANS ANY INDIVIDUAL WHO IS AUTHORIZED TO
38 PRACTICE SOME COMPONENT OF THE HEALING ARTS AND WHO IS LICENSED, CERTIFIED
39 OR REGISTERED PURSUANT TO TITLE 32.