



# **2024 ARIZONA GENERAL ELECTION PASSED BALLOT MEASURES**

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# TABLE OF CONTENTS

- Prop 311 – “Back the Blue Act”
- Prop 312 – relating to property tax
- Prop 313 – relating to child sex trafficking
- Prop 314 – “Secure the Border Act”
- Prop 139 – “Arizona Abortion Access Act”

# PROP 311 — death benefit; assault; first responders “BACK THE BLUE ACT”

- Requires the state to pay \$250,000 to the surviving spouse or children of a first responder killed in the line of duty. Establishes state supplemental benefit fund, which shall continuously be appropriated through a penalty fee on every criminal conviction. Increases punishments for aggravated assaults against first responders.

[SCR1006](#)



# PROP 311 — EFFECT

The passing of this ballot measure has the effect of:

- requiring the State of Arizona to pay \$250,000 which would be referred as the State Death Benefit, to the surviving spouse or children of a *first responder* killed in the line of duty;
- creating a State Supplemental Benefit Fund to pay the State Death Benefit;
- increasing criminal punishments for aggravated assaults against peace officers and other first responders;
- and require a \$20 penalty fee be imposed on every criminal conviction to fund the State Supplemental Benefit Fund.

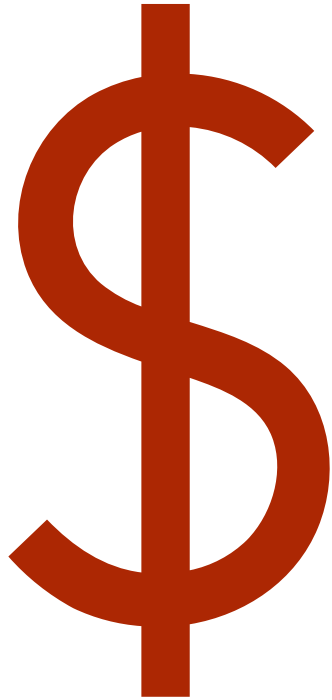
The State Death Benefit, \$20 penalty fee, and increased criminal punishments for aggravated assaults will be repealed on January 1, 2033.

**\*\*The \$20 penalty fee has a delayed effective date of July 1, 2025.\*\***

# FIRST RESPONDER DEFINITION

“First Responder” means:

- a) A peace officer
- b) A firefighter, a fire marshal, a fire inspector, an emergency medical care technician or a paramedic who is engaged in the execution of any official duties.
- c) A tribal police officer



# NEW PENALTY FEE

## A.R.S. § 12-116.12

- A.** Beginning from and after June 30, 2025, in addition to any other penalty, fine, fee, surcharge or assessment authorized by law, a person shall pay a penalty fee of \$20 on every conviction for a criminal offense.
- B.** The court shall transmit the penalty fee collected pursuant to this section to the county treasurer, except that municipal courts shall transmit the penalty fee to the city or town treasurer.
- C.** The city, town or county treasurer shall transmit the penalty fees to the state treasurer. The state treasurer shall deposit the penalty fees, pursuant to sections 35-146 and 35-147, in the state supplemental benefit fund established by section 38-1173.
- D.** The court may not waive or mitigate the penalty fee.

# AGGRAVATED ASSAULT — A.R.S. § 13-1204

- Several amendments have been made to the statute for aggravated assault charges:
  - any reference to peace officer or officer will be modified to **first responder**.
  - Aggravated assault pursuant to A.R.S. § 13-1204(A)(8)(a) will be a Class 4 Felony (from a Class 5 Felony) unless the assault results in any physical injury to the first responder, in which case it is a Class 3 Felony (from a Class 4 Felony).
  - these statute amendments are effective **until January 1, 2033**, at which point the statute prior to the ballot measure will go back into effect.

# AUTOMATION UPDATES

- New Cost Type

| <b>TYPE CODE</b> | <b>DESCRIPTION</b>                 | <b>EFFECTIVE DATE</b> | <b>END DATE</b> |
|------------------|------------------------------------|-----------------------|-----------------|
| 20SDB            | \$20 FIRST RESPONDER DEATH BENEFIT | 7/1/2025              | 12/31/2032      |

- New General Ledger Account and Cost Type General Ledger Account:

| <b>ACCOUNT NAME</b>                   | <b>COST TYPE</b>                   | <b>ALLOCATION</b> |
|---------------------------------------|------------------------------------|-------------------|
| ZSSBF State Supplemental Benefit Fund | \$20 FIRST RESPONDER DEATH BENEFIT | 100% to the State |

**New Cost Type will be tied to all Criminal Fee Schedules starting 7/1/2025**

**Courts may need to update their internal documentation for fee structures for all criminal convictions (i.e. bond cards, fee schedules, etc.)**

**GJ - Update to Financial Judgment and Order form to include new \$20 assessment**

## **OTHER UPDATES**

# PROP 312 – property tax; refund; nuisance enforcement

- Property owners may apply for a tax refund for expenses incurred due to a governing authority's failure to enforce certain public nuisance laws on or near the owner's real property. The refund may not exceed the amount the property owner paid for the prior tax year in primary property taxes.

[HCR2023](#)



# PROP 312 — EFFECT

- The passing of this ballot measure has the effect of establishing the right to apply for a refund from a property owner's most recent property tax payment up to an amount that matches costs incurred by the property owner to mitigate the effects of a governing authority's repeated failure to enforce laws and ordinances prohibiting illegal camping, loitering, obstructing public thoroughfares, panhandling, public urination or defecation, public consumption of alcoholic beverages, and possession or use of illegal substances.
- If the documented costs exceed the amount of the most recent property tax bill, the property owner would be permitted to apply for a refund from their next property tax payment(s) to cover the balance of the initial claim. Property owners would be eligible annually for refunds until the taxing entity begins enforcing the relevant public nuisance laws.

# **NEW STATUTE — A.R.S. § 42-17451**

Beginning in tax year 2025 through tax year 2035, a property owner may apply for a refund once per tax year.

The amount of the refund is equal to the documented expenses incurred by the property owner that were reasonably necessary to mitigate the effects of the policy, pattern or practice or the public nuisance on the property owner's real property.

If the policy, pattern, practice or public nuisance remains in place after the property owner applies for a refund pursuant to section 42-17451, the property owner is entitled to another refund under this section in a subsequent tax year, unless the affected city, town, or county ends the policy, pattern or practice or abates the public nuisance.



# COURT INVOLVEMENT

- If the city, town or county rejects the refund, the property owner may decide to bring a civil action against the city, town or county.
- The city, town or county bears the burden of demonstrating that its actions are lawful, or the amount of the refund is unreasonable, the property owner is not liable for attorney fees or costs, and a prevailing property owner shall be awarded reasonable attorney fees and costs.
- The action would be filed in the Superior Court like other causes of action that involve taxation and real property. Currently, under A.R.S. § 42-18201, the filing party has the option to bring the cause of action in the superior court of the county in which the real property is located. Causes of action brought under A.R.S. § 42-17451, would be treated similarly, and could be brought in any of the counties, depending on the location of the real property, and the filing party's choice of venue. A filing party could choose to file the action with the Arizona Tax Court, or the filing party could choose to file the action as a civil matter in the county in which the real property is located.

# CREATING A CASE

The screenshot shows a software interface for creating a case. At the top, there are 'OK' and 'Cancel' buttons. Below them is a 'Filing Date' field with the value '11/08/2024'. A section titled 'Case Type Information' contains several dropdown menus: 'Court Type' (CIVIL), 'Case Category' (CIVIL), 'Case Type' (REAL PROPERTY ISSUE), 'Case Sub Type' (empty), 'Filing Type' (COMPLAINT), and 'Commenced By' (PRO PER/SELF REPRESENTED L). Each dropdown menu has a red exclamation mark icon next to it, indicating a warning or error.

- Recommended case taxonomy for new cases filed in the Superior Court:
  - Court Type: **CIVIL**
  - Case Category: **CIVIL**
  - Case Type: **REAL PROPERTY ISSUE**
  - Filing Type: Select appropriate
  - Commenced By: Select appropriate



## PROP 313 – sex trafficking; child; natural life

- Requires that a person convicted of a class 2 felony for child sex trafficking be sentenced to imprisonment in the custody of the Department of Corrections for natural life without the possibility of release.

HCR1021

# PROP 313 - EFFECT

- Under former law, depending on the age of the victim, the nature of the offense and whether the person has previously been convicted of child sex trafficking or certain other felonies, a person who is convicted of a class 2 felony for child sex trafficking may serve a sentence that ranges from a minimum of seven years in prison to the remainder of the person's natural life without any form of release.
- This proposition requires a person who is convicted of a class 2 felony for any child sex trafficking offense to serve a prison sentence for the remainder of the person's natural life and make the person ineligible for any form of release.



# NEW STATUTE — A.R.S. § 13-720

Notwithstanding any other law, if a person is convicted of a class 2 felony for child sex trafficking pursuant to section 13-3212, the person shall be sentenced to imprisonment in the custody of the State Department of Corrections for natural life. A person who is sentenced to natural life is not eligible for any form of release.



Prop 314

## **PROP 314 — border; benefits; fentanyl; illegal entry “SECURE THE BORDER ACT”**

- **Makes it a crime for persons not lawfully present in the United States to submit false information in applications for public benefits and employment, and to enter Arizona outside ports of entry, or refuse to comply with orders to return. Criminalizes selling fentanyl that causes the death of a person.**

HCR2060

# PROP 314 - EFFECT

The passing of this ballot measure has the effect of creating new crimes regarding the following conduct by any person not lawfully present in the United States:

1. applying for a public benefit by submitting a false document (**NEW - A.R.S. § 1-503(A)**)
2. submitting false information to an employer regarding the person's authorization to work in the United States (**NEW - A.R.S. § 23-215(A)**);
3. entering Arizona from a foreign country at any location other than a lawful port of entry (**NEW - A.R.S. § 13-4295.01(A)**);\*
4. refusing to comply with a court order to return to the person's country of origin or entry (**NEW - A.R.S. § 13-4295.02(A)**).\*

Also creates a new crime of selling fentanyl that causes the death of another person (**NEW - A.R.S. § 13-3424**). Requires state courts to issue an order to return to a foreign country if a person is convicted of the illegal entry crime. The order to return must include an authorization allowing state and local law enforcement to transport the person to a port of entry or into federal custody.

\*These provisions do not become effective until Section 2 of Texas' SB-4 or any other similar state law has been in effect for a period of 60 consecutive days on or after the effective date of the measure.

# E-VERIFY PROVISIONS



- Classifies knowingly applying for a federal public benefit or a state or local public benefit by submitting a false document when not lawfully present in the United States as a class 6 felony.
- Requires state and local political subdivisions that administer public benefits to use the systematic alien verification for entitlements program maintained by the United States Citizenship and Immigration Services to verify the validity of the person's documents and eligibility for benefits.
- Creates the offense of *knowingly submitting false information or documents to an employer to evade detection of employment eligibility under the E-Verify program* if the person is not lawfully present in the United States, a class 1 misdemeanor. Repeat offenses are a class 6 felony. Offenses are not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served a term of incarceration as determined by the court.

# NEW STATUTE — A.R.S. § 1-503 — federal, state and local public benefits; false documents; violation; classification; definitions

- A. Notwithstanding any other state law and to the extent allowed by federal law, any natural person who is not lawfully present in the United States shall not *knowingly apply for a federal public benefit or a state or local public benefit by submitting a false document to any entity that administers the federal public benefit or the state or local public benefit.*
- B. Any natural person who violates subsection A of this section is guilty of a **class 6 felony**.
- C. For the purposes of this section:
  - 1. “Federal public benefit” has the same meaning prescribed in section 1-501.
  - 2. “State or local public benefit” has the same meaning prescribed in section 1-502.





## NEW STATUTE — A.R.S. § 23-215 — employment eligibility; e-verify program; false documents; violation; classification

- A. Any natural person who is not lawfully present in the United States shall not *knowingly submit false information or documents to an employer to evade detection of employment eligibility under the E-Verify program.*
- B. Any natural person who violates subsection A of this section is guilty of a **class 1 misdemeanor**, except that it is a **class 6 felony** if the person has been previously convicted of a violation of this section. The person is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served a term of incarceration as determined by the court.

# AUTOMATION UPDATES

- New Violation Codes:

| OFFENSE REF NUM | OFFENSE DESCRIPTION                                 | CLASS |
|-----------------|---|-------|
| 1-503A          | PUBLIC BENEFITS-FALSE DOCUMENT VIOLATION            | F6    |
| 23-215A         | EMPLOYMENT ELIGIBILITY FALSE DOCUMENTS- 1ST OFFENSE | M1    |
| 23-215A         | EMPLOYMENT ELIGIBILITY FALSE DOCUMENTS- 2ND OFFENSE | F6    |

# FENTANYL PROVISIONS



Creates a new offense for lethal sale of fentanyl. A person who is at least 18 years old who knowingly sells fentanyl, knows that the drug being sold contains fentanyl, and the fentanyl causes the death of another person is guilty of a **class 2 felony**. Contains an affirmative defense that the fentanyl and its precursor chemicals were either manufactured in the United States or were lawfully imported into the United States. Requires an additional 5 years on the presumptive, minimum and maximum sentences for the class 2 felony offense.



## NEW STATUTE - A.R.S. § 13-3424 — sale of lethal fentanyl; affirmative defense; classification

- A. A person who is at least eighteen years of age commits *sale of lethal fentanyl* if the person knowingly sells fentanyl in violation of A.R.S. § 13-3408(A)(7) and both of the following apply:
  - 1. The person knows that the drug being sold contains fentanyl.
  - 2. The fentanyl causes the death of another person.
- B. It is an affirmative defense to a charge brought under this section that the fentanyl and its precursor chemicals were either manufactured in the United States or were lawfully imported into the United States.
- C. Sale of lethal fentanyl is a **class 2 felony**, except that the presumptive, minimum and maximum sentences shall be increased by five years.

# AUTOMATION UPDATES

- New Violation Code:

| OFFENSE REF NUM | OFFENSE DESCRIPTION     | CLASS |
|-----------------|-------------------------|-------|
| 13-3424A        | SALE OF LETHAL FENTANYL | F2    |



Prop 314

## ILLEGAL ENTRY PROVISIONS

- Creates penalties for entering the state directly from a foreign nation other than a lawful port of entry. First time offenses are a class 1 misdemeanor, and a subsequent offense is a class 6 felony. Offenses are ineligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served a term of incarceration as determined by the court. Contains an affirmative defense for asylum seekers and others not violating federal immigration law. Restricts enforcement to prospective cases only.
- A person may not be arrested for an illegal entry violation without probable cause, established by any of the following: a law enforcement officer who witnesses the violation; a technological recording of the violation; or any other constitutionally sufficient indicia of probable cause.

! The provisions for illegal entry in Article 35 (A.R.S. §§ 13-4295 through 13-4295.06) do not become enforceable until Section 2 of Texas' SB-4 or any other similar state law has been in effect for a period of 60 consecutive days on or after the effective date of the measure.

11/25/2024



“Alien” means:

- A person who is not a citizen or national of the United States as described in 8 United States Code section 1101 – **any person not a citizen or national of the United States.**

“Port of entry” means:

- A port of entry in the United States as described in 19 Code of Federal Regulations section 101.1 – **any place designated by Executive Order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a U.S. Customs and Border Protection (CBP) officer is authorized to accept entries of merchandise to collect duties, and to enforce the various provisions of the customs and navigation laws. The terms “port” and “port of entry” incorporate the geographical area under the jurisdiction of a port director.**

# ILLEGAL ENTRY PROVISIONS (CONTINUED)

- Creates the offense of refusal to comply with an order to return to a foreign nation, a *class 4 felony*.
- Allows courts to dismiss the charge of illegal entry from a foreign nation and issue a written order ('discharge order') requiring the defendant to return to the defendant's foreign nation from which they entered the United States or to the person's nation of origin.
- The order may be issued if all of the following apply:
  - the person agrees to the order;
  - the person has not previously been convicted of an unlawful entry offense or obtained a discharge order for unlawful entry;
  - the person is not charged with another class 1 misdemeanor or any felony offense;
  - and before the issuance of the order, the arresting law enforcement agency collects all identifying information of the person, including fingerprints and other photographic and biometric measures, and cross-references the collected information with all relevant local, state and federal criminal databases that are used to identify a person as a threat to national security.

# ILLEGAL ENTRY PROVISIONS (CONTINUED)

- *Requires* the judge to enter an order that requires the person to return to the foreign nation from which the person entered the United States or to the person's nation of origin **upon conviction for illegal entry** ('conviction order'); the conviction order takes effect on completion of any term of incarceration or imprisonment.
- Discharge orders and conviction orders must include authorization that allows a state or local law enforcement agency to transport the person to a port of entry or to any other point of transfer into federal custody.
- Enforcement for the illegal entry provisions of the measure do not become effective until Section 2 of Texas' SB 4 or any other similar state law has been effect for a period of 60 consecutive days on or after the effective date of the measure.

# NEW STATUTE - A.R.S. § 13-4295.01 – illegal entry from foreign nation; affirmative defense; probable cause to arrest; prospective applicability; classification

- A. It is unlawful for a person who is an alien to *enter or attempt to enter this state directly from a foreign nation at any location other than a lawful port of entry.*
- B. It is an affirmative defense to a violation of subsection A of this section if either of the following applies:
  - 1. The federal government has granted the defendant lawful presence in the United States or asylum under 8 United States Code section 1158.
  - 2. The defendant's conduct does not constitute a violation of 8 United States Code section 1325(a).
- C. A person may not be arrested for a violation of this section without probable cause, which shall be established by any of the following:
  - 1. A law enforcement officer who witnesses the violation.
  - 2. A technological recording of the violation.
  - 3. Any other constitutionally sufficient indicia of probable cause.



## A.R.S. § 13-4295.01 (continued)



- D. This section may only be enforced prospectively. This section does not apply retroactively and shall not be construed to apply to the conduct of any person who entered this state unlawfully from a foreign nation at any time before this section becomes enforceable.
- E. An alien lacks lawful presence under this section if the alien was either:
  - 1. Paroled pursuant to a programmatic grant of parole, including under any parole program not created under notice-and-comment rulemaking that establishes specific characteristics under which an alien would be entitled to parole and that has been applied to more than one hundred aliens during one calendar year.
  - 2. Required to be detained under the Immigration and Nationality Act but was not detained and instead was paroled into the United States.
- F. A violation of this section is a **class 1 misdemeanor**, except that it is a **class 6 felony** if the person has been previously convicted of a violation of this section. The person is not eligible for probation, pardon, communication or suspension of sentence or release on any other basis until the person has served a term of incarceration as determined by the court.



## NEW STATUTE - A.R.S. § 13-4295.02 – refusal to comply with order to return to a foreign nation; classification

- A. A person who is an alien commits *refusal to comply with an order to return to a foreign nation* if all of the following occur:
1. The person is charged with or convicted of an offense under this article.
  2. A court, as applicable, issues an order pursuant to section 13-4295.03 for the person to return to the foreign nation from which the person entered or attempted to enter the United States or the person's nation of origin.
  3. The person refuses to comply with the order.
- B. A violation of this section is a **class 4 felony**.

# **NEW STATUTE - A.R.S. § 13-4295.03 — order to return to foreign nation; classification**

- A.** At any time before a person is convicted of or adjudicated for a violation of section 13-4925.01, a court may dismiss the charge pending against the person and issue a written order in accordance with subsection B of this section.
- B.** A written order authorized by subsection A of this section shall discharge the person and require the person to return to the foreign nation from which the person entered or attempted to enter the United States or the person's nation of origin and may be issued if all of the following apply:
  - 1.** The person agrees to the order.
  - 2.** The person has not previously been convicted of an offense under this article or previously obtained a discharge under an order issued pursuant to this section.
  - 3.** The person is not charged with another class 1 misdemeanor or any felony offense.

(continued on next slide)





## A.R.S. § 13-4295.03 — (continued)

4. Before the issuance of the order, the arresting law enforcement agency does both of the following:
  - a) Collects all identifying information of the person, which must include taking fingerprints from the person and using other applicable photographic and biometric measures to identify the person.
  - b) Cross-references the collected information with all relevant local, state and federal criminal databases and federal lists or classifications that are used to identify a person as a threat or potential threat to national security.
- C. On conviction of an offense under this article, the judge shall enter an order that requires the person to return to the foreign nation from which the person entered or attempted to enter the United States or the person's nation of origin. An order issued under this subsection takes effect on completion of any term of incarceration or imprisonment.
- D. An order that is issued under this section must include an authorization that allows a state or local law enforcement agency to transport the person to a port of entry or to any other point of transfer into federal custody.

# **NEW STATUTE - A.R.S. § 13-4295.04 – enforcement of article**

Notwithstanding any other law, this article may not be enforced in any manner until any part of section 2 of S.B. 4, 88<sup>th</sup> Leg., 4<sup>th</sup> Called Sess. (2023) that was enacted in the State of Texas, or any other law of any other state similar thereto, has been in effect for a period of sixty consecutive days at any time on or after the effective date of this article.





**NEW STATUTE - A.R.S. § 13-4295.05 —  
civil immunity for state and local public entities,  
officials, employees and contractors; other laws not  
affected**

- A.** A state or local government entity, official, employee or contractor is immune from liability for damages arising from a cause of action under the laws of this state resulting from an action taken by the state or local government entity, official, employee or contractor to enforce this article or an order issued pursuant to this article during the course and scope of the state or local government entity's official's, employee's, or contractor's office. Employment or performance for or on behalf of this state or the local government.
- B.** This section shall not affect a defense, immunity or jurisdictional bar available to this state or a local government or an official, employee or contractor of this state or a local government.

# **NEW STATUTE - A.R.S. § 13-4295.06 — incarceration authorization and agreements**

Notwithstanding any other law, if a county or local law enforcement agency does not have the capacity to hold a person who is arrested for or convicted of an offense included in this article, the Director of the State Department of Corrections shall accept arrested or convicted persons who are charged with or convicted of an offense included in this article at any facility in this state that has available capacity.



# AUTOMATION UPDATES

- New Event Entry:

| EVENT CODE | EVENT DESCRIPTION                 | EVENT CATEGORY | PARTY REQUIRED | ROA HIDDEN | IS RESTRICTED | IS SEALED |
|------------|-----------------------------------|----------------|----------------|------------|---------------|-----------|
| 4000066    | ORDER TO RETURN TO FOREIGN NATION | Order          | Y              | N          | N             | N         |

- New Violation Codes\*:

| OFFENSE REF NUM | OFFENSE DESCRIPTION                            | CLASS |
|-----------------|--|-------|
| 13-4295.01A     | ILLEGAL ENTRY FROM FOREIGN NATION-1ST OFFENSE  | M1    |
| 13-4295.01A     | ILLEGAL ENTRY FROM FOREIGN NATION-2ND OFFENSE  | F6    |
| 13-4295.02A     | FAIL TO COMPLY- ORDER RETURN TO FOREIGN NATION | F4    |

\*These violations will be not be enabled until Section 2 of Texas' SB-4 or any other similar state law has been in effect for a period of 60 consecutive days on or after the effective date of the measure.

# OTHER PROVISIONS



- Allows the president of the Senate, Speaker of the House, minority leader of the Senate or minority leader of the House to file a lawsuit to intervene in any action concerning this act to defend the constitutionality, validity, or enforceability of the act. Settlements for lawsuits challenging the act cannot be entered before a 21-day notice served to the parties permitted to intervene.
- Contains a severability clause.

# PROP 139 – THE FUNDAMENTAL RIGHT TO AN ABORTION

- Creates a fundamental right to abortion. Limits the state's ability to interfere with that right before fetal viability. After fetal viability, abortions are allowed when necessary to protect the life or health of the pregnant individual. Prohibits laws penalizing a person for assisting an individual obtaining an abortion.



# PROP 139 — EFFECT

- This act established a fundamental right to abortion that cannot be denied or restricted by state law.
- This prohibits the state from enacting, adopting, or enforcing any law, regulation, policy, or practice that restricts this right either
  1. before the point of pregnancy when a fetus becomes viable outside of the womb or
  2. after the point of viability, if a physician determines that the abortion would be necessary to protect the life or physical or mental health of the pregnant individual.
- The exception to this law would allow the state to enact any of the above if justified by a compelling reason that is achieved by the least restrictive means.

# PROP 139 — EFFECT (continued)

- This would subvert current state law that prohibits a physician from performing an abortion if the gestational age of the fetus is more than 15 weeks, unless the pregnant individual's medical condition necessitates an emergency abortion to avoid death, or irreversible damage to a major bodily function.
- Also prohibits laws that penalize a person for aiding or assisting an individual exercising their right to abortion.

Section Amended: Arizona Constitution Article II, adding Section 8.1; Relating to the Fundamental Right to an Abortion.