

13-3603.02. Abortion; sex and race selection; genetic abnormality; injunctive and civil relief; failure to report; definitions

A. Except in a medical emergency, a person who knowingly does any of the following is guilty of a class 6 felony:

1. Performs an abortion knowing that the abortion is sought based on the sex or race of the child or the race of a parent of that child.
2. Performs an abortion knowing that the abortion is sought solely because of a genetic abnormality of the child.

B. A person who knowingly does either of the following is guilty of a class 3 felony:

1. Uses force or the threat of force to intentionally injure or intimidate any person for the purpose of coercing a sex-selection or race-selection abortion or an abortion because of a genetic abnormality of the child.
2. Solicits or accepts monies to finance a sex-selection or race-selection abortion or an abortion because of a genetic abnormality of the child.

C. The attorney general or the county attorney may bring an action in superior court to enjoin the activity described in subsection A or B of this section.

D. The father of the unborn child who is married to the mother at the time she receives a sex-selection or race-selection abortion or an abortion because of a genetic abnormality of the child, or, if the mother has not attained eighteen years of age at the time of the abortion, a maternal grandparent of the unborn child, may bring a civil action on behalf of the unborn child to obtain appropriate relief with respect to a violation of subsection A or B of this section. The court may award reasonable attorney fees as part of the costs in an action brought pursuant to this subsection. For the purposes of this subsection, "appropriate relief" includes monetary damages for all injuries, whether psychological, physical or financial, including loss of companionship and support, resulting from the violation of subsection A or B of this section.

E. A physician, physician's assistant, nurse, counselor or other medical or mental health professional who knowingly does not report known violations of this section to appropriate law enforcement authorities shall be subject to a civil fine of not more than \$10,000.

F. A woman on whom a sex-selection or race-selection abortion or an abortion because of a child's genetic abnormality is performed is not subject to criminal prosecution or civil liability for any violation of this section or for a conspiracy to violate this section.

G. For the purposes of this section:

1. "Abortion" has the same meaning prescribed in section 36-2151.

2. "Genetic abnormality":

(a) Means the presence or presumed presence of an abnormal gene expression in an unborn child, including a chromosomal disorder or morphological malformation occurring as the result of abnormal gene expression.

(b) Does not include a lethal fetal condition. For the purposes of this subdivision, "lethal fetal condition" has the same meaning prescribed in section 36-2158.

3. "Medical emergency" has the same meaning prescribed in section 36-2151.