SUPREME COURT OF ARIZONA

PLANNED PARENTHOOD ARIZONA, INC., et al., Plaintiffs/Appellants, v. KRISTIN K. MAYES, Attorney General of the State of Arizona, et al., Defendants/Appellees, and ERIC HAZELRIGG, M.D., as guardian ad litem of all Arizona unborn infants, et al., Intervenors/Appellees.	Arizona Supreme Court No. CV-23-0005-PR Court of Appeals Division Two No. 2 CA-CV 22-0116 Pima County Superior Court No. C127867

THE ATTORNEY GENERAL'S RESPONSE TO AMICI CURIAE IN SUPPORT OF PETITIONERS

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes and Acts

Other Authorities

INTRODUCTION

Amici purport to describe the legislature's intent. But they cannot do so when they paper over most of the statutory text, disregard the legal presumptions about how the legislature conveys its meaning, and ignore how courts interpret the text to understand that meaning. To reach their desired outcome, amici offer strained answers to questions that the statutory language, precedent, and canons resolve far more simply. Amici have every right to their views. But their results-oriented reasoning has no basis in law and must be rejected.

ARGUMENT

I. Amici fail to interpret the legislature's meaning because they ignore what the legislature has said and what it has deliberately omitted.

Amici include two members of the majority that passed the 15-week law in S.B. 1164 (Speaker Toma and Senate President Petersen) and the Center for Arizona Policy ("CAP"), which "crafted the legislation."[1] It's notable, then, that they are largely silent about most of that law's text and the language that was deliberately excluded.

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[1] Howard Fischer, *Arizona Gov. Ducey: abortion illegal after 15 weeks*, KAWC (Apr. 24, 2022), https://www.kawc.org/news/2022-04-24/arizona-gov-ducey-abortion-illegal-after-15-weeks.

Textual conflict. Amici continue to deny any conflict between the old ban in A.R.S. § 13-3603 and the new 15-week law in § 36-2322. CAP Br. at 3, 12; Toma/Petersen Br. at 5. Although they decline to engage with the text, amici evidently do understand the import of the statutory exceptions that give rise to the conflict. To start, the legislative leaders say that "[n]o reasonable person could fail to grasp the meaning" of § 13-3603: anyone who provides "an abortion is subject to criminal prosecution, unless doing so was 'necessary to save the mother's life.'" Toma/Petersen Br. at 3. Agreed—the prohibition and meaning of the "unless" exception in the old ban are plain.

But amici ignore that the meaning of the exception in the 15-week law is just as plain: its gestational age and reporting requirements for doctors apply "[e]xcept in a medical emergency." A.R.S. § 36-2322(A), (B). If any "reasonable person" can understand the "unless" carveout in the old ban, then they can likewise understand the "medical emergency" carveout in the 15-week law, and that the new exception is facially broader than the older. *Compare* A.R.S. § 36-2151(9), *with* A.R.S. § 13-3603.[2]

[2] Even Petitioners now acknowledge that the "medical emergency" and "unless" clauses are "exceptions [that] will ***often***," but not always, "coincide." Suppl. Br. at 13-14 (emphasis added).

The "unless" and "if" clauses (provisos) in § 36-2322 work the same way and are just as straightforward. *See* A.R.S. § 36-2322(A) ("unless the physician … has first [determined] the probable gestational age…."), (B) ("if the probable gestational age … has been determined to be greater than fifteen weeks"). Whether considered together or in isolation, those clauses carve out as legal doctor-performed abortions up to 15 weeks.[3] *See* AG's Suppl. Br. at 2-5; AG's Resp. to Amici ISO Pet. for Review at 2-5.

None of this should invite the controversy amici raise. Exceptions and provisos are long-established textual "method[s] of limiting the application of an act." Arizona Legislature Bill Drafting Manual, § 6.29 at 100 (2021-2022); *see State v. Tucson Gas, Elec. Light & Power Co.*, 15 Ariz. 294, 298 (1914) (finding it "well known" that a proviso "except[s] the clause covered by it from the general provisions of a statute" (citation omitted)); *see also, e.g.*, *Green v. Super. Ct. in & for Cochise Cnty.*, 132 Ariz. 468, 471 (1982) (stating that "the court's authority … was expressly limited by the statutory proviso");

[3] The "except," "unless," and "if" clauses in § 13-3603 and § 36-2322 are functionally identical. Accordingly, prior briefing has sometimes referred to these clauses simply as exceptions. The technical distinction between exceptions and provisos remains irrelevant to the analysis and outcome here. *See generally* 82 C.J.S. Statutes § 487 (2023).

State v. Bayardi, 230 Ariz. 195, 201 ¶ 22 (App. 2012) (noting that "an exception to a criminal statute [can be] made by a proviso or distinct clause" (citations omitted)). Indeed, the "if" clause in § 36-2322(B) is structured just like the mundane example of a proviso in the Bill Drafting Manual: "The eligibility of a member of the board terminates ***if*** that member fails to maintain a current license…." *See* Manual § 6.29 at 100 (emphasis added).

Legal terms aside, the fundamental issue is that amici ignore the language's plain, common sense meaning. *See* AG's Suppl. Br. at 4-5 (discussing examples). As another example, suppose a teen's parents go out of town and leave a note: "You will be punished ***if*** you throw a party, or engage in any other activity, that damages the house." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 161 (2012) (emphasis added). As the *Reading Law* authors explain (discussing an unrelated punctuation issue), the grammatical takeaway from the parents' note is that "Nonharmful parties ***are*** allowed." *Id.* at 162 (emphasis added). In other words, this sort of "if" clause not only describes a conditional prohibition, it also identifies a permission.

When advocating for S.B. 1164, amicus CAP understood the 15-week law in precisely this way. CAP explained that "***before performing*** an

abortion" a physician must "first determine the probable gestational age," and a "physician ***may perform*** an abortion after 15 weeks in the case of an emergency."[4] Just like CAP did, anyone reading the 15-week law would understand as a matter of straightforward English that the law affirmatively deems certain abortions permissible: those up to 15 weeks when the gestational age is determined, and those in a medical emergency. Legal principles regarding exceptions and provisos put this reading—and the inevitable conflict with § 13-3603—beyond debate. But it's really not that complicated.

Amici are silent about all of this. Instead, they knock down straw men, repeating that no conflict exists because "Title 36 creates no right to abortion and does not limit § 13-3603." CAP Br. at 3, 12. The first point presents an irrelevant, false dichotomy. *See* AG's Resp. to Amici ISO Pet. for Review at 5-6. And the second point just assumes amici's bottom line conclusion. In sum, the text (and amici's own understanding of each law in isolation) flatly

[4] Fact Sheet, SB 1164 Abortion; Gestational Age: Limit, Center for Arizona Policy (Jan. 2022), https://www.azpolicy.org/wp-content/uploads/2022/01/f22_01_SB1164_15-week-ban_Final.pdf (emphasis added).

defeats their argument that the old ban can simply lay on top of, and thus quietly subsume, the 15-week law without conflict or further analysis.

No trigger law. Amici seem to believe that the 15-week law meant one thing under *Roe*, but as soon as *Dobbs* was issued—snap—the text meant something different and the conflict evaporated. *E.g.*, Toma/Petersen Br. at 1-2, 8-9. But the meaning of the words "except," "unless," and "if" does not change whenever the constitutional landscape shifts. To be sure, *Roe* limited how far the legislature could go to restrict abortion, and now the legislature can go farther. But that new leeway does not change what existing statutes say; it simply allows the legislature to say something different.[5]

Amici protest that the 15-week law and the rest of Title 36 were meant to be temporary measures until the old ban could supersede them. *E.g.*, Toma/Petersen Br. at 8-9. But that's pure speculation unless and until the legislature manifests such an intent into law. If the legislature's "underlying aspirations" were for the old ban to eventually supersede other laws, *id.* at 4, 8-9, then it needed to say so in statute (e.g., by enacting a trigger law for

[5] Importantly, *Roe* never prevented the legislature from anticipating that the constitutional backdrop might change and determining what the law should be if that occurred. Indeed, many states did so. *Infra* Section II.B.

A.R.S. § 13-3603) for such aspirations to have any legal effect. *Cf.* Scalia & Garner at 350 ("Effect cannot be given to an unenacted intention." (citation omitted)). The legislature's unwritten wishes are not law.

CAP similarly asserts (at 3, 12), without any support, that the goal of the 15-week law was "having multiple layers of protection," including for "§ 13-3603 to [prohibit] elective, physician-provided abortions if *Roe* fell." But if that were true, the legislature would not have omitted the provision (a so-called "superseding clause") from the model Mississippi law that would have done exactly that. That superseding clause would have preserved the 15-week law in all events, but it also would have served as a functional trigger law by providing that "[a]n abortion that complies with [the 15-week law], but violates any other state law," including the old ban once the injunction was lifted, "is unlawful." *See* Miss. Code. Ann. § 41-41-191(8).

Thus, even when "the legislature challenged *Roe*" with the 15-week law (Pet'rs' Suppl. Br. at 11), it did not revert to the old ban. For 50 years, there have been many easy ways for the legislature to codify the intentions that amici proffer. It never has. Amici's post-hoc statements now about the legislature's supposed desires are legally meaningless.

Construction provision. To sidestep the textual hurdles, amici misread the "Construction" provision that the 15-week law "does not … [r]epeal … section 13-3603 … or any other applicable state [abortion] law." S.B. 1164 § 2(2), 55th Leg. 2nd Reg. Sess. (Ariz. 2022). Amici argue there can be only one reason that the legislature preserved the old ban: so it would supersede other laws if *Roe* fell. CAP Br. at 12. But the fact that the legislature expressly preserved all abortion laws, thus putting them all on equal footing, belies that explanation. The legislature declined to enact a conditional repeal of the 15-week law if *Roe* were overturned. And it declined to specify in a superseding clause that § 13-3603 would govern wherever it applied. It's nonsensical to read the non-repeal provision in the 15-week law to mean that the 15-week law *itself* would be subsumed and effectively repealed by the old ban. But that is precisely what amici contend.

There's a better explanation that actually accords with the construction provision's text and lack of a trigger law. Section 13-3603 imposes a mandatory minimum sentence of 2 years, with a maximum term of 5 years. That's a significant penalty that meaningfully exceeds the penalties available under other abortion statutes, which range from a mitigated sentence of .33

years to an aggravated sentence of 2.5 years. *See* A.R.S. § 13-702(D) (felony ranges), § 13-707(A)(1) (misdemeanor).[6]

Thus, maintaining § 13-3603 preserves a catch-all ban on abortions that are not permitted by Title 36, and also preserves a stricter sentencing range for prosecutors to pursue.[7] That's reason enough for the legislature to want to be clear that it was not repealing § 13-3603, regardless of whether it ever makes the old ban supreme in the future. At the same time, some members may have wanted to keep the old ban on the books in case a future legislature could be persuaded to expressly make it the superseding law. Both are more rational explanations for the construction provision than the a-textual one amici offer: that the non-repeal provision effectively repealed laws it purported to preserve and now functions identically to a trigger provision or superseding clause that the legislature specifically omitted.

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[6] "Any physician" who violates the 15-week law commits a class 6 felony. A.R.S. § 36-2324(A). "Any person" who violates the viability law in § 36-2301.01 commits a class 5 felony. *Id.* § 36-2302. And any "person" who violates the 20-week law commits a class 1 misdemeanor. *Id.* § 36-2159(C).

[7] In fact, many violent crimes have shorter mandatory minimums. For instance, negligent homicide is a class four felony, with a minimum sentence of 1.5 years, 1 year mitigated. A.R.S. § 13-1102(C), § 13-702(D). And several aggravated assaults can be class 5 or 6 felonies, with presumptive sentences less than 2 years. *See id.* § 13-1204(E).

II. Amici ignore established rules about how the legislature expresses its intent and how courts interpret the text to understand that intent.

Statutory interpretation must be guided by the legal "presumptions about what an intelligently produced text conveys," Scalia & Garner at 51, including presumptions about how the legislature expresses its intent through the text, and how courts construe that text in light of the relationship between the legislature as policymaker and the courts as interpreter. Amici abandon these blackletter principles.

A. The legislature speaks clearly and intelligently.

Amici speculate, without authority, about what legislators "desired," "likely concluded," "probably thought," and "undoubtedly believed." CAP Br. at 5-7, 10. They jump through hoops to explain why the 15-week law, which omitted a trigger law or superseding clause, still somehow accomplishes what the legislature deliberately never said.[8]

Amici overcomplicate things. The "legislature is presumed to express its meaning in as clear a manner as possible." *Mendelsohn v. Super. Ct. in & for Maricopa Cnty.*, 76 Ariz. 163, 169 (1953). The legislature could have easily

[8] Interestingly, CAP's "Fact Sheet" about S.B. 1164 says nothing about the 15-week law ensuring a reversion to the old ban. *See supra* note 4.

achieved what amici seek, but it did not. This Court rightly refuses to "add a term to the statute that the legislature did not include," especially when, as here, the legislature "knows how to address [the issue] when it wishes to do so." *Wilks v. Manobiano*, 237 Ariz. 443, 447 ¶ 13 (2015); *see* AG's Suppl. Br. at 16-17 (citing Bill Drafting Manual and prior example of a conditional repeal and enactment in abortion context).

That amici rely on A.R.S. § 1-219—a statute that is preliminarily enjoined as intolerably vague under the U.S. Constitution, and that mentions neither § 13-3603 nor the 15-week law—underscores just how far they must strain to compensate for the lack of any trigger provision. *See* CAP Br. at 13-14. Their argument is confusing, too. Amici never explain precisely how the vague language of § 1-219 (even if it weren't enjoined) could nullify the exceptions and provisos in the 15-week law. Indeed, the 15-week law was passed *a year after* § 1-219. Obviously, the legislature saw no inconsistency between the two.

Further, although amici argue that § 1-219 should be applied to enact a massive shift in substantive law in Arizona, it "is not a substantive law; it is a rule of statutory construction." *Isaacson v. Brnovich*, 610 F. Supp. 3d 1243, 1251 (D. Ariz. 2022). And what that rule means, and "whether or how [it]

might be applied 'is anyone's guess,'" according to former Attorney General Brnovich; "the County Attorneys for each of Arizona's fifteen counties; the Arizona Medical Board and its executive director; and the Arizona Department of Health Services and its director." *Id.* at 1247 & n.2.

A federal court enjoined § 1-219 precisely because it might be used as amici deploy it here: to "drastically expand the scope of Arizona's criminal, civil, and regulatory provisions." *Id.* at 1252. But the legislature didn't bury a consequential change in the law in a vague statute any more than it buried that change in the 15-week law's non-repeal provision that says something quite different. *See City of Tucson v. Clear Channel Outdoor, Inc.*, 209 Ariz. 544, 550 ¶ 19 (2005) (stating the legislature "surely would have chosen a mechanism far more direct" had it intended a particular result).

B. The legislature is presumed to act with an awareness of similar state and model laws.

The legislature is presumed to be aware of related enactments in other states. *E.g.*, *Welch v. Cochise Cnty. Bd. of Supervisors*, 251 Ariz. 519, 529 ¶ 36 (2021) ("The legislature could have included [a certain] provision … as other states have done. But it did not. And it is not our role to add one." (citing state laws)). And when the legislature adopts some provisions of a model

law but not others, that "action 'evidences its rejection'" of the omitted provisions. *State v. Bowsher*, 225 Ariz. 586, 588 ¶ 10 (2010).

Relevant here, like Mississippi, other states have enacted superseding clauses to address any future conflict in their abortion laws. *See* Utah Code § 76-7a-301 (2020) ("If, at the time this chapter takes effect, any provision in the Utah Code conflicts with a provision of this chapter, the provision of this chapter supersedes the conflicting provision."); Tenn. Code Ann. § 39-15-213(f) (2019) ("While this section is in effect, this section supersedes [seven listed abortion statutes].").

The legislature also had plenty of examples of trigger laws.

- *E.g.*, La. Stat. Ann. § 40:1061(A)(1), (3) (2006 & 2022) ("[T]his Act shall become effective immediately upon … the occurrence of any of the following circumstances: (1) Any decision of the Supreme Court … which overrules … Roe v. Wade …. (3) A decision … in the case of Dobbs … restoring to the state of Louisiana the authority to prohibit or limit abortion.");
- Mo. Rev. Stat. § 188.017(4) (2019) ("[T]his section shall only become effective upon notification … that: (1) The United States Supreme Court has overruled … Roe v. Wade….");
- 2020 Utah Laws Ch. 279 (S.B. 174), § 4(2) ("The provisions of this bill take effect [once] the legislative general counsel certifies … that a court of binding authority has held that a state may prohibit … abortion ... at any time during the gestational period….").

See also 2019 Tenn. Laws Ch. 351 (S.B. 1257), § 3(a); Ky. Rev. Stat. Ann. § 311.772(2) (2019); 2020 Idaho Laws Ch. 284 (S.B. 1385), § 1(a).[9]

Amici cannot explain why, unlike so many other states, a legislature that purportedly "desired to see § 13-3603 become fully enforceable" (CAP Br. at 10) failed to express that desire in any way, with any sort of trigger or superseding clause. *See ACLU of Ariz. v. Ariz. Dep't of Child Safety*, 251 Ariz. 458, 463 ¶ 20 (2021) (reiterating that "a statute's plain language is the best indicator of legislative intent"). The likely reason is obvious. But regardless of the reason, "it is not [this Court's] role to add" such a provision to "the legislature's chosen (and unchosen) words." *Welch*, 251 Ariz. at 529 ¶ 36.[10]

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[9] At least thirteen states had some sort of trigger law. Elizabeth Nash, *13 States Have Abortion Trigger Bans*, Guttmacher Institute (June 6, 2022), https://www.guttmacher.org/article/2022/06/13-states-have-abortion-trigger-bans-heres-what-happens-when-roe-overturned.

[10] What's more, CAP itself knows how to remind the legislature about ways to achieve that result. Its public list of "CAP-supported laws" includes the 1999 bill regarding abortion clinics that included a conditional repeal and conditional enactment based on the constitutionality of a given definition. *See* 201 CAP-supported laws and resolutions since 1995, Center for Arizona Policy, https://www.azpolicy.org/issues/cap-supported-laws/ (last visited Oct. 18, 2023) (linking to 1999 Ariz. Sess. Laws, ch. 311 (H.B. 2706), §§ 12, 13).

C. The legislature chooses concision over redundancy, and courts adopt interpretations that follow suit.

In general, "intelligent expression does not contradict itself or set forth two propositions that are entirely redundant." Scalia & Garner at 51. Thus, this Court "assume[s] the Legislature avoids redundancy in favor of concision" and does "not include in statutes provisions which are redundant, void, inert and trivial." *O'Hara v. Super. Ct. of State of Ariz., in & for Navajo Cnty.*, 138 Ariz. 247, 250 (1983) (citation omitted).

According to amici though, the legislature *chose* redundancy over concision. Under their construction, more than a dozen statutes would be rendered misleading, conflicting, superfluous, or outright meaningless, without the legislature ever having said a word to that effect. *See* AG's Suppl. Br. at 9-15. Amici are not bothered that, to put it mildly, "some laws … may get dusty." CAP Br. at 16. But that's not their call to make—it's the legislature's. Especially given the scale of redundancy and confusion at issue, nothing supports that the legislature made that call.

D. The legislature uses, and courts respect, statutory limitations as indicators of legislative intent.

Amici see only one "continuous and unyielding legislative objective to protect unborn life to the fullest extent permitted." *E.g.*, Toma/Petersen Br.

at 6; CAP Br. at 11. Their oversimplified view of legislative intent and purpose is divorced from law and all the nuance inherent in the democratic process.

Statutory "[e]xceptions and exemptions are no less part of [a legislature's] work than its rules and standards—and all are worthy of a court's respect." *BP P.L.C. v. Mayor & City Council of Balt.*, 141 S. Ct. 1532, 1539 (2021). The legislature drew certain lines in the 15-week law, and those "limitations on [the law's] reach are as much a part of the statutory purpose as specifications of what is to be done." Scalia & Garner at 168. The mere fact that the legislature has historically regulated abortion does not override the text of current laws that it has neither repealed nor superseded.

As CAP says (at 4-5), legislation can fail for many reasons, and "a bill that some would classify as 'pro-life' may fail for reasons other than the legislature's position on" abortion. That is just as true when legislation *passes*. "Often legislation becomes possible only because of … compromises," which may include limits that some members would not have included. *BP P.L.C.*, 141 S. Ct. at 1539. The 15-week line and lack of a trigger law or superseding clause may reflect thought-out compromises, or it may merely reflect an undiscussed decision to go only so far. As CAP

recognizes (at 4-7), the legislative process is nuanced, and the public record will almost never reveal all the diverse motives at play given that each legislator "ha[s] no obligation to articulate" their views.

In all cases, it's flat wrong to assume a uniform "intent that § 13-3603 [would become supreme] following *Roe*'s demise," without the legislature ever having voted on text that says so. CAP Br. at 4. A law's "purpose must be derived from the text, not … an assumption about the legal drafter's desires." Scalia & Garner at 56; *see* Joel John Br. at 8 (stating that former Rep. John "assented to" only the "text of SB 1164," which "makes clear that the legislature permitted abortion by physicians *up to* 15 weeks, and thereafter prohibited abortion, subject to certain exceptions").

What is clear, however, is that when the legislature enacted the 15-week law, it contemplated the end or significant curtailment of *Roe*. (Indeed, the 15-week law and some of the other failed abortion measures were then unconstitutional.) And still, the legislature enacted no trigger law or superseding clause, nor did it go farther in other ways. That wasn't mere silence. It was a deliberate exclusion that reflects the legislature's intent just as much as the words it included.

E. Courts seek to preserve more law than not.

When courts can adopt an interpretation of a law "that deprives another provision of all independent effect," or adopt "another meaning that leaves both provisions with some independent operation, the latter should be preferred." Scalia & Garner at 176. That principle has straightforward application here. *See* AG's Resp. to Amici ISO Pet. for Review at 7-11; AG's Suppl. Br. at 9-15; AG's Resp. to Pet. for Review at 6-8. Amici distort that principle though, urging an interpretation that preserves their favored laws but not others, with no consistent rule supporting that outcome.

For instance, amici say that the old ban supersedes the 15-week law, including the old ban's narrower "necessary to save her life" exception. CAP Br. at 16. But amici then say that "if [doctors] have to perform an abortion to save a mother's life, they must comply with any other applicable abortion laws." *Id.* Amici are just cherry-picking; they are willing to give effect to *some* select statutes in Title 36, so long as the result is that § 13-3603 still supersedes the 15-week law. No coherent legal principle supports giving superseding effect to § 13-3603's general ban and narrower exception, while ignoring the broader permissions and exceptions in Title 36, but still requiring compliance with some of the specific laws in Title 36. As explained

in detail in prior briefing, nearly all of Title 36 (and some statutes in Title 13) makes sense only if abortions are permissible up to a specified period of weeks and at any point during the broader "medical emergency." *See* AG's Suppl. Br. at 9-15.

Relatedly, amici argue that harmonization of the specific 15-week law with the old general ban is inappropriate because non-doctor-performed abortions were already prohibited. CAP Br. at 12. But they go on to assert that having "a multitude of abortion restrictions" that are duplicative is ideal so not only "one law" applies in a given scenario. *See id.* at 14-15; *see also* Toma/Petersen Br. at 5. In other words, amici are fine with duplication—even if it renders more than a dozen statutes meaningless—so long as the result is to criminalize more conduct. But they reject a modest harmonization that would preserve the meaning of many more statutes, merely because it would permit more of the conduct they disapprove. That's not a legally defensible distinction.

At bottom, amici ask this Court to speculate what the legislature secretly hoped for but did not write down. But courts do not "search for what the legislature 'would have wanted,'" because that "is invariably either a deception or a delusion" and is "philosophically indefensible as violating

the separation of powers." Scalia & Garner at 95, 349-50. In any event, there's no need to search for what the legislature would have wanted here—the legislature told us. The legislature expressly permitted abortions up to 15 weeks and during a medical emergency. Those permissions, and many other portions of Title 36, conflict in part with § 13-3603. But the legislature never enacted anything—whether a trigger law, superseding clause, conditional repeal, or any other legislation—stating that those statutes would disappear or yield to § 13-3603 if *Roe* were overturned.

Accordingly, this Court must harmonize what the legislature has preserved. As the more recent and more specific law, and to give effect to all the statutes the legislature has retained, the 15-week law must prevail to the extent of the conflict. Anything beyond that "is a matter for the legislature, as policy maker, to debate and decide." *Kotterman v. Killian*, 193 Ariz. 273, 290–91 ¶ 63 (1999).[11]

CONCLUSION

The Court should affirm.

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[11] Amicus Villegas lacks authority to "invite the Court to consider and rule on" the new issues raised in his brief (at 3). Amici cannot "create, extend, or enlarge the issues" set forth in the question presented. *Cruz v. Blair*, 532 P.3d 327, 336 ¶ 32 n.5 (Ariz. 2023) (citation omitted).

RESPECTFULLY SUBMITTED this 18th day of October, 2023.

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