

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF
COLORED PEOPLE, MARICOPA COUNTY BRANCH, NATIONAL
ASIAN PACIFIC AMERICAN WOMEN'S FORUM

Plaintiffs-Appellants

vs.

TOM HORNE, Attorney General of Arizona, in his official capacity,
ARIZONA MEDICAL BOARD and LISA WYNN, Executive Director of
the Arizona Medical Board, in her official capacity,

Defendants-Appellees

**On Appeal from the United States District Court
For the District of Arizona
Civil Action No. 2:13-cv-01079-PHX-DGC
The Honorable David G. Campbell, Judge**

**BRIEF OF SOCIAL PSYCHOLOGISTS
AS AMICI CURIAE
IN SUPPORT OF PLAINTIFFS-APPELLANTS**

SARAH E. BURNS
Elizabeth Buechner, Caitlin Kelly
& Alyson Zureick, Legal Interns
Washington Square Legal Services, Inc.
NYU School of Law
245 Sullivan Street
New York, New York 10012
Telephone: 212-998-6464
Facsimile: 212-995-4031
Email: sarah.burns@nyu.edu

Attorney for Amici Curiae Social Psychologists

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INTEREST OF AMICI CURIAE

Forty-two social psychologists as amici curiae (“Amici”) submit this brief in support of Plaintiffs-Appellants National Association for the Advancement of Colored People, Maricopa County Branch (NAACP MC), and National Asian/Pacific American Women’s Forum (NAPAWF).¹ Trained in scientific methodology, each amicus has conducted extensive research on the effects of stigma, discrimination, and prejudice. They write to demonstrate that the scientifically established mechanisms of stereotyping and stigma have specific, harmful effects on members of stigmatized groups. Amici believe it is essential that the Court have evidence of the social, emotional, cognitive, economic, and health-related harms that members of stigmatized groups experience. Based on their collective expertise, Amici urge the Court to recognize that H.B. 2443 (hereinafter “the Act”), as a product of official decision-making that propagates discriminatory stereotypes, will result in cumulative and especially corrosive harm to African-American and Asian/Pacific Islander women living in Arizona.

¹ Amici file this brief pursuant to Federal Rule of Appellate Procedure 29, with the consent of Plaintiffs-Appellants. Because Defendants-Appellees opposed this filing, Amici have simultaneously filed a motion seeking this Court’s leave to file. No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. Amici file this brief as individual professionals and not on behalf of institutions with which they are professionally affiliated. The name and qualifications of each individual social scientist amicus curiae is set forth alphabetically in Appendix A.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

The Arizona State Legislature passed H.B. 2443 effective July 20, 2011, banning abortions based on race and sex selection. The Act makes health care providers criminally liable for performing an abortion if race or sex selection is part or all of the woman's purpose in seeking the abortion, and obliges these providers to document that they are not performing an abortion for such purposes. During the legislative process of the Act, arguments for passage of the law targeted female members of specific racial minority groups—African American and Asian/Pacific Islander women—as persons specifically having abortions on the basis of the race or sex of the fetus. The Complaint and its Exhibits present the full extent and nature of that targeting. Compl. ¶¶ 29–47 (May 29, 2013); Compl. Exs. B, C, D, E (May 29, 2013). Exhibits containing the specifically targeting statements are reproduced in Appendix B.

The plaintiffs, NAACP MC and NAPAWF, challenged that law on the grounds that the Act violated the rights of a subset of their members—respectively, African American and Asian/Pacific Islander women of child-bearing age in Arizona who seek abortions—under the Equal Protection Clause of the 14th Amendment of the U.S. Constitution. The trial court dismissed the complaint, finding that the NAACP MC and NAPAWF and their members lacked standing on the view that stigma does not cause a personal and legally cognizable injury to the

plaintiffs or other stigmatized persons.

ARGUMENT

Extensive social science research confirms that the stigmatization of persons based on race- and sex-based stereotypes results in concrete harms to members of the stigmatized group. Furthermore, when the government perpetuates race- or gender-based stereotypes as a basis for government decision-making, it legitimizes the use of stereotypes as the basis for policy decisions and social action, thus further increasing the probability of their use.² The purpose of this brief is to bring this social science learning to the Court's attention.

This brief draws from research on categorization, stereotyping, intergroup dynamics, and stigma conducted according to well-established scientific methodologies subject to rigorous peer review. Part I of this brief outlines the manner in which dominant group members stereotype and stigmatize minority groups, such as racial, ethnic, and gender groups, and the isolating and denigrating consequences of those processes. This discussion is based on thousands of peer-reviewed, published empirical studies on stereotyping and its effects. *See* Major et al., 2013 (reviewing the literature).

Part II describes the process by which negative stereotypes and

² See Blanchard et al., 1994; Goodman et al., 2008; Greenberg & Pyszczynski, 1985, discussing how public condoning of racist stereotypes by one majority group member leads other observers to view or treat the derogated target or target group more negatively.

stigmatization of a group can cause harm to the health, achievement, and socioeconomic status of individual members of those groups. Clear and compelling evidence of these negative effects emerges from three types of research designs. First, more than 200 experiments have manipulated individuals' exposure to some form of stigmatization, such as negative group stereotypes, group devaluation, or prejudice, and measured its subsequent effects. Because experimental designs hold constant all other aspects of the situation that an individual experiences, they establish that the experience of stigma, and not alternative factors, is the cause of any subsequent effects observed. *See* Pascoe & Smart Richman, 2009; Schmader et al., 2008 (reviewing the literature). Second, at least 15 longitudinal studies have shown that perceived stigma prospectively predicts negative outcomes. Such designs help to establish causation by controlling for any relationship between stigma and outcome at baseline when predicting the relationship between stigma and the outcome at a later time. *See, e.g.*, Hatzenbuehler et al., 2009; Link et al., 1997. Third, a handful of studies have used quasi-experimental designs to show that changes in social policies relevant to stigmatized groups that communicate stigma, such as laws banning gay marriage, predict decreases in the health and well being of individual members of those groups. *See, e.g.*, Hatzenbuehler et al., 2010; Hatzenbuehler et al., 2013.

I. SOCIAL SCIENCE RESEARCH DEMONSTRATES THAT THE USE OF STEREOTYPES STIGMATIZES AND INJURES SOCIALLY MARGINALIZED GROUPS AND THEIR MEMBERS

The mechanism of stigmatizing a group is straightforward, intuitively well-known to the common person, and was readily observable in the legislative process at issue in this case, *see* Appendix B (excerpting the Act’s legislative history). First, dominant group members identify and label differences between themselves and members of the “other” outsider group, focusing on “highly salient” or visible differences such as race, disability, and gender. *See* KUNDA, 1999, at 21–22; Link & Phelan, 2001, at 367. These salient social categories are associated with stereotypes, cultural beliefs that associate specific groups with personal characteristics that distinguish them from other groups. FISKE & TAYLOR, 2013, at 104–14; Link & Phelan, 2001, at 368–70. Stereotypes are problematic because they make broad generalizations about groups and ignore actual characteristics of the person being judged. This is particularly harmful when stereotypes link “outgroups” to undesirable characteristics, providing the dominant group with the “rationale for believing that negatively labeled persons are fundamentally different.” Link & Phelan, 2001, at 370. Negative stereotyping stigmatizes the group and its members and results in the deterioration of a person’s status in the eyes of the stigmatizer.

The stigmatization of a social group is both predicated on existing power imbalances in society and serves to reinforce and exacerbate those power

differentials. Fiske, 2010, at 960–62; Link & Phelan, 2001, at 367, 375–76, 382. Indeed, the tendency to employ stereotypes is increased when the stereotyped group is very small relative to the general population³ and if the group suffers isolation, social distance, and subordination.⁴

Stereotypes need not be overtly hostile to be detrimental to the stereotyped group and its members. Much bias against groups with lower status in society—referred to as “ambivalent” bias—presents in the form of paternalism—or a purported intent of a dominant group to protect a subordinate outgroup. While this may seem benign, it still perpetuates negative stereotypes about the subordinate group’s competence and autonomy, while reinforcing the “superiority” of the dominant group. *See* Glick & Fiske, 2001.

Stereotyping and stigmatizing an outgroup provides a rationale for the

³ Where a subgroup of visibly different individuals constitutes a small percentage of a population, the visible difference has a heightened perceptual salience for the majority such that the attention of majority population members becomes focused on minority population individuals. FISKE & TAYLOR, 2013, at 66–70; Taylor et al., 1978, at 787-88. This is sometimes referred to as the token, or solo, effect. Salience makes ordinary behavior remarkable and minority members’ behavior will be perceived and analyzed where the same behavior by a majority group member may go entirely unobserved. FISKE & TAYLOR, 2013, at 66–70.

⁴ Experimental data support the proposition that stereotypes develop at least in part to justify existing prejudice. Crandall et al., 2011; *see also* Caprariello et al., 2009; (suggesting a causal relationship between social structure and cultural stereotypes/emotional prejudices). Research also suggests that people stereotype persons from disadvantaged groups in ways that justify their devalued position in society. *See* Jost & Banaji, 1994; Lerner & Miller, 1978.

dominant group to devalue, reject, and exclude them from social and political processes. Link & Phelan 2001, at 370–71. Negative stereotypes, for example, may be used to justify actions that benefit the dominant group to the detriment of the outgroup⁵ or promote policies that are based on the stereotypical assumptions about group behavior but are not supported by concrete evidence.⁶ *See* Yzerbyt & Rogier, 2001. The use of negative stereotypes in public decisional settings, in particular, hurts the targeted group and its members by legitimizing those stereotypes, increasing the likelihood of their further use. Crandall et al., 2002 (finding that public expressions of prejudice are highly correlated with social approval of that expression); Fiske, 2010, at 950 (observing that high status groups disproportionately influence political discourse in a way that reinforces their social dominance and facilitates prejudice). *See* FISKE & TAYLOR 2013, at 74–76 (discussing how exposure to negative traits causes people to interpret ambiguous behavior as correspondingly negative). *Cf.* Czopp et al., 2006 (showing that individuals become less biased when confronted with their prejudicial behavior). Once a group has been stigmatized, it is relatively simple to attribute other despised characteristics to it and its members, as long as these attributions are not inconsistent with the core stereotypes about the group. This further perpetuates the

⁵ *See* FISKE & TAYLOR, 2013, at 285, 292. This is referred to as in-group favoritism or in-group bias—the tendency to favor one’s own group, and its members, over other groups and their members.

⁶ *See* FISKE & TAYLOR, 2013, at 169–72; ROSS & NISBETT, 1991, at 69–72, 125–44.

cycle of stigmatization.

As the legislative history demonstrates, the Act is based on and perpetuates degrading race- and gender-based stereotypes about African American and Asian/Pacific Islander women. The use of these stereotypes justified and legitimized the passage of the Act by portraying African American and Asian/Pacific Islander women as a “problem” that, despite the lack of concrete evidence, needed to be solved. This, in turn, stigmatized the women as “bad members” of the Arizona community. The power differential between the mostly white and male Arizona legislators and African American and Asian/Pacific Islander women enabled the legislators to stigmatize the latter with little concern about effective political pushback.⁷

II. THE PERPETUATION OF STIGMA HAS SERIOUS AND FAR-REACHING CONSEQUENCES FOR THE HEALTH, COGNITIVE FUNCTIONING, ACADEMIC ACHIEVEMENT, AND SOCIO-ECONOMIC OUTCOMES OF MEMBERS OF TARGETED GROUP

Stigmatization poses a fundamental threat to the identity of marginalized groups and their members who are aware of negative stereotypes that a dominant group attaches to their “undesirable” characteristics. Based on their prior

⁷ African American and Asian/Pacific Islander women make up only a small percentage of the total population of Arizona (3.79%). U.S. Census Bureau American FactFinder, Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States: April 1, 2010 to July 1, 2012, Arizona (Apr. 1, 2010), *available at* <http://tinyurl.com/nvmnpwx>. The Arizona legislature is 64.5% male and 73.3% white. 51st Legislature Census, AZCENTRAL.COM (2014), *available at* <http://tinyurl.com/nqxnju3>.

experiences and exposure to the dominant culture, members of stigmatized groups develop shared understandings of how members of dominant groups view their stigmatized status in society. These understandings, in turn, influence how a person assesses her risk of being devalued or discriminated against due to her group membership and how she copes with that perceived risk. Major & O'Brien, 2005, at 399–400. Stigmatization is particularly harmful when the dominant society negatively stereotypes and denigrates a core aspect of a person's identity. Major & O'Brien, 2005, at 400–01. Awareness of negative group stereotypes and stigmatization leads to increased concern among individual group members that they might either (i) be evaluated through the lens of this stereotype, or (ii) confirm the stereotype through their behavior. *See* Link & Phelan, 2001, at 373–74; Schmader et al., 2008 (demonstrating that stereotype threat stimulates active monitoring of performance, among other effects). The stress caused by this "identity threat"⁸ often leads a stigmatized person to respond with anxiety and to adopt strategies to cope with this anxiety, many of which can be harmful. Kaiser et

⁸ Stigma-induced identity threat is understood to result when an individual:

...appraises the demands imposed by a stigma-relevant stressor as potentially harmful to his or her social identity, and as exceeding his or her resources to cope with those demands. This appraisal results from an interaction between perceived cues (affective or semantic) in the immediate situation that make stigma relevant to that situation, the collective representations that the individual brings to that situation, and individual characteristics.

Major & O'Brien, 2005, at 402.

al., 2006, at 336–37; Major & O’Brien 2005, at 402–06.

The Act directly targets and threatens the identities of African American and Asian/Pacific Islander women on several levels—as worthy members of the community, as representative of their racial or ethnic groups, as “good” women, and as “good” mothers. This denigration of African American and Asian/Pacific Islander women, and their awareness of this denigration,⁹ is likely to provoke negative emotions, stress, and coping mechanisms from women as they attempt to shield themselves from further stigmatization. These stresses and the coping responses are added daily burdens that have serious consequences for the stigmatized in areas like health, achievement, and socio-economic status.

A. **Stigma has a negative impact on a person’s mental and physical health**

Stigmatization has been shown to have adverse impacts on the mental and physical health of members of marginalized groups. *See* Major et al., 2013; Schmitt et al., 2014. Experimental studies across multiple population groups in a wide range of cultural, national and ethnic contexts have demonstrated that exposure to stigma is linked to multiple physiological stress reactions, including

⁹ The legislative process and passage of the Act received press in both local and national news sources. *See, e.g.*, Compl. ¶¶ 30, 46; David Schwartz, *Arizona enacts ban on abortions based on gender, race*, REUTERS, Mar. 30, 2011, available at <http://tinyurl.com/47rxqk8>; Ellen Tomposky, *Arizona Outlaws Abortions Based on Race or Sex of Fetus*, ABC NEWS, Mar. 30, 2011, available at <http://tinyurl.com/5t5qrfh>.

anxiety, elevated cortisol, increased blood pressure, and other cardiovascular responses. *See, e.g.*, Blascovich et al., 2001, at 228 (blood pressure reactivity); Eliezer et al., 2011, at 314–15 (blood pressure reactivity); Guyll et al., 2001, at 320–24 (blood pressure reactivity); Dickerson & Kemeny, 2004, at 376–77 (a meta-analytic review indicating that psychological stressors can elicit cortisol activation); Pascoe & Smart Richman, 2009, at 544 (a meta-analytic review demonstrating that increased levels of perceived discrimination are associated with more negative physical health outcomes). *See also* Major & O'Brien, 2005, at 409–11; Major et al., 2013, at 518; Williams & Mohammed, 2009 (all reviewing the relevant studies). When experienced over time, stress reactions can lead to chronic diseases such as diabetes and chronic hypertension. Major & O'Brien, 2005, at 409–10 (citing McEwen, 2000); Pascoe & Smart Richman, 2009, at 532; *see* McEwen, 1998, at 40–41. A recent study also suggests links between stigma and mortality, finding that sexual minorities living in communities that endorse high levels of anti-gay attitudes have a higher risk of mortality than sexual minorities living in areas with low levels of prejudice. Hatzenbuehler et al., 2014, at 38. These findings, among others, indicate that feeling devalued by society as a result of group membership is a critical factor in biological health processes. Ratner et al., 2013, at 86–87 (finding that perceived group stigmatization, not study participants' individual discriminatory experiences, negatively impacted immune and endocrine

processes, suggesting that “stigmatization may constitute a more pervasive . . . stressor than personal experiences with discrimination”).

Studies also show that experiencing pervasive discrimination has a negative impact on psychological well-being and is strongly related to negative outcomes such as depression, anxiety, and psychological distress.¹⁰ Eliezer et al., 2010, at 163–64; Schmitt et al., 2014, at 14–15; Spencer et al., 1999, at 22–23. Stigmatized characteristics that are concealable are also associated with negative psychological outcomes, perhaps in part because concealable stigmas undermine opportunities to engage in mutual support with similarly-situated others. Schmitt et al., 2014, at 15. Studies suggest that social stigma against abortion may compel women to conceal their abortion decisions, which is associated with greater psychological distress over time. *See* Major & Gramzow, 1999, at 742.

Stigma also negatively impacts health outcomes by disrupting or inhibiting access to resources that could be used to avoid or minimize poor health outcomes. For example, stigma has been found to reduce access to socioeconomic resources and contribute to social isolation. Hatzenbuehler et al., 2013, at 814–15. Stigma can also lead to maladaptive coping behaviors. *See* Gibbons et al., 2010 (substance abuse); Guendelman et al., 2011 (unhealthy eating); Hatzenbuehler et al., 2009, at

¹⁰ Pervasive discrimination is understood as “rejection not just by particular individuals but by (dominant) society more generally, thwarting basic needs for acceptance and inclusion.” Schmitt et al., 2014, at 15.

1287 (excessive worrying). These conditions all have negative implications for health outcomes. *See* Hatzenbuehler et al., 2013, at 814–16.

B. Stigmatization may result in impairments to cognitive functioning and performance

Exposure to negative stereotypes is also associated with a decrease in cognitive functioning and academic performance. Research has shown that when exposed to negative intellectual stereotypes and threatening social conditions, racial minorities and women consistently score lower on academic tests than their non-stigmatized counterparts. Spencer et al., 1999, at 21–22 (women); Steele & Aronson, 1995, at 811 (African Americans). This occurs as a result of an integrated set of physiological, cognitive, and affective reactions that are activated in stigmatized individuals upon exposure to negative stereotypes, which interfere with cognitive functioning. Schmader et al., 2008, at 337. Specifically, increased stress activated by stigma, coupled with increased vigilance for performance cues and suppression of negative emotions can result in a decreased working memory capacity, which causes the stigmatized to perform worse on difficult tasks than their non-stigmatized counterparts. Schmader & Johns, 2003, at 449-51. Coping with stigma and prejudice has proven to deplete cognitive resources, leaving those affected with fewer self-regulatory skills and higher vulnerability to self-destructive behaviors. Inzlicht et al., 2011, at 234–39. Broader policies that suggest social exclusion seem to exacerbate these processes. Schmader, 2013.

C. **Stigmatization negatively impacts the socio-economic status of stigmatized group members**

Stigma has a dramatic impact on the “life chances” of the stigmatized, including a person’s career, income, and housing opportunities. Link & Phelan, 2001, at 381-82. This is often manifested through institutional discrimination, which creates a cycle of practices that disadvantage stigmatized groups, often in the workplace. For example, employers (often white) tend to rely on personnel recommendations from colleagues or acquaintances, who are also often white and likely to know and recommend candidates from a similar “in group.” Link & Phelan, 2001, at 372. Studies have also demonstrated that employers frequently select white candidates over equally qualified African American and Latino candidates. *See* Bertrand & Mullainathan, 2004; Pager et al., 2009. People who suffer from stigma as a result of their group membership may experience and fear rejection and ultimately act less confidently and more defensively, leading to poorer workplace performance and income disparity.¹¹

CONCLUSION

By promulgating and passing the Act, Arizona’s legislators introduced racist and sexist stereotypes into a public decisional setting. The consequences of doing

¹¹ *See, e.g.*, Link, 1982 (finding a correlation between former mental patient status and lower income and chances of obtaining and maintaining employment); Tellhed & Björklund, 2011 (finding that a group of women directly exposed to the stereotype that men are superior negotiators negotiated lower annual salaries than a group of women not exposed to the stereotype).

so are dangerous and widespread. Use of stereotypes by “high status” social group members, such as the mostly-white, male-dominated Arizona legislature, confirms the legitimacy of those stereotypes and further increases the probability of their use in day-to-day life. As a result, African American and Asian/Pacific Islander women living in Arizona must cope daily with being characterized as deficient or outsiders and marked officially “different” from the dominant group. Members of stigmatized groups often suffer negative health outcomes, decreased academic performance, and inferior long-term economic prospects. By contributing to and strengthening the negative stereotypes about African American and Asian/Pacific Islander women that already existed in society, the Act increases the risk that African American and Asian/Pacific Islander women of Arizona will suffer similar long-term adverse consequences.

Respectfully submitted,

s/ _____
SARAH E. BURNS
Elizabeth Buechner, Caitlin Kelly
& Alyson Zureick, Legal Interns¹²
Washington Square Legal Services, Inc.
NYU School of Law
245 Sullivan Street
New York, New York 10012
Attorney for Amici Curiae
Social Psychologists

Dated: March 18, 2014

¹² Pursuing clinical law practice under Student Practice Order of the State of New York Supreme Court, Appellate Division, First Department.

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 29(d) and 32(a)(7)(B) because it contains 6,991 words, including the body of the Brief and the contents of Appendix A, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman type style.

Dated: March 18, 2014

s/ _____
SARAH E. BURNS

APPENDIX A

Names and Qualifications of Amici Curiae¹

Joshua Aronson, Ph.D., is an associate professor of applied psychology at the New York University Steinhardt School of Culture, Education, and Human Development. He has authored numerous journal articles, and coauthored, with Claude Steele, what are now considered the “landmark studies” on stereotype threat. Dr. Aronson is the recipient of many prizes and awards, including the National Science Foundation’s Career Award. He is a Fellow of the American Psychological Association, the Association of Psychological Scientists, and the Society for Personality and Social Psychology.

Mahzarin Banaji, Ph.D., is the Richard Clarke Cabot Professor of Social Ethics in the Department of Psychology at Harvard University. She served as president of the Association for Psychological Science and was inducted into the American Academy of Arts and Sciences and the Association for Social and Political Science. She has authored approximately 170 journal articles.

Monica Biernat, Ph.D., is the director of the Social Psychology Ph.D. program at the University of Kansas. Dr. Biernat studies stereotyping and prejudice, focusing on how stereotypes affect people’s judgments of and behavior toward members of stereotyped groups. She is a past winner of the American

¹ Institutional affiliations are given for professional identification purposes only.

Psychological Association Early Career Contribution Award and the Association for Women in Psychology Publication of the Year award.

Jim Blascovich, Ph.D., is a Distinguished Professor of Psychological and Brain Sciences at the University of California, Santa Barbara. Dr. Blascovich is a member of the Academy of Behavioral Medicine Research, a Charter Fellow of the American Psychological Society, a Fellow of the American Psychological Association and has served as President of the Society for Personality and Social Psychology and the Society for Experimental Social Psychology. He is the recipient of numerous awards and prizes, including the Gordon Allport Intergroup Relations Prize.

Sapna Cheryan, Ph.D., is an assistant professor in the Department of Psychology at the University of Washington. Dr. Cheryan has published numerous journal articles on prejudice, gender gaps in academic performance, and stereotype threat. She is the recipient of prizes and awards for both teaching excellence and research, including the National Science Foundation's most prestigious award for assistant professors (NSF CAREER).

Geoffrey Cohen, Ph.D., is the James G. March Professor in Education and Business, and a professor of psychology at Stanford University. He has published journal articles on a wide range of topics, including the examination of the processes related to maintenance of identity and their implications for social

problems. Dr. Cohen also focuses on the effects of group identity on achievement.

Christian Crandall, Ph.D., is a professor of psychology at the University of Kansas. Dr. Crandall focuses his research on stereotyping and prejudice, social influence, group dynamics, and social stigma. He is the recipient of numerous honors and awards, including the Society for Personality and Social Psychology's Distinguished Service to the Society Award. His work on stigma and stereotyping has led to changes in the way the College Board administers the SAT and the Advanced Placement test.

Faye Crosby, Ph.D., is a professor of psychology and Provost of Cowell College, UC Santa Cruz. She is the recipient of numerous awards and honors, including the American Psychological Association's Carolyn Wood Sherif Award, the Society for the Psychological Study of Social Issues' Kurt Lewin Award, and the University of California, Merced's Spendlove Prize for Diplomacy and Tolerance.

Nilanjana Dasgupta, Ph.D., is a professor in the Department of Psychology at the University of Massachusetts, Amherst. Her work has been supported by numerous research grants from the National Science Foundation, including the NSF CAREER award and the National Institutes of Health. She has authored over 40 research publications and given more than 60 invited presentations nationally and internationally. She is the recipient of several awards and prizes, including the

Hidden Bias Research Prize from the Level Playing Field Institute in 2011 and the Morton Deutsch Award for best article published in *Social Justice Research* in 2004.

Paul Davies, Ph.D., is an associate professor of psychology at the University of British Columbia. Previously, Dr. Davies accepted a Postdoctoral Fellowship with Claude Steele at Stanford University, and was awarded the 2011/2012 University of British Columbia Award for Teaching Excellence and Innovation. He focuses his research on intergroup relations and, in particular, the interplay between social relationships and stereotypes, prejudice, and discrimination.

Kay Deaux, Ph.D., is a Distinguished Professor Emerita of Psychology and Women's Studies at the City University of New York Graduate Center and a Visiting Research Scholar in the Department of Psychology at New York University. Over her career, she has published over 145 works, including journal articles, books, and book chapters, and edited the *Handbook of Personality and Social Psychology* (Oxford University Press, 2012). She has been a Fellow at the Center of Advanced Studies (Stanford, CA) on two occasions and a Visiting Scholar at the Russell Sage Foundation. She has served as president of the Association for Psychological Science, and has received numerous awards, including most recently the Service Award from the Society of Personality and

Social Psychology for “pioneering scholarship” in the field.

Patricia Devine, Ph.D., is a professor of psychology at the University of Wisconsin-Madison. She is the recipient of numerous awards for her research on prejudice, stereotypes, and intergroup relations, including the prestigious Scientific Impact Award from the Society of Experimental Social Psychology. Dr. Devine has been president of the Society for Personality and Social Psychology and is a current board member of the Association for Psychological Science.

John F. (Jack) Dovidio, who received his Ph.D. from the University of Delaware in 1977, is currently the Carl Iver Hovland Professor of Psychology at Yale University. He has published over 300 articles, chapters, and books. He has received the Kurt Lewin Award from the Society for the Psychological Study of Social Issues (SPSSI) and the Donald Campbell Award from the Society for Personality and Social Psychology (SPSP) for his scholarly achievements. Jack has been president of SPSSI, SPSP, and the Society for Experimental Social Psychology, and is currently Executive Officer of SPSP.

Susan T. Fiske, Ph.D., is the Eugene Higgins Professor, Psychology and Public Affairs at Princeton University. She investigates social cognition, especially cognitive stereotypes and emotional prejudices, at cultural, interpersonal, and neuro-scientific levels. Author of over 300 publications and winner of numerous scientific awards, she has most recently been elected to the National Academy of

Sciences.

Samuel Gaertner, Ph.D., is the director of the Social Psychology Graduate Program at the University of Delaware. Dr. Gaertner has authored over 175 journal articles, books and book chapters on topics that include intergroup bias, categorization of groups, racism, and social identity. Dr. Gaertner was awarded the Gordon Allport Intergroup Relations Prize in 1985 and 1998, the Kurt Lewin Memorial Award in 2004 from the Society for the Psychological Study of Social Issues, and the 2012 Career Contribution Award from the Society for Personality and Social Psychology.

Peter Glick, Ph.D., is the Henry Merritt Wriston Professor in the Social Sciences at Lawrence University. Dr. Glick has authored multiple books, book chapters, and journal articles. He received Lawrence University's Excellence in Scholarship Award and the Gordon W. Allport Intergroup Relations Prize for best paper on intergroup relations, was elected as a Fellow in five national and international psychology organizations, and is a past president of the Society for Experimental Social Psychology. Dr. Glick focuses his research on how the structure of intergroup relations affects prejudice, stereotyping, and discrimination, and how "positive" stereotypes can feed into damaging discrimination.

Mark Hatzenbuehler, Ph.D., is an assistant professor of Sociomedical Sciences at Columbia University's Mailman School of Public Health and the Co-

Director of the Center for the Study of Social Inequalities and Health. The author of 64 publications, Dr. Hatzenbuehler's research focuses primarily on the health consequences of exposure to stigma. Dr. Hatzenbuehler has received multiple awards, including the James B. Grossman Dissertation Prize from Yale University and the Emerson Award from Harvard Medical School for excellence in published psychological research.

Michael Inzlicht, Ph.D., is an associate professor of psychology at the University of Toronto. Dr. Inzlicht focuses his research on the areas of stigma and self-regulation, and is particularly known for demonstrating that small differences in an environment can affect the academic performance of stigmatized or stereotyped groups. He has published numerous books and articles, which have accumulated over 2,850 citations. Dr. Inzlicht has received many honors, including the International Social Cognition Network's Best Social Cognition Paper Award and the Ontario Ministry of Research and Innovation's Early Researcher Award.

Cheryl Kaiser, Ph.D., is an associate professor in the Department of Psychology at the University of Washington. She is the author of over 40 publications and her research has been supported by the National Institute of Health, the National Science Foundation, and the Russell Sage Foundation. She is a recipient of the James McKeen Cattell Sabbatical Award, the Sage Young Scholar Award, and is a fellow of the Society of Experimental Social Psychology

and the Society for Personality and Social Psychology. She is an associate editor of the *Journal of Personality and Social Psychology*.

Bruce Link, Ph.D., is a widely-published professor of Epidemiology and Sociomedical Sciences, as well as a co-director for the Center for the Study of Social Inequalities and Health at Columbia University's Mailman School of Public Health. He serves as a research scientist at the New York State Psychiatric Institute and is the director of the Psychiatric Epidemiology Training Program, the director of the Center for Violence Research and Prevention, and the director of the Robert Wood Johnson Health and Society Scholars Program at Columbia University.

Brenda Major, Ph.D., is a Distinguished Professor in the Department of Psychological and Brain Sciences at the University of California, Santa Barbara, and a past Fellow of the Center for Advanced Study in the Behavioral Sciences. She is the author of more than 150 publications. Her awards include the 2012 Kurt Lewin Prize from the Society of Psychological Study of Social Issues, the 1988 Gordon Allport Intergroup Relations Prize, and the 1985 Distinguished Publication Award from the Association of Women in Psychology. Her work has been funded by the National Science Foundation, the National Institutes of Health, the American Philosophical Foundation, and the Cattell Foundation.

Allen McConnell, Ph.D., is the James and Beth Lewis Endowed Professor at Miami University. He has authored more than 60 publications on topics

including stigma and the impact of stereotypes on real-world performance. Dr. McConnell is Editor in Chief of *Social Psychological and Personality Science*, an associate editor of the *Journal of Personality and Social Psychology* and an associate editor of the *Journal of Experimental Social Psychology*. He is also a member of the National Science Foundation social psychology grant panel, and a member of several leading editorial boards.

Rodolfo Mendoza-Denton, Ph.D., is an associate professor in the Department of Psychology at the University of California, Berkeley. His work focuses on prejudice, stigma, and intergroup relations and he has published over 60 articles on these topics. He is the Research Director for the NSF-funded California Alliance for Graduate Education and the Professoriate, bringing together UC Berkeley, Stanford, CalTech in a common effort to improve minority student retention within the science, technology, engineering, and mathematics fields.

Wendy Berry Mendes, Ph.D., is the Sarlo/Ekman Endowed Professor in the study of Human Emotion at UC San Francisco and a former faculty member of Harvard University. She is the recipient of several career awards including the APS award for Transformative Early Career Contributions, and the Gordon Allport Award in 2008. She is currently a senior editor at *Psychological Science*, an associate editor at *Journal of Personality and Social Psychology*, and is an elected board member for the Society for Experimental Social Psychologists and the

Association of Psychological Science.

Carol T. Miller, Ph.D., is a professor of psychology at the University of Vermont. She currently is also the principal investigator on a project funded by the National Institute of Health to examine the effects of weight-based identity threat on physiological responses and food consumption among overweight and non-overweight individuals. She has authored dozens of empirical and theoretical papers on the consequences of stigma. Her research focuses on how people who are stigmatized by society cope with the prejudice and discrimination they face.

Mary Murphy, Ph.D., is an assistant professor at the University of Indiana. Her work focuses on self and social identity threat, stereotype threat, and prejudice. Her research has been funded by several grants from the National Science Foundation and the Spencer Foundation. She was awarded a Rising Star distinction by the Association of Psychological Science. She serves on the editorial boards of several leading journals in the field of social psychology as well as education.

Steven Neuberg, Ph.D., is a Foundation Professor at Arizona State University. He is a Fellow of several scientific societies, including the Association for Psychological Science and the American Psychological Association. His research has been published in over 80 articles and chapters in the field's most selective scientific journals and volumes, has been cited extensively by researchers across many disciplines, and has been supported by the National Science

Foundation, the National Institute of Mental Health, and other granting agencies. He is the co-recipient of the 2013 Gordon Allport Intergroup Relations Prize for the best scientific paper on intergroup relations published in 2012.

Laurie O'Brien, Ph.D., is an associate professor in the Department of Psychology at Tulane University. Her research explores how lay people perceive (and fail to perceive) prejudice and examines the consequences of perceiving prejudice and stereotypes for people from both target and perpetrator groups. Dr. O'Brien has published papers in respected outlets in her field, including *Journal of Experimental Social Psychology*, *Journal of Personality and Social Psychology*, and *Personality and Social Psychology Bulletin*. Her research has received funding from the National Science Foundation, the Louisiana Board of Regents, the Society for the Psychological Study of Social Issues, and Tulane University's Research Enhancement Fund.

Thomas Pettigrew, Ph.D., is the Research Professor of Social Psychology at the University of California, Santa Cruz. With more than 400 publications, Dr. Pettigrew has been at the forefront of research on racial prejudice for a half-century. He served as the president of the Society for the Psychological Study of Social Issues in 1967-1968 and later received the Society's Kurt Lewin Award in 1987 and its Gordon Allport Intergroup Research Award in 1987 and 2003. He has received numerous other awards in recognition of his leadership in the field,

including the William Foote Whyte Distinguished Career Award from the Sociological Practice and Public Sociology Section of the American Sociological Association in 2011 and one of the first Career Contribution Awards from the Society for Personality and Social Psychology.

Jo Phelan, Ph.D., is a professor of sociomedical sciences at the Mailman School of Public Health, Columbia University. Dr. Phelan has published numerous journal articles, and her research has been funded by the National Institutes of Health as well as the prestigious Investigator Award from the Robert Wood Johnson Foundation. She serves on the editorial board of *American Sociological Review*.

Elizabeth Pinel, Ph.D., is an associate professor and the director for Undergraduate Studies for the Department of Psychological Science, at the University of Vermont. She has received funding from the National Institute of Mental Health as well as from the National Science Foundation to pursue this work. Dr. Pinel has published extensively on stigma in respected, peer-reviewed outlets such as the *Journal for Personality and Social Psychology*, *Personality and Social Psychology Bulletin*, and the *Journal of Experimental Social Psychology*.

Valerie Purdie-Vaughns, Ph.D., is the director of the Laboratory of Intergroup Relations and the Social Mind (LIRSM) and an assistant professor in the Department of Psychology at Columbia University. She is also core faculty for

the Robert Wood Johnson Health & Society Scholars Program (RWJ Columbia-site) and research fellow at the Institute for Research on African-American Studies (IRAAS) at Columbia. Dr. Purdie-Vaughns has authored numerous publications and has been awarded grants from the National Science Foundation (NSF), the Russell Sage Foundation, the Spencer Foundation and the William T. Grant Foundation. In 2013, Dr. Purdie-Vaughns was awarded the Columbia University RISE (Research Initiative in Science and Engineering) award for most innovative and cutting edge research proposal.

Diane Quinn, Ph.D., is an associate professor in the Department of Psychology at the University of Connecticut. She has published numerous studies, including studies linking negative health and achievement effects with stereotypes or stereotype threat. Dr. Quinn's work has been supported by grants from the National Science Foundation and National Institutes of Health. Previously, Dr. Quinn served as the Chair of the University of Connecticut's Social Psychology Division and was an associate editor of the *Personality and Social Psychology Bulletin*.

Laurie A. Rudman, Ph.D., is a professor of psychology at Rutgers University. The author of over 50 publications and four books, Dr. Rudman currently serves as the Editor for the *Journal of Experimental Social Psychology*. She has served on the Advisory Council for the National Science Foundation and

as a council member of the Federation of Behavioral, Psychological, and Cognitive Sciences. Her honors and awards include a National Research Service Award (National Institutes of Health), multiple grants from the National Science Foundation, and she was twice awarded of the Gordon Allport Prize for the best paper on intergroup relations, given annually by the Society for the Psychological Study of Social Issues.

Steven J. Spencer, Ph.D., is a professor in the Department of Psychology at the University of Waterloo. He has published extensively on the topic of stereotypes, including how stereotypes affect women's academic performance and interventions that alleviate these effects. He is the recipient of numerous prizes and awards, including the Gordon Allport Intergroup Relations Prize.

Toni Schmader, Ph.D., holds a Canada Research Chair in Social Psychology at the University of British Columbia and has spent two decades carrying out laboratory and survey research on prejudice, stigma, and stereotype threat. She has published over 50 journal articles and book chapters, and her research has received funding from the National Science Foundation, the National Institute of Mental Health, Social Science and Humanities Research Council, and the Canada Foundation for Infrastructure. She is a Fellow of the Society of Experimental Social Psychologists and the Society of Personality and Social Psychology and a recipient of a Killam Research Prize.

Denise Sekaquaptewa, Ph.D., is a professor of psychology at the University of Michigan and the Faculty Associate at the Research Center for Group Dynamics in the Institute for Social Research. She has published journal articles and book chapters, and her research has been funded by the National Science Foundation. She has served as Associate Editor for the professional journals *Cultural Diversity and Ethnic Minority Psychology*, and *Personality and Social Psychology Bulletin*. In 2012 she was awarded the Sarah Goddard Power Award for work advancing the betterment of women.

Jenessa R. Shapiro, Ph.D., is an associate professor of psychology at the University of California, Los Angeles. Her research has been supported by fellowships and grants from the National Science Foundation, National Institutes of Health, and the Society for the Psychological Study of Social Issues. She is the recipient of numerous teaching and research awards, including the UCLA Anderson Eric and "E" Juline Faculty Excellence in Research Award and UCLA Psychology Distinguished Teaching Award.

David Sherman, Ph.D., is a faculty member in the Department of Psychological & Brain Sciences at the University of California, Santa Barbara. He received his Ph.D. in psychology from Stanford University. His research, published in numerous journals, has been supported by research grants from the National Science Foundation.

Margaret Shih, Ph.D., is a professor in Management and Organizations at the University of California, Los Angeles Anderson School of Management and a former faculty member at the University of Michigan. She received her Ph.D. in Social Psychology from Harvard University. Her research interests include social identity and the psychological effects of stereotypes, prejudice, discrimination, and stigma in organizations.

Janet Swim, Ph.D., is a professor of psychology at Pennsylvania State University. She has authored several publications on the effects of racism and sexism on behavior and well-being. She is the recipient of numerous research grants, from, among others, the National Science Foundation and the Pennsylvania State University Social Science Research Institute.

Greg Walton, Ph.D., is an assistant professor in the Department of Psychology at Stanford University. He is the recipient of numerous prizes and awards, including the Foundation for Personality and Social Psychology's SAGE Young Scholars Award, and the American Education Research Association's Distinguished Research Award.

APPENDIX B

(Excerpts from Legislative History Attached to Complaint)

Exhibit B

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ARIZONA LEGISLATURE

ARIZONA STATE SENATE

Fiftieth Legislature - First Regular Session

Senate Floor Session

March 21, 2011

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1 reduce the number of Black children in the United
2 States. Planned Parenthood eugenics-based racist
3 history is well-known and fully exposed in the 2009
4 documentary called Maafa 21. The great majority of
5 abortion clinics were purposely located in minority
6 neighborhood by the founders of Planned Parenthood.
7 More than 70 percent of abortion clinics are still
8 located in minority neighborhood today.

9 African-American babies are now aborted at
10 five times the rate of White babies to the point that
11 nearly 50 percent of Black babies are aborted. This is
12 perfectly legal in America. This is not who we are as
13 a nation. The founding principles of the United States
14 is transcendent value of all innocent life. We
15 criticize other nations for human right abuses; at the
16 same time, we look the other way while our own children
17 are being killed simply because the wrong sex or race.
18 We undermine the foundation of our own nation and human
19 dignity itself.

20 I introduced the original Prenatal
21 Nondiscrimination Act in the U.S. Congress in 2008.
22 The former Democrat majority in the House refused to

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Exhibit C

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ARIZONA LEGISLATURE

ARIZONA HOUSE OF REPRESENTATIVES

Fiftieth Legislature - First Regular Session

Committee on Health and Human Services

Wednesday, February 9, 2011, 9:00 A.M.

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1 more abortions that are female, and most sex selection
2 abortions are grisly and late-term abortions.

3 A report by the Harvard University "Economist"
4 estimated that more than 100 million women were
5 demographically missing from the world as early as the
6 1990s due to these sex practices, including sex
7 selection abortion. Even countries that have
8 longstanding experience with sex selection, such as
9 India, the United Kingdom -- I'm sorry -- yeah, the
10 United Kingdom, and China, have themselves enacted bans
11 on sex selection abortion.

12 Even Congress has condemned China, in official
13 resolutions, for its policies that encourage sex
14 selection. Here in the United States, our own Congress
15 has failed to take any action to prevent this
16 discrimination from occurring within our country. The
17 American medical community has publicly taken a stand
18 against sex selection abortion. Sex selection, for
19 social reasons, including family balancing, has
20 repeatedly been denounced by U.S. medical organizations
21 such as the American College of OB/GYNs.

22 In 2007, the United States spearheaded a

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1 resolution at the United Nations Commission on the
2 status of women to condemn sex selection, yet there is
3 no law prohibiting that practice in the United States.

4 The reason I mention this is because the
5 United Nations affiliates have made repeated public
6 statements that aborting a girl child is one of the
7 most pervasive human rights abuses, and the most
8 extreme form of violence against women.

9 Zogby, in 2006, did a poll, an international
10 poll, that showed 86 percent of the American public
11 desires a law to ban sex selection abortion.

12 Now, in regards to race, we also see that
13 there are American abortion providers, most of whom
14 receive government funds, and they are responsible for
15 eliminating nearly 50 percent of African Americans
16 conceived in the United States each year, as compared
17 to 20 percent that are white unborn children.

18 The number of abortions financed with
19 earmarks, donations, perhaps we don't know, but the
20 Spring of 2008, federally funded clinics were exposed
21 as having agreed to accept funds from persons who
22 expressly requested that their donation be used to

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1 reduce the African American population. This was
2 exposed. There is currently, again let me repeat, no
3 law to stop this or prohibit this in the United States
4 or in our State of Arizona.

5 The history of American family planning
6 movement is replete with evidence of the purposeful
7 placement of family planning clinics in areas with high
8 concentration of minorities. An overwhelming majority
9 of abortion clinics in America today, including those
10 receiving federal funds today, remain
11 disproportionately located in areas with high
12 concentrations of minorities and women.

13 I could go on forever, but I am moved by all
14 this data. Even the civil rights advocates have
15 repeatedly rallied and protested that the Democratic
16 National Committee and the Republican National
17 Committee and the NAACP call for an end to racially
18 targeted abortion policies. That's what print (ph) is
19 doing, that's what this bill is doing here today. This
20 bill is supported by the King for America organization,
21 which is a civil rights organization led by Dr. Alveda
22 King, the niece of Dr. King; the Black Pro-Life Union

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1 President Day Gardner; the Frederick Douglass
2 Foundation, whom we have a letter from them and we have
3 a note that will be presented here a little later; the
4 Learn (ph) Network. The list goes on.

5 This is something that needs to be addressed,
6 and so even in the State of Arizona we have numbers.
7 DHS, in 2009, released numbers that shows that this is
8 data just barely beginning to be released because it
9 started in 2009 due to the bill, but it shows that the
10 sex of aborted children, there is incontrovertible
11 national statistics that prove that this occurs, and
12 even here in Arizona. A Black baby, or an African
13 American baby, is five times more likely to be aborted,
14 and a Hispanic child is three times more likely to be
15 aborted. Even Planned Parenthood, by their own
16 statistics and numbers, show that African American, the
17 unborn, are 42 percent more at risk or receive
18 abortions. This is their numbers.

19 So I bring this to you, and there will be more
20 evidence of who is supporting after me, and I ask you
21 to support this bill. I mean, like I said, it's
22 something that we can all agree on. I know abortion is

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1 a topic that there is large controversy about, but I
2 think it's never okay to discriminate against the
3 unborn in the form of selective abortion on the basis
4 of sex or race.

5 Thank you for that, Mr. Chairman. And if you
6 have any questions, I humbly will do my best to answer
7 them.

8 MR. ASH: Any questions by Members of the
9 Committee for Representative Montenegro?

10 Ms. Hobbs?

11 MS. HOBBS: Mr. Chair and Mr. Montenegro, I do
12 agree with you that discrimination is never okay. I am
13 not going to agree that this is a problem that's
14 actually happening. I am wondering how you got the
15 statistic about the number of abortions being
16 predominantly women. Do abortion clinics routinely
17 keep track of the gender of terminated pregnancies?

18 MR. MONTENEGRO: Thank you, Mr. Chairman,
19 Representative Hobbs. And I'm not the only one that
20 would disagree with you, Representative Hobbs. As I
21 stated earlier today, the National Academy of Sciences
22 found that there is a strong bias, so it's not just

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1 especially --

2 MS. HOBBS: The (inaudible).

3 MR. MONTENEGRO: Okay --

4 MR. ASH: Ms. Hobbs, let him answer, please.

5 MR. MONTENEGRO: But this is different civil
6 right activists, different groups, that have standing
7 surely in our country. I mean, abortion is a known
8 risk factor for subsequent extremely pre-term birth.
9 Now, a birth at less than 28 weeks of pregnancy is
10 known as an extremely pre-term birth. What they have
11 found is that Black babies are aborted at five times
12 the rate as white babies, and Black women are four
13 times as likely to suffer this XPB.

14 And I mentioned to you civil rights activists
15 who have acknowledged -- there's extremely -- there's a
16 lot of studies and a lot of research that has been done
17 in this country, and some of it you'll hear today, the
18 groups that will be testifying, but this is evidence
19 not just going on a whim, it is longstanding civil
20 rights activists that have recognized that this is a
21 problem, and that's why they're asking -- as they're
22 asking the Republican National Committee, the

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1 Republicans, and the Democrats. I mean, this is not
2 something -- like I said, we can all agree it's
3 happening, the evidence is there, and I think we can
4 all agree that we need to have in our books and our
5 laws that something heinous like this should not be
6 happening in our country or in our state.

7 MR. ASH: Further questions, Ms. Hobbs?

8 MS. HOBBS: Yeah, Mr. Chairman,
9 Mr. Montenegro, can you explain the purpose of the
10 affidavit that is in the bill that the doctor is
11 supposed to sign?

12 MR. MONTENEGRO: Absolutely. We want to make
13 sure -- I know that there are concerns about -- one
14 Member mentioned to me sometimes -- the accusation
15 enough is hard on the doctors, and I understand that,
16 so what we were trying to do is make sure that there's
17 a way that the doctor can express how he knowingly is
18 making sure, or in his heart he is not knowingly
19 performing an abortion due to sex selection or race
20 selection. So the affidavit is to actually help the
21 doctor and the person, the woman, with the abortion so
22 that they acknowledge. They don't have to explain why

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1 they're doing the abortion, they just have to recognize
2 that it's not on this criminal, in my opinion, act of
3 sex selection and race selection. So that's why the
4 affidavit is there, to actually help the doctor and the
5 clinic in that sense.

6 MR. ASH: Ms. Hobbs?

7 MS. HOBBS: Mr. Chair, Mr. Montenegro, I
8 guess, what's the -- where do those affidavits go? Is
9 there some place that they're filed or -- and this --

10 MR. MONTENEGRO: I appreciate the question,
11 Chairman Ash and Representative Hobbs. You know, this
12 is something that they're going to hold. We're not
13 asking them to send it in somewhere, but this is
14 something for their records so that if they are
15 questioned at any time, they could say, "You know what?
16 I did everything I could to make sure that this was not
17 the reason, sex selection or race selection was the
18 reason, for this abortion, and I have this affidavit
19 signed."

20 MR. ASH: Further questions, Members of the
21 Committee?

22 Mrs. Brophy McGee?

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1 MRS. BROPHY MCGEE: Thank you, Mr. Chairman.
2 Mr. Montenegro, just a couple questions.

3 MR. MONTENEGRO: Yes, ma'am.

4 MRS. BROPHY MCGEE: Does a doctor in Arizona
5 or anywhere else currently have to determine the
6 purpose for a requested abortion?

7 MR. MONTENEGRO: Chairman Ash and
8 Representative McGee, to my knowledge, no, but this
9 bill doesn't do that either. We're not asking them to
10 find out, investigate, what the purpose is. We just
11 want them to make sure it's not based on sex selection
12 or race selection.

13 MRS. BROPHY MCGEE: One more question.

14 MR. ASH: Mrs. Brophy McGee?

15 MRS. BROPHY MCGEE: In -- and I don't know if
16 you can answer this, and I'm embarrassed that I can't
17 because I have three grown boys, but how far along in
18 pregnancy before sex can be determined?

19 MR. ASH: Mr. Montenegro, are you qualified to
20 answer that question?

21 MR. MONTENEGRO: Chairman Ash, I would
22 actually like to defer to the expert so that she can

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1 have excellent information.

2 MRS. BROPHY MCGEE: I apologize.

3 MR. ASH: Do you want to ask a question or
4 answer that question?

5 MR. HEINZ: Mr. Chairman, if I may ask the
6 sponsor a question.

7 MR. ASH: Representative Heinz, go ahead.

8 MR. HEINZ: Thank you. And I apologize,
9 Mr. Chairman and the Committee, I was testifying in the
10 MAPS Committee, and it took a little longer than I
11 expected.

12 So I think that you probably did a little bit
13 of this before, but just so I can be absolutely clear,
14 you mentioned -- I mean, you discussed I think the
15 problem that you're trying to address, but I have not
16 heard or at least seen before me specific information
17 regarding the State of Arizona that the practice that
18 you're trying to address with this legislation is
19 actually occurring, and I would very much like to have
20 that elaborated before we discuss this further.

21 MR. MONTENEGRO: Thank you, Chairman Ash and
22 Representative Heinz. You know, I will do my best to

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1 answer Representative McGee's question or to have
2 somebody answer it in this Committee.

3 MRS. BROPHY MCGEE: Thank you.

4 MR. MONTENEGRO: Representative Heinz, the
5 reason we don't have in-depth data in the state is
6 because it hasn't been asked -- or provided. It wasn't
7 until 2009 that finally that we could see some numbers.
8 And I can have somebody -- do you have your computer in
9 front of you right now?

10 MR. HEINZ: Uh-huh.

11 MR. MONTENEGRO: If my assistant is watching
12 right now, if he could e-mail that to you right now,
13 data, so you could have that in front of you. And I'm
14 not trying to be facetious, I apologize if I came
15 across that way, but these are the numbers that came
16 directly from the DHS here in Arizona. We have some
17 numbers that show us, you know, like the Hispanic
18 population is about 32.8 percent here in Arizona; they
19 account for about 27.8 percent of abortions in the
20 state. As well as you can see through the data that
21 has been given to us by DHS that white non-Hispanic
22 Arizonans account for 60 percent of the population here

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1 in Arizona, but they only account for 45.5 percent of
2 abortions in Arizona.

3 So this shows us that there is a
4 disproportionate amount of abortions being had, or
5 performed, better say, in the minority population. And
6 so I -- no one can read anybody's mind, I can't read
7 minds, I don't think anybody can, but I think what the
8 gist of this bill goes to -- and, again, it's something
9 that we can all agree on -- is that abortion -- or the
10 unborn should never be discriminated against based on
11 sex selection or race selection when it comes to
12 abortions.

13 MR. HEINZ: Mr. Chairman, thank you.

14 MR. ASH: Mr. Heinz.

15 MR. HEINZ: Mr. Montenegro, the numbers that
16 you just gave me, the 32 percent, or 32.8 percent, of
17 the Hispanic population, and then I believe it was 27
18 percent of the abortions performed in the state, in
19 that community, it doesn't seem to me that that shows a
20 disproportionately high percentage of terminations in
21 that community. I would expect if there was some sort
22 of disproportion, you would have 48 percent or 62

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1 but I would think that you would want to direct efforts
2 to prevent all abortions from happening, to reduce the
3 number of abortions, and I guess there seems to be an
4 assumption underlying this bill, I'm reading into it
5 maybe, but that there are doctors, providers of
6 abortion services, who would prey on women of color and
7 target them for abortions, and I think that that kind
8 of then negates the fact that these are doctors who,
9 again, have taken an oath to practice ethically and to
10 do no harm, and I think that -- I guess I don't know
11 where my question is, but if you have a response to
12 that, then I would be interested in hearing it.

13 MR. ASH: Representative Montenegro.

14 MR. MONTENEGRO: Sure. Chairman Ash and
15 Representative Hobbs, I largely agree with what you
16 said. Myself, being against abortion, see this, and
17 the thing is that I report to you sadly that it's
18 happening, and the evidence is there. There are
19 clinics that are taking money from people who have
20 sworn -- "Listen, I'm going to give you my
21 contribution, but only if you agree to use this on
22 Black babies." They were exposed in 2008. There are

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1 clinics who are preying on women. The evidence is
2 there, as we earlier spoke. So I do agree. I want to
3 make sure that -- I want to honor the practice, the
4 medical practice, we all do, but when there are -- when
5 there is evidence that it's happening and some people
6 are doing it based on these circumstances of sex and
7 race, we need to address it. That's why we're elected.

8 Thank you, Chairman Ash.

9 MR. ASH: Any other questions for
10 Mr. Montenegro?

11 (No audible response.)

12 MR. ASH: Mr. Montenegro, tell me again the
13 source from Harvard. Was it Harvard Medical School or
14 the business school that came up with the estimate of
15 the 100 million women?

16 MR. MONTENEGRO: It is a report by the Harvard
17 University "Economist," Mr. Chairman.

18 MR. ASH: Okay, thank you.

19 Other questions for Mr. Montenegro? We have
20 signed in to speak --

21 And thank you for coming over, Mr. Montenegro.

22 MR. HEINZ: Oh, Mr. Chairman, I feel it's

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1 important to point out that Mr. Montenegro's assistant
2 actually did e-mail me exactly as you requested. So
3 thank you.

4 MR. ASH: We're glad that our hearing is being
5 watched by our assistants.

6 Okay, signed in to speak is Sidney Hayes
7 (sic). Sidney Hay, I apologize.

8 MS. HAY: Mr. Chairman, Members of the
9 Committee, my name is Sidney Hay, and I represent
10 Defending America's Future, and I am so grateful for
11 you taking the time to hear this bill today, I truly
12 am. And here's where the study is, and I'll make sure
13 everybody has a copy of it because here's the headline
14 in "The Economist" magazine. It's called,
15 "Gendercide," "Gendercide: What happened to 100
16 million baby girls?" It's a pretty devastating
17 article, and I'll be sure and get you copies of it.
18 This is my only copy, but I'll make them for you.

19 In fact, in this article the facts are laid
20 out whether overtly killed, aborted, or abandoned to
21 die, well over 100 million girls from disappeared from
22 the world, and many experts now believe that sex

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1 selection abortion is the primary cause. And this is
2 not just a hidden catastrophe in countries like India
3 and China, where son preference, stemming from one-
4 child policies and other cultural factors, has had a
5 devastating impact on their societies. It is a
6 practice that evidence does show goes on in this
7 country, and no civilized society should allow this.

8 Women in America have the same human
9 fundamental rights as you men. United States law
10 prohibits sex discrimination in employment, education,
11 housing, health insurance, even in school athletics,
12 but the targeted victims of sex selection abortion in
13 the United States and worldwide are overwhelmingly
14 female. I will quote from the findings and
15 declarations of HR1822 from the 111th Congress, "Sex
16 selection abortions are performed in the United States.
17 In a March 2008 report, published in the 'Proceedings
18 of the National Academy of Sciences,' Columbia
19 University economists examined the sex ratio of United
20 States born children and found 'evidence of sex
21 selection most likely at the prenatal stage.' The data
22 revealed obvious son preference in the form of

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1 unnatural sex ratio imbalances within certain segments
2 of the United States population, primarily those
3 segments tracing their ethnic or cultural origins to
4 countries where sex selection abortion is prevalent.
5 The evidence strongly suggests that some Americans are
6 exercising sex selection practices within the United
7 States consistent with discriminatory practices common
8 to their country of origin or the country to which they
9 trace their ancestry. While sex selection abortions
-10 are more common outside the United States, the evidence
11 reveals that female feticide is also occurring in the
12 United States," and that's the end of the quote.

13 Because these abortions take place largely
14 after the sex can be determined by an ultrasound --
15 now, sex can be determined earlier by genetic testing
16 and other things like that, as Dr. Heinz is the expert
17 on, but 17 weeks into the fourth month, fifth month,
18 often is when the sex is determined by an ultrasound.
19 So these abortions, when they occur, are grisly, they
20 are inhumane, they are late-term abortions, and this is
21 what we're trying to deal with that.

22 So despite the failure of the United States to

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1 outlaw sex selection abortion, the United States has
2 repeatedly condemned it, through congressional
3 resolution, at the United Nations, calling on other
4 countries to ban the practice while we haven't done
5 that yet here in our own country. That's what this
6 bill is seeking to address. Countries that have been
7 the worst offenders in the past, like India and the
8 United Kingdom and China, have since enacted total
9 bans, while the United States has not done so, making
10 the United States—a safe haven for those who would seek
11 what is illegal in their own country to come here for
12 this procedure.

13 Now, likewise, when it comes to abortion and
14 race, the evidence, I will tell you, is equally
15 chilling. When asked, "What is the leading cause of
16 death in the American Black community?" the most common
17 answer given by average Americans is heart disease.
18 The correct answer is abortion. Since 1973, legal
19 abortion has killed more African Americans than heart
20 disease, cancer, stroke, accidents, AIDS, diabetes, and
21 violent crime, all other causes, combined. It's been
22 devastating to the Black community.

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Exhibit D

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ARIZONA LEGISLATURE

ARIZONA HOUSE OF REPRESENTATIVES

Fiftieth Legislature - First Regular Session

House Floor Session Part 2

Committee of the Whole

Monday, February 21, 2011

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1 abortions. An unborn child is dismembered because she
2 is female. This is perfectly legal in America.

3 Most developed countries have passed
4 restrictions on sex-selection abortion, and the United
5 States has become a well-known safe haven for people of
6 other countries who want to sex select. There have
7 been several news stories detailing this problem. We
8 must end this niche industry in the United States.

9 Race-targeted abortion is also real. A
10 succession of investigative videos about Planned
11 Parenthood revealed that this organization, the largest
12 abortion franchise in America, has agreed to accept
13 donations earmarked solely for the abortion of Black
14 children by donors who made clear that they wanted to
15 reduce the number of Black children in the United
16 States.

17 Planned Parenthood's eugenics-based, racist
18 history is well-known and was fully exposed in 2009
19 with the documentary called "Maafa 21." The greatest
20 majority of abortion clinics were proposedly (ph)
21 located in minority neighborhoods by the founders of
22 Planned Parenthood.

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1 More than 70 percent of abortion clinics are
2 still located in minority neighborhood today. African-
3 American babies are now aborted at five times the rate
4 of White babies to the point that nearly 50 percent of
5 Black babies are aborted. This is also perfectly legal
6 in the America. This is not who we are as a nation.

7 The founding principles of the United States
8 is the transcendent value of all innocent human life.
9 When we criticize other nations for human rights abuses
10 and at the same time look the other way while our own
11 children are being killed simply because they are the
12 wrong sex or the wrong race, we undermine the
13 foundations of our own nation and human dignity itself.

14 I introduced the original Prenatal
15 Nondiscrimination Act in the United States Congress in
16 2008. The former Democrat majority in the House
17 refused to permit the bill to come to the floor for a
18 vote. And since we still face a Democrat Senate and
19 White House, the Republican-led Congress has
20 prioritized other pro-life measures ahead of this bill
21 in the short term.

22 Consequently, we must look to the states for

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1 And so what the gist of this bill is something
2 that I think everybody behind -- everybody not on the
3 floor has told me that they agree that no one should be
4 discriminated against based on their sex or race in
5 abortion. The problem is nobody wants to do it in
6 public.

7 I know that there is a lot of confusion,
8 Representative Hobbs as to what this bill, and there's
9 a lot of confusion that is trying to be brought forward
10 to muddy up the waters of what this bill does. But
11 simply, that is -- there's countries like China,
12 countries in Asia that have a strong problem in sex
13 selection. Our country there's evidence that this is
14 happening.

15 The United States has gone to the United
16 Nations advocating for a law to be passed in other
17 countries to outlaw sex selection, yet we in our
18 country, yet we in our state don't have a law in the
19 books and don't want to acknowledge that there is a
20 problem when there is evidence that this is happening.

21 Planned Parenthood by their own numbers they
22 state that 42 percent of Black babies are aborted.

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Exhibit E

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ARIZONA LEGISLATURE

ARIZONA SENATE

Fiftieth Legislature - First Regular Session

Committee on Healthcare and Medical Liability Reform

Wednesday, March 2, 2011, 2:00 P.M.

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1 countries besides China." That article, "Gendercide,"
2 had to do with China and India. It was not anything to
3 do with the United States.

4 MS. SYDNEY HAY: Madam Chair and Senator
5 Lopez, you're absolutely right, but my point is that
6 this article shows what a devastating impact it has
7 when you change the balance of gender in a culture, and
8 it devastating when you read the article that that
9 impact can have. And I have presented to you from the
10 National Academy of Sciences where we're seeing it
11 happening in the United States of America. Now it's
12 not yet to the impact that has happened in China and
13 India, but China and India have now banned the practice
14 because it's been so devastating to them. My point
15 being that it's time for the United States to do the
16 same and be proactive and do the same.

17 MS. LOPEZ: Madam Chair, I would just say --

18 MS. BARTO: Senator Lopez.

19 MS. LOPEZ: -- that we're talking about
20 Arizona. There is no evidence to indicate that there
21 is any problem in Arizona. We're trying to fix a
22 problem that doesn't exist. Shouldn't we be focusing

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1 much as it is paternalistic attitude. I want to
2 appreciate though Senator Nelson's comments because
3 I've calmed down just hearing your own voice and
4 hearing how you look at it, taking a little broader and
5 deeper look at it, and I'll tell you that I've calmed
6 down, and I appreciate that, and I appreciate that
7 about you and your willingness to do that.

8 I think the other part that makes it so
9 emotional for me is when something is presented as
10 being a problem and there's no substantiation for it,
11 and then it feels like it's just being covered over and
12 talked through it rather than being shown it.

13 And I know that in China it's an issue. And
14 we've known it in America for a long time that it's
15 been an issue. In fact China is even saying now that
16 it's an issue because they don't even have enough girls
17 to marry off to the boys. So it is becoming that kind
18 of a problem.

19 And I recognize and I want to honor the
20 feelings that Senator Lopez has because she had direct
21 experience with the communities that are being
22 referenced here. I don't think anybody on the

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1 compassion and understanding to each other. I'll try
2 to monitor my feelings a little bit. This one just got
3 to me. So I apologize for that, but I do also honor
4 Senator Lopez and Senator Nelson. And I really don't
5 like to see bills presented the way that this was. And
6 I vote no.

7 SECRETARY: Senator Murphy.

8 MR. MURPHY: Madam Chair, may I explain my
9 vote please.

10 MS. BARTO: Please.

11 MR. MURPHY: Thank you. A couple of points
12 that I just want to make. One, I don't think that we
13 have enough data because we didn't collect it until
14 just recently to really be sure whether or not the
15 problem that this bill would address is happening now
16 in Arizona and in the United States or not.

17 But be that as it may, why does that mean that
18 we should wait and see whether it happens before we
19 address it? Because we know that it's something that's
20 going on in the world. We know that it's something
21 that is pervasive in some areas. We know that people
22 from those countries and from those cultures are moving

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1 and immigrating in some reasonable numbers to the
2 United States and to Arizona. And so with that in
3 mind, why in good conscience would we want to wait
4 until the problem does develop and bad things are
5 happening and then react when we can be proactive and
6 try to prevent the problem from happening in the first
7 place? Will we be a hundred percent? No. Because
8 people disobey the law sometimes, but that doesn't mean
9 we shouldn't make the effort.

10 As to some of the comments that -- and I
11 appreciate the frustration, perhaps, that some members
12 may be feeling about this or other bills. But I really
13 -- I don't want to take offense. That's a little too
14 strong. But I take exception to comments that just
15 because somebody is in favor of this bill or as a
16 member of the majority that we don't care about
17 children that are born. Because the fact of the matter
18 is there are a lot of us, myself being one, I have a
19 higher profile, but there are a lot of people without
20 the profile who do take care of those children.

21 It just so happens that all of my children are
22 children of color at the moment, and that seems to

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1 before us, and I think that can be a problem when we're
2 trying to discover the right policy based on the bill
3 in front of us.

4 And I guess I feel a little offended that we
5 are accused when we're really not dealing with those
6 particular issues. But I can understand it. And I
7 guess I expect a little bit of emotion around this
8 issue in particular.

9 Having said that, I think this policy deserves
10 a lot of consideration, and I appreciate the sponsor
11 bringing it forward. Because as ugly as the eugenics
12 movement was and the history abortion movement was in
13 our country, it was real, it was true. And the motives
14 may not be the same now, but the actions may continue,
15 and we don't want to promote those actions. And I
16 think when women are discriminated even if they're
17 unborn, they should be protected. And minorities too.
18 I think it's a place we can all agree. We have to
19 admit what is happening. The trend lines are there.
20 With a multicultural society as America is becoming
21 more of, we have to guard against that. So I applaud
22 the sponsor's work because this is a tough issue to

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2014, I electronically filed the foregoing Motion for Leave to File Brief of Social Psychologists as Amici Curiae in Support of Plaintiffs-Appellants together with the Brief of Social Psychologists as Amici Curiae in Support of Plaintiffs-Appellants including Appendices A & B referenced therein with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ _____
SARAH E. BURNS