

(R 76-128)



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76-98

March 22, 1976

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ARIZONA ATTORNEY GENERAL

Honorable S. H. Runyan
State Senator
Senate Wing - Capitol Building
Phoenix, Arizona 85007

Dear Senator Runyan:

By letter dated March 11, 1976, you have asked our advice whether Chapter 141 of the 1975 Session Laws, captioned "Children; Assistance; Fetus Protection", meets the requirements of Article 4, Part 2, Section 13 of the Arizona Constitution which provides:

§ 13. Subject and title of bills.

Section 13. Every Act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an Act which shall not be expressed in the title, such Act shall be void only as to so much thereof as shall not be embraced in the title.

Arizona courts have had frequent occasion to construe these provisions, and they have taken a liberal view, emphasizing that the judicial branch should not lightly overturn the judgment of the legislative branch in making subjective judgments as to what constitutes "one subject" or "matters properly connected therewith". The guidelines for judicial assessment were set forth in Shaw v. State, 8 Ariz. App. 447, 447 P.2d 262 (1968), as follows:

1. The court must be satisfied beyond a reasonable doubt that a statute is unconstitutional. State v. Davey, 27 Ariz. 254, 232 P. 884 (1925).
2. Article 4, Part 2, Section 13 of the Arizona Constitution is satisfied if the Act states the subject in general terms without disclosing the details of the legislation. It is not necessary that the title of the Act be an index to the statute. Ellery v. State, 42 Ariz. 79, 22 P.2d 838 (1933).



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3. Any provision having a natural connection with a title should be held to be embraced in it. State ex rel. Conway v. Versluis, 58 Ariz. 368, 120 P.2d 410 (1941).

4. Every intendment must be indulged by the courts in favor of the validity of a statute. Hernandez v. Frohmler, 68 Ariz. 242, 243, 204 P.2d 854 (1949).

5. Constitutional provisions shall not be given construction which will nullify legislation but must be liberally construed. Dennis v. Jordan, 71 Ariz. 430, 229 P.2d 692 (1951).

6. The title of the Act must tell in a general way what is to follow in the way of legislation. Dennis v. Jordan, supra.

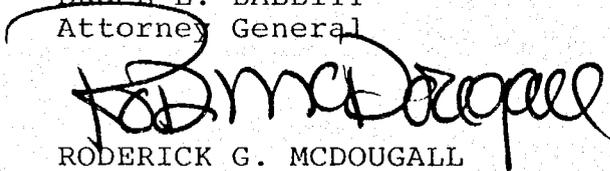
7. The purpose of the constitutional provision is to prevent surprise and the evils of omnibus bills and surreptitious and hodge-podge legislation. State v. Espinosa, 101 Ariz. 474, 421 P.2d 322 (1966).

8 Ariz. App. at 452.

Given the fact that the subjects of Chapter 141 all relate to welfare topics and given the quoted principles of judicial construction, we believe that Chapter 141 would be sustained as constitutional by an Arizona court.

Sincerely,

BRUCE E. BABBITT
Attorney General


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