

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0290.01 Michael Dohr x4347

SENATE BILL 15-285

SENATE SPONSORSHIP

Neville T., Cooke, Crowder, Grantham, Holbert, Marble, Woods

HOUSE SPONSORSHIP

Neville P. and Saine, Humphrey, Buck, Everett

Senate Committees

Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "WOMEN'S REPRODUCTIVE**
102 **INFORMATION GUARANTEE FOR HEALTH AND TRANSPARENCY**
103 **(RIGHT) ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires that accurate ultrasound and medical information be provided by a physician to a woman who may be considering the termination of a pregnancy. The bill requires that a woman provide voluntary and informed consent to an abortion. The bill describes the information that constitutes voluntary and informed consent that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

physician performing the abortion provides to the woman.

The bill requires that at least 24 hours prior to performing an abortion, the abortion provider shall provide the woman the following:

- ! The opportunity to receive a photo of a current ultrasound of the unborn child;
- ! The probable gestational age of the unborn child;
- ! A description of the development of the child's nerve endings and the child's ability to feel pain at each stage of development;
- ! A statement that the woman is free to withhold or withdraw her consent to the abortion at any time without affecting her right to care or treatment in the future and without the loss of any state or federal benefits to which she might otherwise be entitled; and
- ! Any other medical or other information that a reasonable patient would consider material to the decision of whether or not to have an abortion.

The bill describes the conditions under which the information is provided. The bill requires the woman to sign a statement that she received the required information, and the provider shall sign a statement that he or she provided the required information.

The bill prohibits an abortion provider from accepting payment or legally or otherwise binding a woman to make payment for the performance or inducing of an abortion prior to the expiration of 24 hours from the abortion provider's fulfillment of all of the required provisions.

The bill creates a civil right of action for noncompliance with the requirements, making a physician's noncompliance with the requirements unprofessional conduct and a violation of the requirements a crime.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article
3 6 of title 25 as follows:

4 **PART 4**

5 **INFORMED DECISION-MAKING**

6 **25-6-401. Short title.** THIS PART 4 MAY BE KNOWN AS AND CITED
7 AS THE "WOMEN'S REPRODUCTIVE INFORMATION GUARANTEE FOR
8 HEALTH AND TRANSPARENCY (RIGHT) ACT".

9 **25-6-402. Legislative declaration.** (1) THE GENERAL ASSEMBLY

1 FINDS THAT:

2 (a) CURRENT MEDICAL PROCEDURES INVOLVING SURGERY OR
3 WOMEN'S PREGNANCIES REQUIRE THE USE OF AN ULTRASOUND OR OTHER
4 ENDOSCOPIC PROCEDURE TO ENSURE ACCURATE PROGNOSIS;

5 (b) ULTRASOUND TECHNOLOGY IS GENERALLY ACCEPTED IN THE
6 MEDICAL COMMUNITY AS AN EFFICIENT AND ACCURATE MEANS OF
7 EXAMINING THE HEALTH OF BOTH INTERNAL ORGANS AND UNBORN
8 CHILDREN;

9 (c) APPROXIMATELY SIXTEEN THOUSAND ABORTIONS ARE
10 PERFORMED WITHOUT FULL DISCLOSURE TO PREGNANT WOMEN,
11 REGARDING ACCURATE INFORMATION PROVIDED BY ULTRASOUND
12 TECHNOLOGY;

13 (d) ECTOPIC PREGNANCIES THAT ARE UNDETECTED DURING
14 ABORTION PRESENT A DANGER TO THE LIFE OF THE MOTHER;

15 (e) EVERY YEAR THOUSANDS OF UNBORN CHILDREN ARE ABORTED
16 WHILE THE MOTHER IS DENIED THE OPPORTUNITY TO SEE THE UNBORN
17 CHILD FOR HERSELF;

18 (f) LACK OF TRANSPARENCY ON THE PART OF ABORTION
19 PROVIDERS CREATES UNAWARENESS ON BEHALF OF THE EXPECTANT
20 MOTHER REGARDING THE GESTATIONAL AGE AND DEVELOPMENT OF HER
21 UNBORN CHILD;

22 (g) UNAWARENESS AND LACK OF EDUCATIONAL INFORMATION
23 REGARDING UNBORN CHILDREN IS A CONTRIBUTING FACTOR TO THE
24 NUMBER OF ABORTIONS PERFORMED IN COLORADO FOR NO OTHER REASON
25 THAN A MINOR PHYSICAL DISABILITY OR THE INCONVENIENCE OF AN
26 "UNPLANNED" PREGNANCY; AND

27 (h) WOMEN WHO ARE SHOWN ULTRASOUND PICTURES CAN MAKE

1 AN INFORMED, EDUCATED HEALTH CARE DECISION BASED ON SCIENTIFIC
2 INFORMATION MADE AVAILABLE THROUGH ULTRASOUND TECHNOLOGY.

3 (2) BASED ON THE FINDINGS IN SUBSECTION (1) OF THIS SECTION,
4 THE GENERAL ASSEMBLY DECLARES IT IS THE PURPOSE OF THIS PART 4 TO:

5 (a) ENSURE THAT EACH WOMAN CONSIDERING AN ABORTION HAS
6 THE OPPORTUNITY TO RECEIVE COMPLETE INFORMATION ON THE REALITY
7 AND STATUS OF HER PREGNANCY AND OF HER FETUS, AND THAT EACH
8 WOMAN SUBMITTING TO AN ABORTION DO SO ONLY AFTER GIVING HER
9 VOLUNTARY AND INFORMED CONSENT TO THE ABORTION PROCEDURE;

10 (b) PROTECT THE FETUS FROM A WOMAN'S UNINFORMED DECISION
11 TO HAVE AN ABORTION;

12 (c) REDUCE "THE RISK THAT A WOMAN MAY ELECT AN ABORTION,
13 ONLY TO DISCOVER LATER, WITH DEVASTATING PSYCHOLOGICAL
14 CONSEQUENCES, THAT HER DECISION WAS NOT FULLY INFORMED", AS
15 STATED BY THE UNITED STATES SUPREME COURT IN *PLANNED*
16 *PARENTHOOD V. CASEY*, 505 U.S. 833, 882 (1992); AND

17 (d) ADOPT THE CONSTRUCTION OF THE TERM "MEDICAL
18 EMERGENCY" ACCEPTED BY THE UNITED STATES SUPREME COURT IN
19 *PLANNED PARENTHOOD V. CASEY*, 505 U.S. 833 (1992).

20 **25-6-403. Definitions.** AS USED IN THIS PART 4, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY
23 INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR
24 MEANS WITH THE INTENT TO TERMINATE THE PREGNANCY OF A WOMAN
25 WITH KNOWLEDGE OR REASON TO BELIEVE THAT THE TERMINATION BY
26 THOSE MEANS WILL CAUSE THE DEATH OF THE UNBORN CHILD. SUCH USE,
27 PRESCRIPTION, OR MEANS IS NOT AN ABORTION IF DONE WITH THE INTENT

1 TO:

2 (a) SAVE THE LIFE OR PRESERVE THE HEALTH OF AN UNBORN
3 CHILD;

4 (b) REMOVE A DEAD UNBORN CHILD WHO DID NOT DIE AS A RESULT
5 OF AN INTENTIONAL, KNOWING, OR RECKLESS ACTION TO TERMINATE A
6 PREGNANCY; OR

7 (c) REMOVE AN ECTOPIC PREGNANCY.

8 (2) "ABORTION PROVIDER" MEANS:

9 (a) A PHYSICIAN PERFORMING OR INDUCING AN ABORTION; OR

10 (b) A PERSON EMPLOYED AT OR BY THE FACILITY WHERE THE
11 ABORTION IS TO BE PERFORMED OR INDUCED AND WILL PHYSICALLY ASSIST
12 IN THE PROCEDURE; OR

13 (c) A PERSON EMPLOYED AT THE FACILITY WHO IS DESIGNATED FOR
14 ADMINISTRATIVE DUTIES DIRECTLY CONCERNING THE PATIENT.

15 (3) "FETAL SAC" MEANS THE STRUCTURE SURROUNDING THE FETUS
16 THAT CAN BE USED TO DETERMINE IF AN INTRAUTERINE PREGNANCY
17 EXISTS.

18 (4) "MEDICAL EMERGENCY" MEANS A CONDITION THAT SO
19 COMPLICATES THE MEDICAL CONDITION OF A PREGNANT WOMAN AS TO
20 NECESSITATE THE IMMEDIATE TERMINATION OF HER PREGNANCY TO AVERT
21 HER DEATH OR FOR WHICH A DELAY WILL CREATE SERIOUS RISK OF
22 SUBSTANTIAL AND IRREVERSIBLE IMPAIRMENT OF A MAJOR BODILY
23 FUNCTION.

24 (5) "VIABLE PREGNANCY" MEANS A PREGNANCY IN WHICH A FETAL
25 SAC IS LOCATED INSIDE THE UTERUS AND A FETAL HEARTBEAT IS
26 DETECTABLE WITHIN THE FETAL SAC.

27 **25-6-404. Informed consent.** (1) AN ABORTION SHALL NOT BE

1 PERFORMED OR INDUCED WITHOUT THE VOLUNTARY AND INFORMED
2 CONSENT OF THE WOMAN UPON WHOM THE ABORTION IS PERFORMED OR
3 INDUCED. EXCEPT IN THE CASE OF A MEDICAL EMERGENCY, CONSENT TO
4 AN ABORTION IS VOLUNTARY AND INFORMED ONLY IF AT LEAST
5 TWENTY-FOUR HOURS BEFORE THE ABORTION, THE PHYSICIAN WHO IS TO
6 PERFORM THE ABORTION HAS INFORMED THE WOMAN, ORALLY AND IN
7 WRITING, OF THE FOLLOWING:

8 (a) THE NAME OF THE PHYSICIAN WHO WILL PERFORM THE
9 ABORTION;

10 (b) A THOROUGH AND ACCURATE DESCRIPTION OF THE PROPOSED
11 METHOD FOR PERFORMING THE ABORTION, INCLUDING INFORMATION ON
12 THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME THE
13 ABORTION IS TO BE PERFORMED AND THE PROBABLE ANATOMICAL AND
14 PHYSIOLOGICAL CHARACTERISTICS OF AN UNBORN CHILD AT THAT AGE;

15 (c) A DESCRIPTION OF IMMEDIATE AND LONG-TERM PHYSICAL AND
16 PSYCHOLOGICAL RISKS INVOLVED IN THE ABORTION PROCEDURE,
17 INCLUDING BUT NOT LIMITED TO THE RISKS OF INFECTION, HEMORRHAGE,
18 CERVICAL OR UTERINE PERFORATION, RISKS TO SUBSEQUENT
19 PREGNANCIES, AND INFERTILITY;

20 (d) A DESCRIPTION OF ALTERNATIVES TO ABORTION, INCLUDING
21 THE AVAILABILITY OF ADOPTION ALTERNATIVES AND THE AVAILABILITY
22 OF FINANCIAL HELP FROM ADOPTIVE PARENTS AND OTHER SOURCES FOR
23 PRENATAL CARE, CHILD BIRTH, AND NEONATAL CARE EXPENSES;

24 (e) A DESCRIPTION OF MEDICAL ASSISTANCE BENEFITS THAT MAY
25 BE AVAILABLE FOR PRENATAL CARE, CHILDBIRTH, AND NEONATAL CARE,
26 TOGETHER WITH THE NAMES AND CONTACT INFORMATION FOR
27 INDIVIDUALS AND ORGANIZATIONS THAT MAY BE WILLING TO ASSIST WITH

1 THE COSTS INVOLVED IN CARRYING THE PREGNANCY TO TERM, AND
2 INFORMATION ON THE LIABILITY OF THE FATHER FOR CHILD SUPPORT AND
3 OTHER EXPENSES; AND

4 (f) ANY OTHER MEDICAL OR OTHER INFORMATION THAT A
5 REASONABLE PATIENT WOULD CONSIDER MATERIAL TO THE DECISION OF
6 WHETHER OR NOT TO HAVE AN ABORTION.

7 (2) AT LEAST TWENTY-FOUR HOURS PRIOR TO THE ABORTION, THE
8 ABORTION PROVIDER SHALL PROVIDE THE WOMAN, IN WRITING AND, WHEN
9 APPLICABLE, ORALLY:

10 (a) THE OPPORTUNITY TO RECEIVE A PICTURE OF A CURRENT
11 ULTRASOUND OF THE UNBORN CHILD PORTRAYING THE ENTIRE BODY OF
12 THE UNBORN CHILD, INCLUDING:

13 (I) AN ORAL DESCRIPTION OF ALL RELEVANT FEATURES OF THE
14 ULTRASOUND, WITH AUDIBLE HEARTBEAT IF PRESENT;

15 (II) UPON REQUEST AND WITHOUT ADDITIONAL CHARGE, A
16 PHOTOGRAPH OR PRINT OF THE ULTRASOUND, OF A QUALITY CONSISTENT
17 WITH THE CURRENT STANDARD MEDICAL PRACTICE;

18 (III) A WRITTEN AND ORAL DESCRIPTION STATING WHETHER OR
19 NOT THE WOMAN HAS A VIABLE PREGNANCY, LOCATION OF THE FETAL SAC,
20 AND THE PRESENCE OR ABSENCE OF A HEARTBEAT. IF THE PREGNANCY IS
21 NOT VIABLE, THE ABORTION PROVIDER SHALL ADVISE THE WOMAN THAT
22 SHE WILL MISCARRY WITH NO FURTHER INTERVENTION UNLESS THE
23 ABORTION PROVIDER HAS EVIDENCE TO THE CONTRARY.

24 (IV) IN ORDER TO PROVIDE THE POSSIBILITY OF A SECOND OPINION,
25 A LIST OF ALL KNOWN ULTRASOUND PROVIDERS WITHIN A TEN-MILE
26 RADIUS OF THE ABORTION PROVIDER, OR IF THERE ARE NO SUCH
27 ULTRASOUND PROVIDERS WITHIN A TEN-MILE RADIUS OF THE ABORTION

1 PROVIDER, A LIST OF ALL KNOWN ULTRASOUND PROVIDERS WITHIN A
2 FIFTY-MILE RADIUS OF THE ABORTION PROVIDER;

3 (b) THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD,
4 INCLUDING A FETAL DEVELOPMENT CHART WITH COLOR PHOTOGRAPHS
5 SPECIFYING WITHIN A FOUR-WEEK INCREMENT THE AGE OF THE UNBORN
6 CHILD AND SHOWING EACH SUCCEEDING FOUR-WEEK INCREMENT DURING
7 THE PREGNANCY;

8 (c) A DESCRIPTION OF THE DEVELOPMENT OF THE CHILD'S NERVE
9 ENDINGS AND THE CHILD'S ABILITY TO FEEL PAIN AT EACH STAGE OF
10 DEVELOPMENT;

11 (d) A STATEMENT THAT THE WOMAN IS FREE TO WITHHOLD OR
12 WITHDRAW HER CONSENT TO THE ABORTION AT ANY TIME WITHOUT
13 AFFECTING HER RIGHT TO CARE OR TREATMENT IN THE FUTURE AND
14 WITHOUT THE LOSS OF ANY STATE OR FEDERAL BENEFITS TO WHICH SHE
15 MIGHT OTHERWISE BE ENTITLED; AND

16 (e) ANY OTHER MEDICAL OR OTHER INFORMATION THAT A
17 REASONABLE PATIENT WOULD CONSIDER MATERIAL TO THE DECISION OF
18 WHETHER OR NOT TO HAVE AN ABORTION.

19 (3) (a) THE ABORTION PROVIDER SHALL PROVIDE THE
20 INFORMATION REQUIRED IN THIS SECTION INDIVIDUALLY IN A PRIVATE
21 ROOM, AND THE WOMAN SHALL BE PROVIDED WITH AN ADEQUATE
22 OPPORTUNITY TO ASK QUESTIONS AND RECEIVE ANSWERS SHE CAN
23 UNDERSTAND.

24 (b) IF THE WOMAN IS UNABLE TO READ THE WRITTEN MATERIALS
25 REQUIRED TO BE PROVIDED TO HER UNDER THE PROVISIONS OF THIS
26 SECTION, THE ABORTION PROVIDER SHALL READ THE MATERIALS TO HER
27 AND, IF NECESSARY, SHALL EXPLAIN THE MATERIALS IN A WAY THAT IS

1 UNDERSTANDABLE TO HER.

2 (c) AFTER THE ABORTION PROVIDER HAS COMPLIED WITH EACH OF
3 THE REQUIREMENTS OF THIS SECTION, THE WOMAN SHALL SIGN SEPARATE
4 STATEMENTS ATTESTING TO THE COMPLETION OF THE REQUIREMENTS. THE
5 ABORTION PROVIDER SHALL, UNDER OATH AND UNDER PENALTY OF
6 PERJURY, SIGN SEPARATE STATEMENTS THAT HE OR SHE HAS COMPLIED
7 WITH EACH OF THE REQUIREMENTS OF THIS SECTION.

8 (d) AN ABORTION PROVIDER SHALL NOT ACCEPT PAYMENT OR
9 LEGALLY OR OTHERWISE BIND A WOMAN TO MAKE PAYMENT FOR THE
10 PERFORMANCE OR INDUCING OF AN ABORTION PRIOR TO THE EXPIRATION
11 OF TWENTY-FOUR HOURS FROM THE ABORTION PROVIDER'S FULFILLMENT
12 OF ALL OF THE PROVISIONS OF THIS SECTION.

13 (4) A PERSON WHO RECKLESSLY VIOLATES ANY PROVISION OF THIS
14 SECTION, OR WHO PERFORMS AN ABORTION WITH REASON TO BELIEVE
15 SUCH AN ABORTION IS A VIOLATION OF THIS SECTION COMMITS AN
16 UNCLASSIFIED MISDEMEANOR AND SHALL BE FINED NOT MORE THAN ONE
17 THOUSAND DOLLARS FOR EACH VIOLATION.

18 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT
19 THE PREGNANT WOMAN FROM NOT LISTENING TO THE SOUNDS DETECTED
20 BY THE FETAL HEART MONITOR OR FROM NOT VIEWING THE IMAGES
21 DISPLAYED ON THE ULTRASOUND SCREEN.

22 **26-5-405. Civil cause of action.** A PERSON WHO SUFFERS A LOSS
23 OR INJURY AS A RESULT OF A VIOLATION OF THIS PART 4 BY AN ABORTION
24 PROVIDER MAY BRING A CAUSE OF ACTION AGAINST THE ABORTION
25 PROVIDER FOR DAMAGES, PUNITIVE DAMAGES, TREBLE DAMAGES, AND
26 SUCH EQUITABLE REMEDIES AS THE COURT MAY DEEM APPROPRIATE.

27 **26-5-406. Preemption and severability.** (1) THIS PART 4 SHALL

1 NOT BE CONSTRUED TO PREEMPT OR SUPERSEDE ANY PROVISION OF LAW
2 OR ANY PROVISION OF LAW THAT IS MORE RESTRICTIVE THAN THE
3 PROVISIONS OF THIS PART 4, OR CREATE OR RECOGNIZE ANY RIGHT TO AN
4 ABORTION, OR TO SANCTION, APPROVE OF, OR EXPAND IN ANY WAY THE
5 LEGALITY OF ABORTION.

6 (2) THE PROVISIONS OF THIS PART 4 ARE SEVERABLE. IF ANY
7 PROVISION OF THIS PART 4, OR WORD, PHRASE, OR APPLICATION THEREOF,
8 IS FOUND TO BE INVALID, THAT INVALIDITY SHALL NOT AFFECT THE
9 VALIDITY OF THE PROVISIONS OR APPLICATIONS NOT FOUND TO BE INVALID
10 IN THIS PART 4.

11 **SECTION 2.** In Colorado Revised Statutes, 12-36-117, **add** (1)
12 (nn) as follows:

13 **12-36-117. Unprofessional conduct.** (1) "Unprofessional
14 conduct" as used in this article means:

15 (nn) A VIOLATION OF PART 4 OF ARTICLE 6 OF TITLE 25, C.R.S.

16 **SECTION 3. Effective date - applicability.** This act takes effect
17 upon passage and applies to offenses or actions committed on or after
18 said date.

19 **SECTION 4. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.