

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0201.01 Michael Dohr x4347

HOUSE BILL 15-1162

HOUSE SPONSORSHIP

Nordberg, Priola, Humphrey, Van Winkle, Carver, Saine, Lundeen, Szabo, Buck, Everett, Joshi, Neville P.

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PRENATAL SEX NONDISCRIMINATION 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 outlaws:

- ! The performance of an abortion for the purposes of sex selection;
- ! Coercion of an abortion for the purposes of sex selection;
- ! Solicitation or acceptance of funds for the performance of an abortion for the purposes of sex selection; or
- ! Transporting a woman into Colorado so the woman can receive an abortion for the purposes of sex selection.

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.

1 CHILD WITHOUT THE AID OF MEDICAL PROFESSIONALS. EXPERTS HAVE
2 DEMONSTRATED THAT THE SEX-DETERMINATION INDUSTRY IS ON THE RISE
3 AND PREDICT THAT IT WILL CONTINUE TO BE A GROWING TREND IN THE
4 UNITED STATES. SEX DETERMINATION IS ALWAYS A NECESSARY STEP TO
5 THE PROCUREMENT OF A SEX-SELECTION ABORTION.

6 (IV) A "SEX-SELECTION ABORTION" IS AN ABORTION UNDERTAKEN
7 FOR PURPOSES OF ELIMINATING AN UNBORN CHILD OF AN UNDESIRE D SEX.
8 SEX-SELECTION ABORTION IS BARBARIC AND DESCRIBED BY SCHOLARS
9 AND CIVIL RIGHTS ADVOCATES AS AN ACT OF SEX-BASED OR
10 GENDER-BASED VIOLENCE, PREDICATED ON SEX DISCRIMINATION.
11 SEX-SELECTION ABORTIONS ARE TYPICALLY LATE-TERM ABORTIONS
12 PERFORMED IN THE SECOND OR THIRD TRIMESTER OF PREGNANCY, AFTER
13 THE UNBORN CHILD HAS DEVELOPED SUFFICIENTLY TO FEEL PAIN.
14 SUBSTANTIAL MEDICAL EVIDENCE PROVES THAT AN UNBORN CHILD CAN
15 EXPERIENCE PAIN AT TWENTY WEEKS AFTER CONCEPTION AND PERHAPS
16 SUBSTANTIALLY EARLIER. BY DEFINITION, SEX-SELECTION ABORTIONS DO
17 NOT IMPLICATE THE HEALTH OF THE MOTHER OF THE UNBORN CHILD BUT
18 INSTEAD ARE ELECTIVE PROCEDURES MOTIVATED BY SEX OR GENDER BIAS.

19 (V) THE TARGETED VICTIMS OF SEX-SELECTION ABORTIONS
20 PERFORMED IN THE UNITED STATES AND WORLDWIDE ARE
21 OVERWHELMINGLY FEMALE. THE SELECTIVE ABORTION OF FEMALES IS
22 FEMALE INFANTICIDE, THE INTENTIONAL KILLING OF UNBORN FEMALES,
23 DUE TO THE PREFERENCE FOR MALE OFFSPRING OR "SON PREFERENCE".
24 SON PREFERENCE IS REINFORCED BY THE LOW VALUE ASSOCIATED, BY
25 SOME SEGMENTS OF THE WORLD COMMUNITY, WITH FEMALE OFFSPRING.
26 THOSE SEGMENTS TEND TO REGARD FEMALE OFFSPRING AS FINANCIAL
27 BURDENS TO A FAMILY OVER THEIR LIFETIME DUE TO THEIR PERCEIVED

1 INABILITY TO EARN OR PROVIDE FINANCIALLY FOR THE FAMILY UNIT
2 COMPARED TO MALE OFFSPRING. IN ADDITION, DUE TO SOCIAL AND LEGAL
3 CONVENTION, FEMALE OFFSPRING ARE LESS LIKELY TO CARRY ON THE
4 FAMILY NAME. SON PREFERENCE IS ONE OF THE MOST EVIDENT
5 MANIFESTATIONS OF SEX OR GENDER DISCRIMINATION IN ANY SOCIETY,
6 UNDERMINING FEMALE EQUALITY AND FUELING THE ELIMINATION OF
7 FEMALES' RIGHT TO EXIST IN INSTANCES OF SEX-SELECTION ABORTION.

8 (VI) SEX-SELECTION ABORTIONS ARE NOT EXPRESSLY PROHIBITED
9 BY UNITED STATES LAW OR THE LAWS OF FORTY-FOUR STATES, AND
10 EVIDENCE SHOWS SEX-SELECTION ABORTIONS ARE PERFORMED IN THE
11 UNITED STATES. IN A MARCH 2008 REPORT PUBLISHED IN THE
12 PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES, COLUMBIA
13 UNIVERSITY ECONOMISTS DOUGLAS ALMOND AND LENA EDLUND
14 EXAMINED THE SEX RATIO OF CHILDREN BORN IN THE UNITED STATES AND
15 FOUND "EVIDENCE OF SEX SELECTION, MOST LIKELY AT THE PRENATAL
16 STAGE". THE DATA REVEALED OBVIOUS SON PREFERENCE IN THE FORM OF
17 UNNATURAL SEX-RATIO IMBALANCES WITHIN CERTAIN SEGMENTS OF THE
18 UNITED STATES POPULATION, PRIMARILY THOSE SEGMENTS TRACING
19 THEIR ETHNIC OR CULTURAL ORIGINS TO COUNTRIES WHERE
20 SEX-SELECTION ABORTION IS PREVALENT. THE EVIDENCE STRONGLY
21 SUGGESTS THAT SOME AMERICANS ARE EXERCISING SEX-SELECTION
22 ABORTION PRACTICES WITHIN THE UNITED STATES CONSISTENT WITH
23 DISCRIMINATORY PRACTICES COMMON TO THEIR COUNTRIES OF ORIGIN OR
24 THE COUNTRY TO WHICH THEY TRACE THEIR ANCESTRY. WHILE
25 SEX-SELECTION ABORTIONS ARE MORE COMMON OUTSIDE THE UNITED
26 STATES, THE EVIDENCE REVEALS THAT FEMALE FETICIDE IS ALSO
27 OCCURRING IN THE UNITED STATES.

1 (VII) THE AMERICAN PUBLIC SUPPORTS A PROHIBITION OF
2 SEX-SELECTION ABORTION. IN A MARCH 2006 ZOGBY INTERNATIONAL
3 POLL, EIGHTY-SIX PERCENT OF AMERICANS AGREED THAT SEX-SELECTION
4 ABORTION SHOULD BE ILLEGAL, YET ONLY THREE STATES PROHIBIT
5 SEX-SELECTION ABORTION.

6 (VIII) DESPITE THE FAILURE OF THE UNITED STATES TO PROSCRIBE
7 SEX-SELECTION ABORTION, THE UNITED STATES CONGRESS HAS
8 EXPRESSED REPEATEDLY, THROUGH CONGRESSIONAL RESOLUTION,
9 STRONG CONDEMNATION OF POLICIES PROMOTING SEX-SELECTION
10 ABORTION IN THE "COMMUNIST GOVERNMENT OF CHINA". LIKewise, AT
11 THE 2007 UNITED NATIONS' ANNUAL MEETING OF THE COMMISSION ON
12 THE STATUS OF WOMEN, FIFTY-FIRST SESSION, THE UNITED STATES'
13 DELEGATION SPEARHEADED A RESOLUTION CALLING ON COUNTRIES TO
14 CONDEMN SEX-SELECTION ABORTION, A POLICY DIRECTLY
15 CONTRADICTORY TO THE PERMISSIVENESS OF CURRENT UNITED STATES
16 LAW, WHICH PLACES NO RESTRICTION ON THE PRACTICE OF SEX-SELECTION
17 ABORTION. THE UNITED NATIONS' COMMISSION ON THE STATUS OF WOMEN
18 HAS URGED GOVERNMENTS OF ALL NATIONS "TO TAKE NECESSARY
19 MEASURES TO PREVENT ... PRENATAL SEX SELECTION".

20 (IX) A 1990 REPORT BY HARVARD UNIVERSITY ECONOMIST
21 AMARTYA SEN ESTIMATED THAT MORE THAN ONE HUNDRED MILLION
22 WOMEN WERE "DEMOGRAPHICALLY MISSING" FROM THE WORLD AS EARLY
23 AS 1990 DUE TO SEXIST PRACTICES, INCLUDING SEX-SELECTION ABORTION.
24 MANY EXPERTS BELIEVE SEX-SELECTION ABORTION IS THE PRIMARY
25 CAUSE. CURRENT ESTIMATES OF WOMEN MISSING FROM THE WORLD RANGE
26 IN THE HUNDREDS OF MILLIONS.

27 (X) COUNTRIES WITH LONG-STANDING EXPERIENCE WITH

1 SEX-SELECTION ABORTION, SUCH AS THE REPUBLIC OF INDIA, THE UNITED
2 KINGDOM, AND THE PEOPLE'S REPUBLIC OF CHINA, HAVE ENACTED
3 RESTRICTIONS ON SEX-SELECTION ABORTION AND HAVE STEADILY
4 CONTINUED TO STRENGTHEN PROHIBITIONS AND PENALTIES. THE UNITED
5 STATES, BY CONTRAST, HAS NO LAW IN PLACE TO RESTRICT
6 SEX-SELECTION ABORTION, ESTABLISHING THE UNITED STATES AS
7 AFFORDING LESS PROTECTION FROM SEX-BASED FETICIDE THAN THE
8 REPUBLIC OF INDIA OR THE PEOPLE'S REPUBLIC OF CHINA, WHOSE RECENT
9 PRACTICES OF SEX-SELECTION ABORTION WERE VEHEMENTLY AND
10 REPEATEDLY CONDEMNED BY UNITED STATES CONGRESSIONAL
11 RESOLUTIONS AND BY THE UNITED STATES AMBASSADOR TO THE UNITED
12 NATIONS' COMMISSION ON THE STATUS OF WOMEN. PUBLIC STATEMENTS
13 FROM WITHIN THE MEDICAL COMMUNITY REVEAL THAT CITIZENS OF OTHER
14 COUNTRIES COME TO THE UNITED STATES FOR SEX-SELECTION
15 PROCEDURES THAT WOULD BE CRIMINAL IN THEIR COUNTRIES OF ORIGIN.
16 BECAUSE THE UNITED STATES PERMITS ABORTION ON THE BASIS OF SEX,
17 THE UNITED STATES MAY EFFECTIVELY FUNCTION AS A "SAFE HAVEN" FOR
18 THOSE WHO SEEK TO HAVE AMERICAN PHYSICIANS DO WHAT WOULD
19 OTHERWISE BE CRIMINAL IN THEIR HOME COUNTRIES -- A SEX-SELECTION
20 ABORTION, MOST LIKELY LATE-TERM.

21 (XI) THE AMERICAN MEDICAL COMMUNITY OPPOSES
22 SEX-SELECTION ABORTION. THE AMERICAN COLLEGE OF OBSTETRICIANS
23 AND GYNECOLOGISTS, COMMONLY KNOWN AS ACOG, STATED IN ITS
24 FEBRUARY 2007 ETHICS COMMITTEE OPINION, NUMBER 360, THAT SEX
25 SELECTION IS INAPPROPRIATE FOR FAMILY-PLANNING PURPOSES BECAUSE
26 SEX SELECTION "ULTIMATELY SUPPORTS SEXIST PRACTICES". LIKEWISE,
27 THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE HAS OPINED THAT

1 SEX SELECTION FOR FAMILY-PLANNING PURPOSES IS ETHICALLY
2 PROBLEMATIC, INAPPROPRIATE, AND SHOULD BE DISCOURAGED.

3 (XII) SEX-SELECTION ABORTION RESULTS IN AN UNNATURAL
4 SEX-RATIO IMBALANCE. AN UNNATURAL SEX-RATIO IMBALANCE IS
5 UNDESIRABLE, DUE TO THE INABILITY OF THE NUMERICALLY
6 PREDOMINANT SEX TO FIND MATES. EXPERTS WORLDWIDE DOCUMENT
7 THAT A SIGNIFICANT SEX-RATIO IMBALANCE IN WHICH MALES
8 NUMERICALLY PREDOMINATE CAN CAUSE INCREASED VIOLENCE AND
9 MILITANCY WITHIN A SOCIETY. LIKewise, AN UNNATURAL SEX-RATIO
10 IMBALANCE GIVES RISE TO THE COMMODIFICATION OF HUMANS IN THE
11 FORM OF HUMAN TRAFFICKING, AND A CONSEQUENT INCREASE IN
12 KIDNAPPING AND OTHER VIOLENT CRIME.

13 (XIII) SEX-SELECTION ABORTIONS DIMINISH THE REPRESENTATION
14 OF WOMEN IN THE AMERICAN POPULATION AND, THEREFORE, THE
15 AMERICAN ELECTORATE; AND

16 (XIV) SEX-SELECTION ABORTION REINFORCES SEX
17 DISCRIMINATION AND HAS NO PLACE IN A CIVILIZED SOCIETY.

18 (b) **General findings.** (I) THE HISTORY OF THE UNITED STATES
19 INCLUDES EXAMPLES OF SEX DISCRIMINATION. THE PEOPLE OF THE UNITED
20 STATES ULTIMATELY RESPONDED IN THE STRONGEST POSSIBLE LEGAL
21 TERMS BY ENACTING CONSTITUTIONAL AMENDMENTS CORRECTING
22 ELEMENTS OF SUCH DISCRIMINATION. WOMEN, ONCE SUBJECTED TO SEX
23 DISCRIMINATION THAT DENIED THEM THE RIGHT TO VOTE, NOW HAVE
24 SUFFRAGE GUARANTEED BY THE NINETEENTH AMENDMENT. THE
25 ELIMINATION OF DISCRIMINATORY PRACTICES HAS BEEN AND IS AMONG
26 THE HIGHEST PRIORITIES AND GREATEST ACHIEVEMENTS OF AMERICAN
27 HISTORY; AND

1 (II) IMPLICITLY APPROVING THE DISCRIMINATORY PRACTICES OF
2 SEX-SELECTION ABORTION BY CHOOSING NOT TO PROHIBIT THEM WILL
3 REINFORCE THESE INHERENTLY DISCRIMINATORY PRACTICES AND
4 EVIDENCE A FAILURE TO PROTECT A SEGMENT OF CERTAIN UNBORN
5 AMERICANS BECAUSE THOSE UNBORN ARE OF A SEX THAT IS DISFAVORED.
6 SEX-SELECTION ABORTIONS TRIVIALIZE THE VALUE OF THE UNBORN ON
7 THE BASIS OF SEX, REINFORCING SEX DISCRIMINATION, AND COARSENING
8 SOCIETY TO THE HUMANITY OF ALL VULNERABLE AND INNOCENT HUMAN
9 LIFE, MAKING IT INCREASINGLY DIFFICULT TO PROTECT SUCH LIFE. THUS,
10 COLORADO HAS A COMPELLING INTEREST IN ACTING -- INDEED IT MUST
11 ACT -- TO PROHIBIT SEX-SELECTION ABORTION.

12 **18-3.5-203. Discrimination against the unborn on the basis of**
13 **sex - definitions.** (1) A PERSON SHALL NOT KNOWINGLY:

14 (a) PERFORM AN ABORTION KNOWING THAT THE ABORTION IS
15 SOUGHT BASED ON THE SEX OF THE CHILD;

16 (b) USE FORCE OR THE THREAT OF FORCE TO INTENTIONALLY
17 INJURE OR INTIMIDATE A PERSON FOR THE PURPOSE OF COERCING A
18 SEX-SELECTION ABORTION;

19 (c) SOLICIT OR ACCEPT FUNDS FOR THE PERFORMANCE OF A
20 SEX-SELECTION ABORTION; OR

21 (d) TRANSPORT A WOMAN INTO COLORADO FOR THE PURPOSE OF
22 OBTAINING A SEX-SELECTION ABORTION.

23 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION
24 COMMITS A CLASS 2 FELONY, AND THE COURT SHALL SENTENCE THE
25 DEFENDANT BETWEEN THE MINIMUM AND TWICE THE MAXIMUM OF THE
26 PRESUMPTIVE RANGE FOR A CLASS 2 FELONY.

27 (3) FOR PURPOSES OF THIS PART 2, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY
3 INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR
4 MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE
5 PREGNANCY OF A WOMAN, WITH KNOWLEDGE THAT THE TERMINATION BY
6 THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH
7 OF THE UNBORN CHILD, UNLESS THE ACT IS DONE WITH THE INTENT TO:

8 (I) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE MOTHER;

9 (II) REMOVE A DEAD, UNBORN CHILD CAUSED BY SPONTANEOUS
10 ABORTION; OR

11 (III) REMOVE AN ECTOPIC PREGNANCY.

12 (b) "SEX-SELECTION ABORTION" IS AN ABORTION UNDERTAKEN
13 SOLELY FOR PURPOSES OF ELIMINATING AN UNBORN CHILD OF AN
14 UNDESIRED SEX.

15 **SECTION 2. Potential appropriation.** Pursuant to section
16 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
17 in periods of imprisonment in the state correctional facilities must include
18 an appropriation of moneys that is sufficient to cover any increased
19 capital construction and operational costs for the first five fiscal years in
20 which there is a fiscal impact. Because this act may increase periods of
21 imprisonment, this act may require a five-year appropriation.

22 **SECTION 3. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.