INTRODUCED

LLS NO. 07-0390.01 Michael Dohr

SENATE BILL 07-143

SENATE SPONSORSHIP
Renfroe, Schultheis, Brophy, Harvey, Kopp, and Penry

HOUSE SPONSORSHIP
Lambert, Lundberg, Gardner C., McNulty, and Sonnenberg

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

Concerning a prohibition on abortion, and making an appropriation in connection therewith.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes it a class 3 felony to perform an abortion. States it is not a criminal act when:
A licensed physician performs a medical procedure designed or intended to prevent the death of a pregnant mother, if the physician makes reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner

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.
consistent with conventional medical practice;
A licensed physician provides medical treatment to the mother that results in the accidental or unintentional injury or death to the unborn child.

States that the pregnant mother upon whom an abortion is performed or attempted is not subject to a criminal penalty. Permits the sale and use of contraception. Makes a conviction related to the abortion prohibition unprofessional conduct for purposes of physician licensing. Makes a 5-year appropriation.

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

SECTION 1. Legislative intent. (1) It is the intent of the general assembly to make the practice of abortion illegal in the state of Colorado. In doing so, the general assembly has chosen not to repeal the existing statutes or portions of statutes that relate to abortion in the state of Colorado. It is the intent of the general assembly that those statutes or portions of statutes that relate to abortion not be enforced as long as part 9 of article 6 of title 18, Colorado Revised Statutes, is in effect.

(2) It is the further intent of the general assembly that if and as long as any portion of part 9 of article 6 of title 18, Colorado Revised Statutes, is declared unconstitutional by an appellate court, the existing statutes or portions of statutes that relate to abortion shall be enforced as law.

SECTION 2. Article 6 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 9

ABORTION PROHIBITION

18-6-901. Definitions. As used in this Part 9, unless the context otherwise requires:

(1) "Fertilization" means that point in time when a male
HUMAN SPERM PENETRATES THE ZONA PELLUCIDA OF A FEMALE HUMAN OVUM.

(2) "PREGNANT" OR "PREGNANCY" MEANS THE HUMAN FEMALE REPRODUCTIVE CONDITION OF HAVING A LIVING UNBORN HUMAN BEING WITHIN HER BODY THROUGHOUT THE ENTIRE EMBRYONIC AND FETAL AGES OF THE UNBORN CHILD FROM FERTILIZATION TO FULL GESTATION AND CHILDBIRTH.

(3) "UNBORN HUMAN BEING" OR "UNBORN CHILD" MEANS AN INDIVIDUAL LIVING MEMBER OF THE SPECIES HOMO SAPIENS, THROUGHOUT THE ENTIRE EMBRYONIC AND FETAL AGES OF THE UNBORN CHILD FROM FERTILIZATION TO FULL GESTATION AND CHILDBIRTH.

18-6-902. Oral abortion prohibition. (1) A PERSON SHALL NOT KNOWINGLY ADMINISTER TO, PRESCRIBE FOR, PROCURE FOR, OR SELL TO A PREGNANT MOTHER ANY MEDICINE, DRUG, OR OTHER SUBSTANCE WITH THE SPECIFIC INTENT OF CAUSING OR ABETTING THE TERMINATION OF THE LIFE OF AN UNBORN HUMAN BEING. A PERSON SHALL NOT KNOWINGLY USE OR EMPLOY ANY INSTRUMENT OR PROCEDURE UPON A PREGNANT MOTHER WITH THE SPECIFIC INTENT OF CAUSING OR ABETTING THE TERMINATION OF THE LIFE OF AN UNBORN HUMAN BEING.

(2) A VIOLATION OF THIS SECTION IS A CLASS 3 FELONY.

(3) (a) A LICENSED PHYSICIAN WHO PERFORMS A MEDICAL PROCEDURE DESIGNED OR INTENDED TO PREVENT THE DEATH OF A PREGNANT MOTHER SHALL NOT BE GUILTY OF VIOLATING THIS SECTION IF THE PHYSICIAN MAKES REASONABLE MEDICAL EFFORTS TO PRESERVE BOTH THE LIFE OF THE MOTHER AND THE LIFE OF HER UNBORN CHILD IN A MANNER CONSISTENT WITH CONVENTIONAL MEDICAL PRACTICE.

(b) A LICENSED PHYSICIAN WHO PROVIDES MEDICAL TREATMENT
TO A PREGNANT MOTHER THAT RESULTS IN THE ACCIDENTAL OR
UNINTENTIONAL INJURY TO OR DEATH OF HER UNBORN CHILD SHALL NOT
BE GUILTY OF VIOLATING THIS SECTION.

(c) A PREGNANT MOTHER UPON WHOM AN ABORTION IS
PERFORMED OR ATTEMPTED SHALL NOT BE GUILTY OF VIOLATING THIS
SECTION.

(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
THE SALE, USE, PRESCRIPTION, OR ADMINISTRATION OF A CONTRACEPTIVE
MEASURE, DEVICE, DRUG, OR CHEMICAL, IF IT IS ADMINISTERED PRIOR TO
THE TIME WHEN A PREGNANCY COULD BE DETERMINED THROUGH
CONVENTIONAL MEDICAL TESTING AND IF THE CONTRACEPTIVE MEASURE,
DEVICE, DRUG, OR CHEMICAL IS SOLD, USED, PRESCRIBED, OR
ADMINISTERED IN ACCORDANCE WITH MANUFACTURER INSTRUCTIONS.

SECTION 3. 18-3.5-101 (1), Colorado Revised Statutes, is
amended to read:

18-3.5-101. Unlawful termination of pregnancy. (1) A person
commits the offense of unlawful termination of a pregnancy if, with intent
to terminate unlawfully the pregnancy of another person, the person
unlawfully terminates the other person’s pregnancy IN A MANNER OTHER
THAN DESCRIBED IN SECTION 18-6-902 (1).

SECTION 4. 12-36-117 (1), Colorado Revised Statutes, is
amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-36-117. Unprofessional conduct. (1) ”Unprofessional
conduct” as used in this article means:

(kk) A CONVICTION FOR VIOLATING SECTION 18-6-902, C.R.S.,
REGARDING THE PROHIBITION OF ABORTIONS.

SECTION 5. Part 1 of article 1 of title 17, Colorado Revised
Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-163. Appropriation to comply with section 2-2-703 - SB 07-####. (1) Pursuant to section 2-2-703, C.R.S., the following statutory appropriations, or so much thereof as may be necessary, are made in order to implement S.B. 07-___, enacted at the first regular session of the sixty-sixth general assembly:

(a) For the fiscal year beginning July 1, 2007, in addition to any other appropriation, there is hereby appropriated from the capital construction fund created in section 24-75-302, C.R.S., to the corrections expansion reserve fund created in section 17-1-116, the sum of _______ dollars ($   ).

(b) (I) For the fiscal year beginning July 1, 2008, in addition to any other appropriation, there is hereby appropriated, from the capital construction fund created in section 24-75-302, C.R.S., to the corrections expansion reserve fund created in section 17-1-116, the sum of _____ dollars ($   ).

(II) For the fiscal year beginning July 1, 2008, in addition to any other appropriation, there is hereby appropriated to the department of corrections, out of any moneys in the general fund not otherwise appropriated, the sum of _____ dollars ($   ).

(c) (I) For the fiscal year beginning July 1, 2009, in addition to any other appropriation, there is hereby appropriated, from the capital construction fund created in section 24-75-302, C.R.S., to the corrections expansion reserve fund created in section 17-1-116, the sum of _______ dollars ($   ).

(II) For the fiscal year beginning July 1, 2009, in addition
TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($ ).

(d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN
ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS ($ ).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($ ).

(e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION
TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION
TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($ ).

SECTION 6. The introductory portion to 24-75-302 (2) and
24-75-302 (2) (t), (2) (u), (2) (v), and (2) (w), Colorado Revised Statutes,
are amended, and the said 24-75-302 (2) is further amended BY THE
ADDITION OF A NEW PARAGRAPH, to read:

24-75-302. Capital construction fund - capital assessment fees
- calculation. (2) As of July 1, 1988, and July 1 of each year thereafter
through July 1, 2011, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(t) On July 1, 2007, four hundred sixteen thousand eight hundred two dollars pursuant to H.B. 03-1004, enacted at the first regular session of the sixty-fourth general assembly; plus fifty-five thousand five hundred seventy-four dollars pursuant to H.B. 03-1317, enacted at the first regular session of the sixty-fourth general assembly; plus thirteen thousand eight hundred ninety-three dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; plus twenty-two million eight hundred eighty-five thousand three hundred eighty-six dollars pursuant to H.B. 06-1373, enacted at the second regular session of the sixty-fifth general assembly; plus two hundred nine thousand two hundred sixty-six dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus two hundred nine thousand two hundred sixty-six dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus six hundred ten thousand three hundred fifty-eight dollars pursuant to H.B. 06-1326, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to H.B. 06-1151, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three
thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus seventeen thousand four hundred thirty-nine dollars pursuant to S.B. 06S-005, enacted at the first extraordinary session of the sixty-fifth general assembly; PLUS ______ DOLLARS PURSUANT TO S.B. 07-____, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY;

(u) On July 1, 2008, sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; plus three hundred ninety-two thousand three hundred seventy-three dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus three hundred ninety-two thousand three hundred seventy-three dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus four hundred sixty-two thousand one hundred twenty-eight dollars pursuant to H.B. 06-1326, enacted at the second regular session of the sixty-fifth general assembly; plus twenty-six thousand one hundred fifty-eight dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session of the sixty-fifth general assembly; PLUS ______ DOLLARS PURSUANT TO S.B. 07-____, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY;

(v) On July 1, 2009, five hundred twenty-three thousand one
hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
regular session of the sixty-fifth general assembly; plus five hundred
twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
06-207, enacted at the second regular session of the sixty-fifth general
assembly; plus forty-three thousand five hundred ninety-seven dollars
pursuant to H.B. 06-1145, enacted at the second regular session of the
sixty-fifth general assembly; plus five hundred twenty-three thousand one
hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
second regular session of the sixty-fifth general assembly; plus five
hundred twenty-three thousand one hundred sixty-four dollars pursuant
to H.B. 06-1011, enacted at the second regular session of the sixty-fifth
general assembly; plus sixty-nine thousand seven hundred fifty-five
dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session
of the sixty-fifth general assembly; plus ______ dollars pursuant to S.B. 07-____,
acted at the first regular session of the sixty-sixth general assembly;

(w) On July 1, 2010, five hundred twenty-three thousand one
hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
regular session of the sixty-fifth general assembly; plus five hundred
twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
06-207, enacted at the second regular session of the sixty-fifth general
assembly; plus forty-three thousand five hundred ninety-seven dollars
pursuant to H.B. 06-1145, enacted at the second regular session of the
sixty-fifth general assembly; plus five hundred twenty-three thousand one
hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
second regular session of the sixty-fifth general assembly; plus sixty-nine
thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004,
enacted at the first extraordinary session of the sixty-fifth general
assembly; plus ______ dollars pursuant to S.B. 07-____, enacted
at the first regular session of the sixty-sixth general assembly;

(x) On July 1, 2011, ______ dollars pursuant to S.B. 07-____,
enacted at the first regular session of the sixty-sixth general
ASSEMBLY.

SECTION 7. Effective date - applicability. This act shall take
effect July 1, 2007, and shall apply to offenses committed on or after said
date.

SECTION 8. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, and safety.