

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 10-0487.01 Michael Dohr

HOUSE BILL 10-1261

HOUSE SPONSORSHIP

Bradford and Summers, Acree, Gardner B., Gerou, King S., Lambert, Liston, Looper, Murray, Nikkel, Priola, Stephens, Vaad, Waller

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING VIOLENT ACTS THAT HARM UNBORN CHILDREN, AND**
102 **MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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 creates a new statutory part that addresses violent acts against an unborn child and includes the following crimes:

- ! Murder of an unborn child; and
- ! Voluntary manslaughter of an unborn child.

An unborn child is defined as 16 weeks or older. The bill describes acts

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.

that do not constitute crimes under the new part.

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

2 **SECTION 1.** Article 3 of title 18, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 PART 5

5 UNBORN VICTIMS OF VIOLENT ACTS

6 **18-3-501. Acts not an offense.** (1) THIS PART 5 SHALL NOT
7 APPLY TO:

8 (a) ACTS THAT CAUSE THE DEATH OF AN UNBORN CHILD IF THOSE
9 ACTS ARE COMMITTED DURING A LEGAL ABORTION TO WHICH THE
10 PREGNANT WOMAN, OR A PERSON AUTHORIZED BY LAW TO ACT ON HER
11 BEHALF, CONSENTED OR FOR WHICH SUCH CONSENT IS IMPLIED BY LAW;

12 (b) ACTS COMMITTED BY A PREGNANT WOMAN WITH RESPECT TO
13 HER OWN UNBORN CHILD;

14 (c) ACTS THAT ARE COMMITTED PURSUANT TO USUAL AND
15 CUSTOMARY STANDARDS OF MEDICAL PRACTICE DURING DIAGNOSTIC
16 TESTING OR THERAPEUTIC TREATMENT; OR

17 (d) ACTS INVOLVING THE USE OF FORCE IN LAWFUL SELF-DEFENSE
18 OR LAWFUL DEFENSE OF ANOTHER.

19 **18-3-502. Definitions.** AS USED IN THIS PART 5, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES, "UNBORN CHILD" MEANS A CHILD WHOSE
21 STAGE OF DEVELOPMENT HAS REACHED OR SURPASSED SIXTEEN WEEKS IN
22 UTERO.

23 **18-3-503. Murder of an unborn child.** (1) A PERSON WHO
24 CAUSES THE DEATH OF AN UNBORN CHILD, WITHOUT LAWFUL
25 JUSTIFICATION, IS GUILTY OF MURDER OF AN UNBORN CHILD IF HE OR SHE:

1 (a) INTENDS TO CAUSE THE DEATH OF OR SERIOUS BODILY HARM
2 TO ANOTHER PERSON OR KNOWS THAT HIS OR HER ACTS WILL CAUSE THE
3 DEATH OF OR SERIOUS BODILY HARM TO ANOTHER PERSON;

4 (b) KNOWS THAT HIS OR HER ACTS CREATE A STRONG PROBABILITY
5 OF CAUSING THE DEATH OF OR SERIOUS BODILY HARM TO ANOTHER
6 PERSON;

7 (c) ATTEMPTS OR COMMITS A FELONY; OR

8 (d) PERPETRATES AN ACT IMMINENTLY DANGEROUS TO ANOTHER
9 PERSON AND EVINCES A DEPRAVED MIND, WITHOUT REGARD FOR HUMAN
10 LIFE.

11 (2) MURDER OF AN UNBORN CHILD IS A CLASS 1 FELONY.

12 **18-3-504. Voluntary manslaughter of an unborn child.** (1) A
13 PERSON WHO CAUSES THE DEATH OF AN UNBORN CHILD, WITHOUT LAWFUL
14 JUSTIFICATION, IS GUILTY OF VOLUNTARY MANSLAUGHTER OF AN UNBORN
15 CHILD IF HE OR SHE:

16 (a) INTENDS TO CAUSE THE DEATH OF ANOTHER PERSON WHERE
17 THE ACT CAUSING THE DEATH WAS PERFORMED UPON A SUDDEN HEAT OF
18 PASSION CAUSED BY A SERIOUS AND HIGHLY PROVOKING ACT OF THE
19 INTENDED VICTIM, AFFECTING THE DEFENDANT SUFFICIENTLY TO EXCITE
20 AN IRRESISTIBLE PASSION IN A REASONABLE PERSON;

21 (b) COMMITS OR ATTEMPTS TO COMMIT A MISDEMEANOR OFFENSE
22 WITH SUCH FORCE THAT THE DEATH OF OR SERIOUS BODILY HARM TO
23 ANOTHER PERSON WAS REASONABLY FORESEEABLE; OR

24 (c) INTENDS TO CAUSE THE DEATH OF AN UNBORN CHILD BECAUSE
25 HE OR SHE IS COERCED BY THREATS MADE BY SOMEONE OTHER THAN HIS
26 OR HER CO-CONSPIRATOR THAT CAUSE HIM OR HER TO REASONABLY
27 BELIEVE THAT HIS OR HER ACT IS THE ONLY MEANS OF PREVENTING

1 IMMINENT DEATH TO HIMSELF OR HERSELF OR ANOTHER.

2 (2) VOLUNTARY MANSLAUGHTER OF AN UNBORN CHILD IS A CLASS
3 FELONY.

4 **18-3-505. Other prosecutions not barred.** A PROSECUTION FOR
5 OR CONVICTION UNDER THIS PART 5 IS NOT A BAR TO CONVICTION OF OR
6 PUNISHMENT FOR ANY OTHER CRIME COMMITTED BY THE PERSON AS PART
7 OF THE SAME CONDUCT.

8 **SECTION 2.** Article 18 of title 17, Colorado Revised Statutes, is
9 amended BY THE ADDITION OF A NEW SECTION to read:

10 **17-18-105. Appropriation to comply with section 2-2-703 - HB**
11 **10-##### - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
12 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
13 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 10-____,
14 ENACTED IN 2010:

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

20 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN
21 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
22 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
23 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
24 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

25 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION
26 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
27 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT

1 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

2 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
3 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
4 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
5 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
6 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

7 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
8 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
9 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
10 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

11 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN
12 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
13 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
14 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
15 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

16 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION
17 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
18 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
19 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

20 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
21 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
22 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
23 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
24 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

25 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
26 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
27 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT

1 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

2 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

3 **SECTION 3.** The introductory portion to 24-75-302 (2) and
4 24-75-302 (2) (w), (2) (x), and (2) (y), Colorado Revised Statutes, are
5 amended, and the said 24-75-302 (2) is further amended BY THE
6 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

7 **24-75-302. Capital construction fund - capital assessment fees**
8 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
9 through July 1, ~~2012~~ 2014, a sum as specified in this subsection (2) shall
10 accrue to the capital construction fund. The state treasurer and the
11 controller shall transfer such sum out of the general fund and into the
12 capital construction fund as moneys become available in the general fund
13 during the fiscal year beginning on said July 1. Transfers between funds
14 pursuant to this subsection (2) shall not be deemed to be appropriations
15 subject to the limitations of section 24-75-201.1. The amount that shall
16 accrue pursuant to this subsection (2) shall be as follows:

17 (w) On July 1, 2010, five hundred twenty-three thousand one
18 hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
19 regular session of the sixty-fifth general assembly; plus five hundred
20 twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
21 06-207, enacted at the second regular session of the sixty-fifth general
22 assembly; plus forty-three thousand five hundred ninety-seven dollars
23 pursuant to H.B. 06-1145, enacted at the second regular session of the
24 sixty-fifth general assembly; plus five hundred twenty-three thousand one
25 hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
26 second regular session of the sixty-fifth general assembly; plus sixty-nine
27 thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004,

1 enacted at the first extraordinary session of the sixty-fifth general
2 assembly; plus seven hundred fifty thousand nine hundred ninety dollars
3 pursuant to S.B. 07-096, enacted at the first regular session of the
4 sixty-sixth general assembly; plus one hundred twelve thousand six
5 hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the
6 second regular session of the sixty-sixth general assembly; plus one
7 hundred thirty-seven thousand six hundred eighty-two dollars pursuant to
8 S.B. 08-239, enacted at the second regular session of the sixty-sixth
9 general assembly; PLUS _____ DOLLARS PURSUANT TO H.B. 10-____,
10 ENACTED IN 2010;

11 (x) On July 1, 2011, seven hundred fifty thousand nine hundred
12 ninety dollars pursuant to S.B. 07-096, enacted at the first regular session
13 of the sixty-sixth general assembly; plus three hundred seventy-five
14 thousand four hundred ninety-five dollars pursuant to S.B. 08-239,
15 enacted at the second regular session of the sixty-sixth general assembly;
16 PLUS _____ DOLLARS PURSUANT TO H.B. 10-____, ENACTED IN 2010;

17 (y) On July 1, 2012, one hundred twelve thousand six hundred
18 forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular
19 session of the sixty-sixth general assembly; plus three hundred
20 seventy-five thousand four hundred ninety-five dollars pursuant to S.B.
21 08-239, enacted at the second regular session of the sixty-sixth general
22 assembly; PLUS _____ DOLLARS PURSUANT TO H.B. 10-____, ENACTED
23 IN 2010;

24 (z) ON JULY 1, 2013, _____ DOLLARS PURSUANT TO H.B. 10-____,
25 ENACTED IN 2010;

26 (aa) ON JULY 1, 2014, _____ DOLLARS PURSUANT TO H.B.
27 10-____, ENACTED IN 2010.

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