

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0224.01 Jane Ritter x4342

HOUSE BILL 12-1100

HOUSE SPONSORSHIP

Summers,

SENATE SPONSORSHIP

Aguilar,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ADMISSIBILITY IN CRIMINAL PROCEEDINGS OF THE
102 RESULTS OF A PRENATAL SCREENING FOR ILLEGAL SUBSTANCES.

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 makes the results of any information related to substance use obtained as part of a screening or test performed for the purpose of determining pregnancy or providing prenatal care inadmissible in any criminal proceeding.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Substance use during pregnancy is a widespread and
5 concerning problem in the state of Colorado;

6 (b) Based on prevalence and population figures, among pregnant
7 women 15 to 44 years of age, 4.4% reported current illicit drug use and
8 10.8% reported current alcohol use. In Colorado, an estimated 14.5% of
9 pregnant women use alcohol during the third trimester of pregnancy.
10 Across substances, use rates are highest among pregnant women 15 to 17
11 years of age, with approximately 15% reporting illicit substance use,
12 followed closely by women 18 to 25 years of age.

13 (c) Prenatal substance exposure can have a devastating impact on
14 a developing fetus;

15 (d) For many women, pregnancy can be a time of increased
16 motivation to address their addictions out of concern for their unborn
17 child;

18 (e) Relatively few pregnant women with substance use issues,
19 however, participate in treatment programs, despite the availability of
20 services to help them quit using drugs and alcohol, often because of fear
21 of criminal prosecution; and

22 (f) Members of the Substance Exposed Newborns Steering
23 Committee of the State Methamphetamine Task Force, in collaboration
24 with the Colorado Commission on Criminal and Juvenile Justice and the
25 Colorado District Attorney's Council, studied the issue and developed
26 recommendations to address the problem.

1 (2) The general assembly further finds and declares that in order
2 to encourage pregnant women with substance use issues to seek important
3 prenatal care and appropriate treatment, legislation is necessary to provide
4 protection from criminal prosecution for pregnant women who are
5 identified during prenatal care as having used substances.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 13-25-136 as
7 follows:

8 **13-25-136. Criminal actions - prenatal drug and alcohol**
9 **screening - admissibility of evidence.** A COURT SHALL NOT ADMIT IN A
10 CRIMINAL PROCEEDING INFORMATION RELATING TO SUBSTANCE USE NOT
11 OTHERWISE REQUIRED TO BE REPORTED PURSUANT TO SECTION 19-3-304,
12 C.R.S., OBTAINED AS PART OF A SCREENING OR TEST PERFORMED TO
13 DETERMINE PREGNANCY OR TO PROVIDE PRENATAL CARE FOR A PREGNANT
14 WOMAN. THIS SECTION SHALL NOT BE INTERPRETED TO PROHIBIT
15 PROSECUTION OF ANY CLAIM OR ACTION RELATED TO SUCH SUBSTANCE
16 USE BASED ON EVIDENCE OBTAINED UNDER CIRCUMSTANCES NOT
17 DESCRIBED IN THIS SECTION.

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