A BILL FOR AN ACT

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

SECTION 1. In Colorado Revised Statutes, add part 2 to article 3.5 of title 18 as follows:

PART 2
PRENATAL DISCRIMINATION

18-3.5-201. Short title. This part 2 shall be known and may be cited as the "Prenatal Sex Nondiscrimination Act of 2015".

18-3.5-202. Legislative declaration. (1) The General Assembly makes the following findings:

(a) Sex discrimination findings. (I) Women are a vital part of American society and culture and possess the same fundamental human rights and civil rights as men;

(II) United States and Colorado law prohibit the unequal treatment of males and females who are similarly situated and prohibit sex discrimination in various contexts, including the provision of employment, education, housing, health insurance coverage, and athletics;

(III) Sex is an immutable characteristic ascertainable at the earliest stages of human development through existing medical technology and procedures commonly in use, including maternal-fetal bloodstream DNA sampling, amniocentesis, chorionic villus sampling or "CVS", and obstetric ultrasound.

In addition to medically assisted sex determination, a growing sex-determination niche industry has developed and is marketing low-cost commercial products, widely advertised and available, that aid in the sex determination of an unborn...
CHILD WITHOUT THE AID OF MEDICAL PROFESSIONALS. EXPERTS HAVE DEMONSTRATED THAT THE SEX-DETERMINATION INDUSTRY IS ON THE RISE AND PREDICT THAT IT WILL CONTINUE TO BE A GROWING TREND IN THE UNITED STATES. SEX DETERMINATION IS ALWAYS A NECESSARY STEP TO THE PROCUREMENT OF A SEX-SELECTION ABORTION.

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

(V) THE TARGETED VICTIMS OF SEX-SELECTION ABORTIONS PERFORMED IN THE UNITED STATES AND WORLDWIDE ARE OVERWHELMINGLY FEMALE. THE SELECTIVE ABORTION OF FEMALES IS FEMALE INFANTICIDE, THE INTENTIONAL KILLING OF UNBORN FEMALES, DUE TO THE PREFERENCE FOR MALE OFFSPRING OR "SON PREFERENCE". SON PREFERENCE IS REINFORCED BY THE LOW VALUE ASSOCIATED, BY SOME SEGMENTS OF THE WORLD COMMUNITY, WITH FEMALE OFFSPRING. THOSE SEGMENTS TEND TO REGARD FEMALE OFFSPRING AS FINANCIAL BURDENS TO A FAMILY OVER THEIR LIFETIME DUE TO THEIR PERCEIVED
INABILITY TO EARN OR PROVIDE FINANCIALLY FOR THE FAMILY UNIT COMPARED TO MALE OFFSPRING. IN ADDITION, DUE TO SOCIAL AND LEGAL CONVENTION, FEMALE OFFSPRING ARE LESS LIKELY TO CARRY ON THE FAMILY NAME. SON PREFERENCE IS ONE OF THE MOST EVIDENT MANIFESTATIONS OF SEX OR GENDER DISCRIMINATION IN ANY SOCIETY, UNDERMINING FEMALE EQUALITY AND FUELING THE ELIMINATION OF FEMALES' RIGHT TO EXIST IN INSTANCES OF SEX-SELECTION ABORTION.

(VI) SEX-SELECTION ABORTIONS ARE NOT EXPRESSLY PROHIBITED BY UNITED STATES LAW OR THE LAWS OF FORTY-FOUR STATES, AND EVIDENCE SHOWS SEX-SELECTION ABORTIONS ARE PERFORMED IN THE UNITED STATES. IN A MARCH 2008 REPORT PUBLISHED IN THE PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES, COLUMBIA UNIVERSITY ECONOMISTS DOUGLAS ALMOND AND LENA EDLUND EXAMINED THE SEX RATIO OF CHILDREN BORN IN THE UNITED STATES AND FOUND "EVIDENCE OF SEX SELECTION, MOST LIKELY AT THE PRENATAL STAGE". THE DATA REVEALED OBVIOUS SON PREFERENCE IN THE FORM OF UNNATURAL SEX-RATIO IMBALANCES WITHIN CERTAIN SEGMENTS OF THE UNITED STATES POPULATION, PRIMARILY THOSE SEGMENTS TRACING THEIR ETHNIC OR CULTURAL ORIGINS TO COUNTRIES WHERE SEX-SELECTION ABORTION IS PREVALENT. THE EVIDENCE STRONGLY SUGGESTS THAT SOME AMERICANS ARE EXERCISING SEX-SELECTION ABORTION PRACTICES WITHIN THE UNITED STATES CONSISTENT WITH DISCRIMINATORY PRACTICES COMMON TO THEIR COUNTRIES OF ORIGIN OR THE COUNTRY TO WHICH THEY TRACE THEIR ANCESTRY. WHILE SEX-SELECTION ABORTIONS ARE MORE COMMON OUTSIDE THE UNITED STATES, THE EVIDENCE REVEALS THAT FEMALE FETICIDE IS ALSO OCCURRING IN THE UNITED STATES.
(VII) The American public supports a prohibition of sex-selection abortion. In a March 2006 Zogby International poll, eighty-six percent of Americans agreed that sex-selection abortion should be illegal, yet only three states prohibit sex-selection abortion.

(VIII) Despite the failure of the United States to proscribe sex-selection abortion, the United States Congress has expressed repeatedly, through congressional resolution, strong condemnation of policies promoting sex-selection abortion in the "Communist Government of China". Likewise, at the 2007 United Nations' annual meeting of the Commission on the Status of Women, fifty-first session, the United States' delegation spearheaded a resolution calling on countries to condemn sex-selection abortion, a policy directly contradictory to the permissiveness of current United States law, which places no restriction on the practice of sex-selection abortion. The United Nations' Commission on the Status of Women has urged governments of all nations "to take necessary measures to prevent ... prenatal sex selection".

(IX) A 1990 report by Harvard University economist Amartya Sen estimated that more than one hundred million women were "demographically missing" from the world as early as 1990 due to sexist practices, including sex-selection abortion. Many experts believe sex-selection abortion is the primary cause. Current estimates of women missing from the world range in the hundreds of millions.

(X) Countries with long-standing experience with
SEX-SELECTION ABORTION, SUCH AS THE REPUBLIC OF INDIA, THE UNITED KINGDOM, AND THE PEOPLE’S REPUBLIC OF CHINA, HAVE ENACTED RESTRICTIONS ON SEX-SELECTION ABORTION AND HAVE STEADILY CONTINUED TO STRENGTHEN PROHIBITIONS AND PENALTIES. THE UNITED STATES, BY CONTRAST, HAS NO LAW IN PLACE TO RESTRICT SEX-SELECTION ABORTION, ESTABLISHING THE UNITED STATES AS AFFORDING LESS PROTECTION FROM SEX-BASED FETICIDE THAN THE REPUBLIC OF INDIA OR THE PEOPLE’S REPUBLIC OF CHINA, WHOSE RECENT PRACTICES OF SEX-SELECTION ABORTION WERE VEHEMENTLY AND REPEATEDLY CONDEMNED BY UNITED STATES CONGRESSIONAL RESOLUTIONS AND BY THE UNITED STATES AMBASSADOR TO THE UNITED NATIONS’ COMMISSION ON THE STATUS OF WOMEN. PUBLIC STATEMENTS FROM WITHIN THE MEDICAL COMMUNITY REVEAL THAT CITIZENS OF OTHER COUNTRIES COME TO THE UNITED STATES FOR SEX-SELECTION PROCEDURES THAT WOULD BE CRIMINAL IN THEIR COUNTRIES OF ORIGIN. BECAUSE THE UNITED STATES PERMITS ABORTION ON THE BASIS OF SEX, THE UNITED STATES MAY EFFECTIVELY FUNCTION AS A “SAFE HAVEN” FOR THOSE WHO SEEK TO HAVE AMERICAN PHYSICIANS DO WHAT WOULD OTHERWISE BE CRIMINAL IN THEIR HOME COUNTRIES -- A SEX-SELECTION ABORTION, MOST LIKELY LATE-TERM.

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

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

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

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

(b) General findings. (I) The history of the United States
includes examples of sex discrimination. The people of the United
States ultimately responded in the strongest possible legal
terms by enacting constitutional amendments correcting
elements of such discrimination. Women, once subjected to sex
discrimination that denied them the right to vote, now have
suffrage guaranteed by the nineteenth amendment. The
elimination of discriminatory practices has been and is among
the highest priorities and greatest achievements of American
history; and

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

18-3.5-203. Discrimination against the unborn on the basis of
sex - definitions. (1) A PERSON SHALL NOT KNOWINGLY:
(a) PERFORM AN ABORTION KNOWING THAT THE ABORTION IS
Sought based on the sex of the child;
(b) USE FORCE OR THE THREAT OF FORCE TO INTENTIONALLY
INJURE OR INTIMIDATE A PERSON FOR THE PURPOSE OF COERCING A
SEX-SELECTION ABORTION;
(c) SOLICIT OR ACCEPT FUNDS FOR THE PERFORMANCE OF A
SEX-SELECTION ABORTION; OR
(d) TRANSPORT A WOMAN INTO COLORADO FOR THE PURPOSE OF
OBTAINING A SEX-SELECTION ABORTION.
(2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION
COMMITS A CLASS 2 FELONY, AND THE COURT SHALL SENTENCE THE
DEFENDANT BETWEEN THE MINIMUM AND TWICE THE MAXIMUM OF THE
PRESumptive range for a class 2 felony.
(3) FOR PURPOSES OF THIS PART 2, UNLESS THE CONTEXT
OTHERWISE REQUIRES:

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

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

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

(III) REMOVE AN ECTOPIC PREGNANCY.

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

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

SECTION 3. 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.