

Amendment __
Late Abortions

1 **Amendment __ is a proposed amendment to the Colorado statutes that:**

- 2 ◆ makes it a crime to perform a late abortion except in the case of a medical
3 emergency;
- 4 ◆ defines a late abortion as an abortion of a fetus that is able to live outside of the
5 womb with or without life support;
- 6 ◆ requires that a second doctor be present to attend to the fetus when a pregnancy
7 is terminated after the point in time that a fetus is able to live outside the
8 womb; and
- 9 ◆ requires doctors and facilities to report certain information on late abortions to
10 the state.

11 **Summary and Analysis**

12 U.S. Supreme Court decisions on abortion allow states to impose restrictions on
13 late abortions so long as these restrictions do not endanger the life or health of the woman.
14 Current state law does not limit when an abortion can be performed. Amendment ____
15 makes it a crime for a doctor to perform an abortion if the fetus is able to live outside the
16 womb with or without life support. If a pregnant woman's medical condition would likely
17 result in her death or permanent injury, a late abortion is permitted.

18 *When can an abortion be performed under Amendment ____?* Doctors may
19 continue to perform abortions up to the point when the fetus can live outside the womb
20 with or without life support. Amendment ____ does not provide a specific gestational age
21 for when a fetus can live outside the womb. The point at which a fetus meets this standard
22 varies among pregnancies and must be determined by a doctor, but most often occurs
23 sometime between the 20th and 27th week of pregnancy. Childbirth generally occurs at
24 40 weeks gestation.

25 Once a fetus can live outside the womb, the doctor must try to protect the life of the
26 fetus when terminating a pregnancy by choosing the medical procedure that provides the
27 best opportunity for fetal survival, unless it significantly increases the risk of harm to the
28 woman. In addition, a second doctor must be present to attend to the fetus.

1 **What are the penalties for performing a late abortion?** Amendment __ specifies
2 that performing a late abortion is a class four felony with a penalty of two to six years
3 imprisonment, or a fine of up to \$500,000, or both. The woman is not penalized for having
4 a late abortion.

5 **Reporting requirements.** Current law requires that every abortion performed in the
6 state, regardless of gestation, be reported to the state within 5 days of the abortion.
7 Amendment ____ requires a doctor who performs a late abortion to file a report with the
8 state within 30 days. The report must include specified information about the doctor, the
9 patient, the fetus, and the basis for the decision to perform a late abortion. For example,
10 the report must include the patient's age, the number of prior pregnancies and prior
11 abortions of the patient, the type of procedure used, and the basis for determining the
12 gestational age of the fetus. The report cannot identify the patient's name. Facilities are
13 also required to report the number of late abortions performed quarterly.

14 **How many abortions are performed in Colorado?** Table 1 identifies the number
15 of abortions performed in the state during 2005 according to estimated gestational week.

16 **Table 1. Abortions Performed in Colorado in 2005**

Number of Abortions	Estimate of Weeks of Gestation
11,304	20 weeks or less
228	between 21 and 25 weeks
26	between 26 and 30 weeks
7	31+ weeks
57	gestation was not stated
11,622	Total Abortions Performed

25 **Arguments For**

26 1) Aborting a fetus that is sufficiently developed to live outside of the womb is unethical.
27 The only event separating a viable fetus from being considered a person is delivery. In
28 instances when a fetus is capable of living outside of the womb, the fetus should be
29 protected, delivered and allowed to live.

30 2) The proposal does not create an undue burden on a woman's right to choose to have an
31 abortion. A woman may still choose to have an abortion in the earlier weeks of pregnancy
32 prior to viability of the fetus. Most Colorado women who choose to have an abortion do
33 so in the first 20 weeks of pregnancy. Late abortions will still be permitted in cases where
34 the mother's life or health is endangered.

1 **Arguments Against**

2 1) The proposal interferes in personal, private medical decisions and in the doctor/patient
3 relationship. A woman may seek a late abortion because she or the fetus she is carrying
4 has developed a severe medical problem that was not diagnosed earlier in the pregnancy.
5 In such situations, a doctor, in consultation with the woman, should determine the best
6 course of action. Under the proposal, the state, not the woman and her doctor, decides
7 what is best for the woman and the fetus.

8
9 2) The proposal subjects doctors to criminal prosecution for performing abortions based
10 upon the viability of the fetus, a constantly changing and undefinable standard. The point
11 at which a fetus is able to live outside of the womb with or without life support is subject
12 to medical interpretation, yet under the proposal, a doctor could go to jail if others disagree
13 with his or her medical judgment. Because of the potential for criminal prosecution,
14 doctors may be unwilling to perform any abortions.

15 **Estimate of Fiscal Impact**

16 Amendment ____ will not significantly affect state and local revenue or spending.
17 It is assumed that medical professions will comply with the new law. No new fine revenue
18 or incarceration costs are anticipated. Minor costs to comply with the amendment's
19 reporting requirements can be absorbed within current state funding. Costs that may result
20 from potential legal challenges to the amendment are not estimated.