

LATE-TERM ABORTION-LIMITING INITIATIVE

Concerning abortions performed in Colorado on or after _____.

Colorado Revised Statutes, Article 37.3

Abortion Practice

12-37.3-101. Definitions. As used in this article, unless the context otherwise requires:

(1) ‘Abortion’ means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead fetus.

(2) A ‘viable fetus’ is a fetus that has attained that stage of fetal development when its life may be continued indefinitely outside the womb by natural or artificial life-supportive systems. A ‘viable fetus’ may be an actual human life. A ‘viable fetus’ is close enough to being an actual human life that the people of the State of Colorado choose to vest a ‘viable fetus’ with all of the rights and protections granted to persons under Colorado law.

(3) A ‘medical emergency’ is a condition that, on the basis of the physician’s good-faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate a medical procedure to prevent the pregnant woman’s death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

12-37.3-102. Prohibition on performing a post-viability abortion.

(1) A person shall not perform an abortion on a ‘viable fetus.’

(2) Performing an abortion on a ‘viable fetus’ is a Class 6 felony and, upon conviction thereof, the convicted person may be sentenced to pay a fine not exceeding ten thousand dollars, but not less than one thousand dollars, and may be sentenced to prison for a presumptive term of one year to eighteen months.

(3) It shall be an affirmative defense to performing an abortion on a ‘viable fetus’ that the physician performed the abortion based on a documented ‘medical emergency.’

(4) The physician licensed to practice medicine who is to perform the abortion shall use his or her good-faith clinical judgment to determine before the abortion whether a particular fetus is a ‘viable fetus.’

(5) The physician who is to perform an abortion shall document the basis of his or her good-faith clinical judgment that the particular fetus is a 'viable fetus' or not.

(6) A person violates subsection (1) of this section if he or she knowingly performs the abortion of a 'viable fetus' or performs the abortion of a 'viable fetus' with reckless disregard of whether the fetus is viable.

12-37.3-103. Reports.

(1) Reports by physicians. For the purpose of promotion of maternal health and life by adding to the sum of medical and public health knowledge through the compilation of relevant data, and to promote the State of Colorado's interest in protection of the unborn child, a report of each abortion performed shall be made to the Department of Public Health on forms prescribed by it. The report forms shall not identify the individual patient by name and shall include the following information:

- (a) Identification of the physician who performed the abortion, and the facility where the abortion was performed and of the referring physician, agency or service, if any.
- (b) The county and state in which the woman resides.
- (c) The woman's age.
- (d) The number of prior pregnancies and prior abortions of the woman.
- (e) The gestational age of the unborn child at the time of the abortion.
- (f) The type of procedure performed or prescribed and the date of the abortion.
- (g) Preexisting medical conditions of the woman which would complicate pregnancy, if any, and if known, any medical complication which resulted from the abortion itself.
- (h) The basis for the medical judgment of the physician who performed the abortion that the abortion was necessary to prevent either the death of the pregnant woman or he substantial and irreversible impairment of a major bodily function of the woman, where an abortion has been performed by a physician who determined a 'medical emergency' existed.
- (i) The weight of the aborted fetus.
- (j) Basis for any medical judgment that a 'medical emergency' existed, if the physician who performed the abortion determined that a 'medical emergency' had existed.
- (k) The basis by which the physician performing the abortion determined the gestational age of the fetus.

(2) Report by facility. Every facility in which an abortion is performed within the State of Colorado during any quarter year shall file with the Colorado Department of Public Health a report showing the total number of abortions performed within the hospital or other facility during that quarter year. This report shall also show the total abortions performed in each trimester of pregnancy. Any report shall be available for public inspection and copying only if the facility receives State-appropriated funds within the 12 calendar-month period immediately preceding the filing of the report. These reports shall

be submitted on a form prescribed by the Department of Public Health which will enable a facility to indicate whether or not it is receiving State-appropriated funds: If the facility indicates on the form that it is not receiving State-appropriated funds, the department shall regard its report as confidential unless it receives other evidence which causes it to conclude that the facility receives State-appropriated funds.

12-37.3-104. Severability.

(1) If any one or more provision, section, subsection, sentence, clause, phrase or word of this part or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this part shall remain effective notwithstanding such unconstitutionality. The people of the State of Colorado hereby declares that they would have passed this part, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase or word be declared unconstitutional.