

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0555.01 Michael Dohr x4347

HOUSE BILL 18-1120

HOUSE SPONSORSHIP

Neville P., Humphrey, Saine, Van Winkle, Buck, Leonard, Beckman, Landgraf, McKean, Sias, Lewis, Everett, Lundeen, Willett, Wilson, Reyher, Becker J., Covarrubias, Lawrence, Liston, Ransom, Williams D., Wist

SENATE SPONSORSHIP

Neville T. and Marble, Smallwood

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROHIBITION OF DISMEMBERMENT ABORTIONS.**

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://leg.colorado.gov>.)

The bill prohibits dismemberment abortions.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 9 to article

3 6 of title 18 as follows:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

PART 9
DISMEMBERMENT ABORTION
PROHIBITION

18-6-901. Definition. (1) FOR PURPOSES OF THIS PART 9, "DISMEMBERMENT ABORTION" MEANS A DILATION AND EVACUATION PROCEDURE USED TO DISMEMBER THE BABY, LIMB BY LIMB; CRUSH THE SKULL; AND REMOVE ALL PIECES OF THE ABORTED BABY FROM THE WOMB. WHEREBY, A THIRTEEN-INCH TOOL WITH SHARP TEETH CALLED A "SOPHER CLAMP" IS USED TO:

- (a) SEVER AND REMOVE THE ARMS AND LEGS, LIMB BY LIMB, FROM THE BABY'S BODY;
- (b) PULL THE SEVERED LIMBS FROM THE WOMB;
- (c) INDIVIDUALLY SEVER THE INTESTINES, SPINE, HEART, LUNGS, AND OTHER INTERNAL ORGANS AND REMOVE THEM FROM THE WOMB;
- (d) CRUSH THE SKULL. DUE TO THE SIZE OF THE SKULL IT CANNOT BE REMOVED INTACT SO IT MUST FIRST BE CRUSHED INTO PIECES. THE ABORTIONIST KNOWS WHEN THE SKULL HAS BEEN CRUSHED INTO PIECES WHEN THE GRAY MATTER FROM THE BRAIN IS OBSERVED.
- (e) REMOVE THE INDIVIDUAL PIECES OF THE SKULL FROM THE MOTHER'S WOMB; AND
- (f) AFTER ALL OF THE BABY'S LIMBS, ORGANS, AND SKULL HAVE BEEN REMOVED FROM THE MOTHER'S WOMB, REASSEMBLE THE BABY TO ENSURE THAT ALL PIECES HAVE BEEN REMOVED.

18-6-902. Dismemberment abortion prohibited. (1) A PERSON SHALL NOT INTENTIONALLY PERFORM A DISMEMBERMENT ABORTION UNLESS THE DISMEMBERMENT ABORTION IS NECESSARY IN A MEDICAL EMERGENCY.

1 (2) A WOMAN ON WHOM A DISMEMBERMENT ABORTION IS
2 PERFORMED OR A PERSON WHO FILLS A PRESCRIPTION OR PROVIDES
3 EQUIPMENT USED IN A DISMEMBERMENT ABORTION DOES NOT VIOLATE
4 SUBSECTION (1) OF THIS SECTION.

5 (3) A VIOLATION OF THIS SECTION IS A MISDEMEANOR AND, UPON
6 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT LESS THAN
7 FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

8 **18-6-903. Construction of this part 9.** (1) IF CONSIDERED BY A
9 COURT, THIS PART 9 MUST BE CONSTRUED, AS A MATTER OF STATE LAW, TO
10 BE ENFORCEABLE TO THE MAXIMUM POSSIBLE EXTENT CONSISTENT WITH
11 FEDERAL CONSTITUTIONAL REQUIREMENTS, EVEN IF THAT CONSTRUCTION
12 IS NOT READILY APPARENT, AS SUCH CONSTRUCTIONS ARE AUTHORIZED
13 ONLY TO THE EXTENT NECESSARY TO SAVE THIS PART 9 FROM JUDICIAL
14 INVALIDATION. JUDICIAL REFORMATION OF STATUTORY LANGUAGE IS
15 EXPLICITLY AUTHORIZED ONLY TO THE EXTENT NECESSARY TO SAVE THE
16 STATUTORY PROVISION FROM INVALIDITY.

17 (2) IF ANY COURT DETERMINES THAT A PROVISION OF THIS PART 9
18 IS UNCONSTITUTIONALLY VAGUE, THE COURT SHALL INTERPRET THE
19 PROVISION, AS A MATTER OF STATE LAW, TO AVOID THE VAGUENESS
20 PROBLEM AND SHALL ENFORCE THE PROVISION TO THE MAXIMUM POSSIBLE
21 EXTENT. IF A FEDERAL COURT FINDS ANY PROVISION OF THIS PART 9 OR ITS
22 APPLICATION TO ANY PERSON, GROUP OF PERSONS, OR CIRCUMSTANCES TO
23 BE UNCONSTITUTIONALLY VAGUE AND DECLINES TO IMPOSE THE SAVING
24 CONSTRUCTION DESCRIBED IN THIS PART 9, THE COLORADO SUPREME
25 COURT SHALL PROVIDE AN AUTHORITATIVE CONSTRUCTION OF THE
26 OBJECTIONABLE STATUTORY PROVISIONS THAT AVOIDS THE
27 CONSTITUTIONAL PROBLEMS WHILE ENFORCING THE STATUTE'S

1 RESTRICTIONS TO THE MAXIMUM POSSIBLE EXTENT AND SHALL ANSWER
2 ANY QUESTION CERTIFIED FROM A FEDERAL APPELLATE COURT REGARDING
3 THE STATUTE.

4 (3) A STATE EXECUTIVE OR ADMINISTRATIVE OFFICIAL SHALL NOT
5 DECLINE TO ENFORCE THIS PART 9, OR ADOPT A CONSTRUCTION OF THIS
6 PART 9 IN A WAY THAT NARROWS ITS APPLICABILITY, BASED ON THE
7 OFFICIAL'S OWN BELIEFS CONCERNING THE REQUIREMENTS OF THE STATE
8 OR FEDERAL CONSTITUTION, UNLESS THE OFFICIAL IS ENJOINED BY A STATE
9 OR FEDERAL COURT FROM ENFORCING THIS PART 9.

10 (4) THIS PART 9 SHALL NOT BE CONSTRUED TO:

11 (a) AUTHORIZE THE PROSECUTION OF OR A CAUSE OF ACTION TO BE
12 BROUGHT AGAINST A WOMAN ON WHOM AN ABORTION IS PERFORMED OR
13 INDUCED IN VIOLATION OF THIS PART 9; OR

14 (b) CREATE OR RECOGNIZE A RIGHT TO ABORTION OR A RIGHT TO
15 A PARTICULAR METHOD OF ABORTION.

16 **SECTION 2.** In Colorado Revised Statutes, 12-36-117, **add**
17 (1)(nn) as follows:

18 **12-36-117. Unprofessional conduct.** (1) "Unprofessional
19 conduct" as used in this article 36 means:

20 (nn) A VIOLATION OF SECTION 18-6-902.

21 **SECTION 3.** In Colorado Revised Statutes, 12-36-118, **add** (9.5)
22 as follows:

23 **12-36-118. Disciplinary action by board - immunity - rules.**

24 (9.5) IF THE BOARD FINDS A LICENSEE COMMITTED UNPROFESSIONAL
25 CONDUCT IN VIOLATION OF SECTION 12-36-117 (1)(nn), THE BOARD SHALL
26 SUSPEND THE LICENSEE'S LICENSE FOR AT LEAST ONE YEAR.

27 **SECTION 4. Act subject to petition - effective date -**

1 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
2 the expiration of the ninety-day period after final adjournment of the
3 general assembly (August 8, 2018, if adjournment sine die is on May 9,
4 2018); except that, if a referendum petition is filed pursuant to section 1
5 (3) of article V of the state constitution against this act or an item, section,
6 or part of this act within such period, then the act, item, section, or part
7 will not take effect unless approved by the people at the general election
8 to be held in November 2018 and, in such case, will take effect on the
9 date of the official declaration of the vote thereon by the governor.

10 (2) This act applies to offenses and unprofessional conduct
11 committed on or after the applicable effective date of this act.