

CHAPTER 240

HEALTH AND ENVIRONMENT

HOUSE BILL 00-1468

BY REPRESENTATIVES Paschall, May, Fairbank, Hefley, Mitchell, Nuñez, Scott, Sinclair, Clapp, Dean, Decker, Lee, and McKay;
also SENATORS Lamborn, Andrews, Arnold, Congrove, Hillman, Teck, Chlouber, Epps, Musgrave, Nichol, Owen, Sullivant, and Tebedo.

AN ACT

CONCERNING THE USE OF FETAL TISSUE FROM INDUCED TERMINATION OF PREGNANCY.

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

SECTION 1. 25-2-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-2-102. Definitions. As used in this article, unless the context otherwise requires:

(2.7) "INDUCED TERMINATION OF PREGNANCY" MEANS THE PURPOSEFUL INTERRUPTION OF A PREGNANCY WITH AN INTENTION OTHER THAN PRODUCING A LIVE-BORN INFANT OR REMOVING A DEAD FETUS AND THAT DOES NOT RESULT IN A LIVE BIRTH.

SECTION 2. Article 2 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-2-111.5. Transfer of fetal tissue from induced termination of pregnancy - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE UNITED STATES CONGRESS ENACTED 42 U.S.C. SEC. 289g-2, PROHIBITING THE ACQUISITION, RECEIPT, OR OTHER TRANSFER OF HUMAN FETAL TISSUE FOR VALUABLE CONSIDERATION IF THE TRANSFER AFFECTS INTERSTATE COMMERCE. THE GENERAL ASSEMBLY DETERMINES AND DECLARES THAT THE ACQUISITION, RECEIPT, OR OTHER TRANSFER OF HUMAN FETAL TISSUE FOR VALUABLE CONSIDERATION AFFECTS INTRASTATE COMMERCE AND IS NOT IN THE PUBLIC INTEREST OF THE RESIDENTS OF COLORADO. THEREFORE, THE GENERAL ASSEMBLY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

FINDS, DETERMINES, AND DECLARES THAT THE EXCHANGE FOR VALUABLE CONSIDERATION OF HUMAN FETAL TISSUE SHOULD BE PROHIBITED.

(2) (a) NO PHYSICIAN OR INSTITUTION THAT PERFORMS PROCEDURES FOR THE INDUCED TERMINATION OF PREGNANCY SHALL TRANSFER SUCH TISSUE FOR VALUABLE CONSIDERATION TO ANY ORGANIZATION OR PERSON THAT CONDUCTS RESEARCH USING FETAL TISSUE OR THAT TRANSPLANTS FETAL TISSUE FOR THERAPEUTIC PURPOSES. FOR THE PURPOSES OF THIS SECTION, "VALUABLE CONSIDERATION" INCLUDES, BUT IS NOT LIMITED TO:

(I) ANY LEASE-SHARING AGREEMENT IN EXCESS OF THE CURRENT MARKET VALUE FOR COMMERCIAL RENTAL PROPERTY FOR THE AREA IN WHICH THE PHYSICIAN'S OR INSTITUTION'S PLACE OF BUSINESS IS LOCATED;

(II) ANY LEASE-SHARING AGREEMENT THAT IS BASED ON THE TERM OR NUMBER OF INDUCED TERMINATIONS OF PREGNANCY PERFORMED BY SUCH PHYSICIAN OR INSTITUTION;

(III) ANY MONEYS, GIFTS IN LIEU OF MONEY, BARTER ARRANGEMENTS, OR EXCHANGE OF SERVICES THAT DO NOT CONSTITUTE REASONABLE PAYMENT ASSOCIATED WITH THE TRANSPORTATION, IMPLANTATION, PROCESSING, PRESERVATION, QUALITY CONTROL, OR STORAGE OF HUMAN FETAL TISSUE AS DEFINED IN 42 U.S.C. SEC. 289 g-2; OR

(IV) ANY AGREEMENT TO PURCHASE FETAL TISSUE FOR A PROFIT.

(b) NOTHING IN THIS SUBSECTION (2) SHALL PREVENT THE DISPOSITION OF FETAL TISSUE FROM AN INDUCED TERMINATION OF PREGNANCY PURSUANT TO PART 4 OF ARTICLE 15 OF THIS TITLE.

(3) ANY PHYSICIAN OR INSTITUTION THAT VIOLATES SUBSECTION (2) OF THIS SECTION SHALL BE FINED BY THE STATE REGISTRAR NOT MORE THAN TEN THOUSAND DOLLARS, DEPENDING UPON THE SEVERITY OF THE VIOLATION.

(4) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT MAY PROMULGATE RULES RELATED TO ENFORCEMENT ACTIVITIES NECESSARY TO IMPLEMENT SUBSECTIONS (2) AND (3) OF THIS SECTION.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all induced terminations of pregnancy on or after the applicable effective date of this act.

Approved: May 26, 2000