

CHAPTER 280

HEALTH AND ENVIRONMENT

HOUSE BILL 01-1308

BY REPRESENTATIVE(S) Cloer, Borodkin, Daniel, Groff, Hodge, Jahn, Jameson, Madden, Scott, Sinclair, Stafford, Tochtrop, Vigil, White, Williams S., Witwer, Cadman, Clapp, Coleman, Dean, Hefley, Johnson, King, Lee, Mace, Mitchell, Nuñez, Paschall, Rhodes, Schultheis, Snook, Spradley, and Young;
also SENATOR(S) Hernandez, Dyer (Arapahoe), Hagedorn, Lamborn, Linkhart, and Nichol.

AN ACT

CONCERNING THE TREATMENT OF THE REMAINS OF A FETAL DEATH.

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

SECTION 1. Part 4 of article 15 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-15-402.5. Disposition of fetal tissue. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "FETAL DEATH" MEANS DEATH PRIOR TO THE COMPLETE EXPULSION OR EXTRACTION FROM ITS MOTHER OF A PRODUCT OF HUMAN CONCEPTION, IRRESPECTIVE OF THE DURATION OF PREGNANCY. THE DEATH IS INDICATED BY THE FACT THAT AFTER SUCH EXPULSION OR EXTRACTION THE FETUS DOES NOT BREATHE OR SHOW ANY OTHER EVIDENCE OF LIFE SUCH AS BEATING OF THE HEART, PULSATION OF THE UMBILICAL CORD, OR DEFINITE MOVEMENT OF VOLUNTARY MUSCLES.

(2) NOTHING IN THIS PART 4 SHALL BE DEEMED TO PROHIBIT THE TREATMENT OF THE REMAINS FROM A FETAL DEATH PURSUANT TO ARTICLE 54 OF TITLE 12, C.R.S.

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

25-2-110.5. Fetal deaths - treatment of remains. (1) IN EVERY INSTANCE OF FETAL DEATH, THE PREGNANT WOMAN SHALL HAVE THE OPTION OF TREATING THE REMAINS OF A FETAL DEATH PURSUANT TO ARTICLE 54 OF TITLE 12, C.R.S.

(2) IN EVERY INSTANCE OF FETAL DEATH, THE HEALTH CARE PROVIDER, UPON

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

REQUEST OF THE PREGNANT WOMAN, SHALL RELEASE TO THE WOMAN OR THE WOMAN'S DESIGNEE THE REMAINS OF A FETAL DEATH FOR FINAL DISPOSITION IN ACCORDANCE WITH APPLICABLE LAW. SUCH REQUEST SHALL BE MADE BY THE PREGNANT WOMAN OR HER AUTHORIZED REPRESENTATIVE PRIOR TO OR IMMEDIATELY FOLLOWING THE EXPULSION OR EXTRACTION OF THE FETAL REMAINS. UNLESS A TIMELY REQUEST WAS MADE, NOTHING IN THIS SECTION SHALL REQUIRE THE HEALTH CARE PROVIDER TO MAINTAIN OR PRESERVE THE FETAL REMAINS.

(3) (a) NOTHING IN THIS SECTION SHALL PROHIBIT A HEALTH CARE PROVIDER FROM CONDUCTING OR ACQUIRING MEDICAL TESTS ON THE REMAINS OF A FETAL DEATH PRIOR TO RELEASE.

(b) UPON A REQUEST PURSUANT TO SUBSECTION (2), WHENEVER A MEDICAL TEST IS CONDUCTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE HEALTH CARE PROVIDER CONDUCTING THE TEST SHALL, WHERE MEDICALLY PERMISSIBLE AND OTHERWISE PERMITTED BY LAW, RELEASE TO THE PREGNANT WOMAN OR THE WOMAN'S DESIGNEE THE REMAINS OF A FETAL DEATH FOR FINAL DISPOSITION.

(4) NOTHING IN THIS SECTION SHALL PROHIBIT THE HEALTH CARE PROVIDER FROM REQUIRING A RELEASE OF LIABILITY FOR THE RELEASE OF THE REMAINS OF A FETAL DEATH PRIOR TO SUCH RELEASE.

(5) A HEALTH CARE PROVIDER SHALL BE IMMUNE FROM ALL CIVIL OR CRIMINAL LIABILITY, SUIT, OR SANCTION WITH REGARD TO ANY ACTION TAKEN IN GOOD FAITH COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

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.

Approved: June 5, 2001