

CHAPTER 379

COURTS

HOUSE BILL 14-1388

BY REPRESENTATIVE(S) Foote and Pettersen, Becker, Court, Fields, Fischer, Ginal, Hamner, Hullinghorst, Kraft-Tharp, Labuda, May, Mitsch Bush, Pabon, Primavera, Rosenthal, Ryden, Schafer, Williams, Young;
also SENATOR(S) Steadman, Aguilar, Heath, Nicholson, Tochtrop, Ulibarri, Carroll.

AN ACT

CONCERNING A CIVIL CAUSE OF ACTION FOR DAMAGES THAT RESULT FROM AN UNLAWFUL TERMINATION OF A PREGNANCY AT ANY TIME PRIOR TO BIRTH CAUSED BY AT LEAST RECKLESS CONDUCT WITHOUT ESTABLISHING LEGAL PERSONHOOD AT ANY TIME PRIOR TO A LIVE BIRTH.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The purpose of this act is to provide a civil remedy that may be invoked when a woman suffers an unlawful termination of her pregnancy;

(b) Nothing in this act shall be construed to confer legal personhood, or any rights associated with that status, upon a human being at any time prior to birth;

(c) Nothing in this act shall be construed to create a cause of action against a woman arising from her own actions, or inactions, that result in an injury to her pregnancy; and

(d) Nothing in this act shall be construed to create a cause of action against a health care institution or health care professional engaged in providing health care services to a patient or to alter, amend, or in any way limit the "Health Care Availability Act", article 64 of title 13, Colorado Revised Statutes.

SECTION 2. In Colorado Revised Statutes, **add** part 12 to article 21 of title 13 as follows:

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

PART 12
DAMAGES FOR UNLAWFUL
TERMINATION OF PREGNANCY

13-21-1201. Short title. THIS PART 12 IS KNOWN AND MAY BE CITED AS THE "CIVIL REMEDY FOR UNLAWFUL TERMINATION OF PREGNANCY ACT".

13-21-1202. Legislative declaration. THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS PART 12 IS TO PROVIDE AN APPROPRIATE CIVIL REMEDY TO A WOMAN WHO SUFFERS AN UNLAWFUL TERMINATION OF HER PREGNANCY, WITHOUT ESTABLISHING THE LEGAL PERSONHOOD OF AN UNBORN HUMAN BEING.

13-21-1203. Definitions. AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CONSENT" HAS THE SAME MEANING AS PROVIDED IN SECTION 18-1-505, C.R.S.

(2) "INTENTIONALLY" HAS THE SAME MEANING AS PROVIDED IN SECTION 18-1-501 (5), C.R.S.

(3) "KNOWINGLY" HAS THE SAME MEANING AS PROVIDED IN SECTION 18-1-501 (6), C.R.S.

(4) "PREGNANCY" MEANS THE PRESENCE OF AN IMPLANTED HUMAN EMBRYO OR FETUS WITHIN THE UTERUS OF A WOMAN.

(5) "RECKLESSLY" HAS THE SAME MEANING AS PROVIDED IN SECTION 18-1-501 (8), C.R.S.

(6) "UNLAWFUL TERMINATION OF PREGNANCY" MEANS THE TERMINATION OF A PREGNANCY BY ANY MEANS OTHER THAN BIRTH OR A MEDICAL PROCEDURE, INSTRUMENT, AGENT, OR DRUG FOR WHICH THE CONSENT OF THE PREGNANT WOMAN, OR A PERSON AUTHORIZED BY LAW TO ACT ON HER BEHALF, HAS BEEN OBTAINED, OR FOR WHICH THE PREGNANT WOMAN'S CONSENT IS IMPLIED BY LAW.

13-21-1204. Construction. NOTHING IN THIS PART 12 SHALL BE CONSTRUED TO CONFER THE STATUS OF "PERSON" UPON A HUMAN EMBRYO, FETUS, OR UNBORN CHILD AT ANY STAGE OF DEVELOPMENT PRIOR TO LIVE BIRTH.

13-21-1205. Damages - woman injured by the unlawful termination of a pregnancy. (1) A WOMAN MAY BRING AN ACTION FOR DAMAGES IN ACCORDANCE WITH THIS PART 12 AGAINST ANY PERSON WHO INTENTIONALLY, KNOWINGLY, OR RECKLESSLY CAUSED AN UNLAWFUL TERMINATION OF HER PREGNANCY.

(2) (a) THE ACTION AUTHORIZED IN THIS SECTION IS IN ADDITION TO, AND DOES NOT LIMIT OR AFFECT, OTHER ACTIONS AVAILABLE BY STATUTE OR COMMON LAW, BEFORE OR AFTER THE EFFECTIVE DATE OF THIS PART 12.

(b) NOTHING IN THIS PART 12 IS INTENDED TO ALTER, REPLACE, LIMIT, SUPERSEDE,

OR IN ANY WAY RESTRICT ANY PROVISION OF THE "HEALTH CARE AVAILABILITY ACT", ARTICLE 64 OF THIS TITLE, OR ANY SUCCESSOR STATUTE.

(3) THE STANDARD OF PROOF FOR ESTABLISHING LIABILITY UNDER THIS SECTION IS PROOF BY A PREPONDERANCE OF THE EVIDENCE.

(4) A WOMAN ENTITLED TO BRING AN ACTION UNDER THIS SECTION MAY RECOVER THE FOLLOWING DAMAGES:

(a) HER OWN ECONOMIC DAMAGES;

(b) HER OWN NONECONOMIC DAMAGES; AND

(c) EXEMPLARY DAMAGES TO THE EXTENT PERMITTED BY SECTION 13-21-102, OR ANY SUCCESSOR STATUTE.

13-21-1206. Exceptions to liability. (1) NOTHING IN THIS PART 12 SHALL CREATE LIABILITY FOR DAMAGES, OR PERMIT A CAUSE OF ACTION, AGAINST:

(a) A HEALTH CARE INSTITUTION, AS DEFINED IN SECTION 13-64-202 (3), TO THE EXTENT THAT THE HEALTH CARE INSTITUTION IS ENGAGED IN PROVIDING HEALTH CARE SERVICES TO A PREGNANT WOMAN WITH HER CONSENT OR WHERE HER CONSENT IS IMPLIED BY LAW; OR

(b) A HEALTH CARE PROFESSIONAL, AS DEFINED IN SECTION 13-64-202 (4) (a), TO THE EXTENT THAT THE HEALTH CARE PROFESSIONAL IS ENGAGED IN PROVIDING HEALTH CARE SERVICES TO A PREGNANT WOMAN WITH HER CONSENT OR WHERE HER CONSENT IS IMPLIED BY LAW.

(2) NOTHING IN THIS PART 12 IMPOSES LIABILITY FOR DAMAGES UPON A WOMAN FOR ACTS SHE ENGAGES IN WITH RESPECT TO HER OWN PREGNANCY.

13-21-1207. Limitation of actions - three years. ANY ACTION BROUGHT UNDER THIS PART 12 MUST BE COMMENCED WITHIN THREE YEARS AFTER THE CAUSE OF ACTION ACCRUES AND NOT THEREAFTER. FOR PURPOSES OF THIS PART 12, A CAUSE OF ACTION ACCRUES WHEN A WOMAN HAS REASON TO KNOW THAT HER PREGNANCY WAS UNLAWFULLY TERMINATED.

SECTION 3. Effective date - applicability. This act takes effect July 1, 2014, and applies to causes of action accruing on or after said date.

SECTION 4. 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 6, 2014