

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-0926.01 Michael Dohr x4347

SENATE BILL 20-077

SENATE SPONSORSHIP

Woodward,

HOUSE SPONSORSHIP

Sandridge,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENFORCEMENT OF THE RIGHTS OF A LIVING CHILD**

102 **AFTER AN ABORTION.**

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 establishes a physician-patient relationship between a child born alive after or during an abortion and the physician who performed or attempted to perform the abortion. The bill requires the physician to exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious physician would render to any other child born

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

alive at the same gestational age and requires that the child born alive be immediately transferred to a hospital. The bill creates a civil penalty of \$100,000 for a violation enforceable by the attorney general, makes a violation a class 3 felony, and makes a conviction unprofessional conduct for licensing purposes.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-240-146 as
3 follows:

4 **12-240-146. Physician-patient relationship - child born alive.**

5 (1) A PHYSICIAN-PATIENT RELATIONSHIP IS ESTABLISHED BETWEEN A
6 CHILD BORN ALIVE AFTER OR DURING AN ABORTION AND THE PHYSICIAN
7 WHO PERFORMED OR ATTEMPTED TO PERFORM THE ABORTION. THE
8 PHYSICIAN MUST EXERCISE THE SAME DEGREE OF PROFESSIONAL SKILL,
9 CARE, AND DILIGENCE TO PRESERVE THE LIFE AND HEALTH OF THE CHILD
10 AS A REASONABLY DILIGENT AND CONSCIENTIOUS PHYSICIAN WOULD
11 RENDER TO ANY OTHER CHILD BORN ALIVE AT THE SAME GESTATIONAL
12 AGE. FOR PURPOSES OF THIS SUBSECTION (1), "PROFESSIONAL SKILL, CARE,
13 AND DILIGENCE" REQUIRES THAT THE PHYSICIAN WHO PERFORMED OR
14 ATTEMPTED THE ABORTION ENSURES THAT THE CHILD BORN ALIVE IS
15 IMMEDIATELY TRANSFERRED TO A HOSPITAL.

16 (2) A WOMAN ON WHOM AN ABORTION IS PERFORMED OR
17 ATTEMPTED TO BE PERFORMED MAY NOT BE HELD LIABLE PURSUANT TO
18 THIS SECTION.

19 (3) (a) A PHYSICIAN WHO VIOLATES SUBSECTION (1) OF THIS
20 SECTION BY FAILING TO PROVIDE THE APPROPRIATE MEDICAL TREATMENT
21 TO A CHILD BORN ALIVE AFTER OR DURING AN ABORTION OR AN
22 ATTEMPTED ABORTION IS LIABLE TO THE STATE FOR A CIVIL PENALTY OF
23 NOT LESS THAN ONE HUNDRED THOUSAND DOLLARS. THE ATTORNEY

1 GENERAL MAY BRING A SUIT TO COLLECT THE PENALTY. IN ADDITION TO
2 THE CIVIL PENALTY, THE ATTORNEY GENERAL MAY RECOVER REASONABLE
3 ATTORNEY'S FEES. THE CIVIL PENALTY DESCRIBED IN THIS SUBSECTION
4 (3)(a) IS IN ADDITION TO ANY OTHER RECOVERY AUTHORIZED UNDER
5 OTHER LAW.

6 (b) A PHYSICIAN OR HEALTH CARE PRACTITIONER WHO VIOLATES
7 SUBSECTION (1) OF THIS SECTION BY FAILING TO PROVIDE THE
8 APPROPRIATE MEDICAL TREATMENT TO A CHILD BORN ALIVE AFTER OR
9 DURING AN ABORTION OR AN ATTEMPTED ABORTION COMMITS A CLASS 3
10 FELONY.

11 (4) (a) A PERSON WHO HAS KNOWLEDGE OF A FAILURE TO COMPLY
12 WITH THIS SECTION SHALL REPORT IT TO THE ATTORNEY GENERAL. THE
13 IDENTITY AND ANY PERSONALLY IDENTIFIABLE INFORMATION OF THE
14 PERSON REPORTING THE FAILURE TO COMPLY WITH THIS SECTION IS
15 CONFIDENTIAL.

16 (b) A PERSON WHO FAILS TO COMPLY WITH SUBSECTION (4)(a) OF
17 THIS SECTION COMMITS A CLASS 1 MISDEMEANOR.

18 **SECTION 2.** In Colorado Revised Statutes, 12-240-121, **add**
19 (1)(gg) as follows:

20 **12-240-121. Unprofessional conduct - definitions.**

21 (1) "Unprofessional conduct" as used in this article 240 means:

22 (gg) A CONVICTION FOR VIOLATING SECTION 12-240-146,
23 REGARDING THE PHYSICIAN-PATIENT RELATIONSHIP OF A CHILD BORN
24 ALIVE AFTER OR DURING AN ABORTION.

25 **SECTION 3. Potential appropriation.** Pursuant to section
26 2-2-703, C.R.S., any bill that results in a net increase in periods of
27 imprisonment in state correctional facilities must include an appropriation

1 of money that is sufficient to cover any increased capital construction, any
2 operational costs, and increased parole costs that are the result of the bill
3 for the department of corrections in each of the first five years following
4 the effective date of the bill. Because this act may increase periods of
5 imprisonment, this act may require a five-year appropriation.

6 **SECTION 4. Applicability.** This act applies to violations or
7 offenses committed on or after the effective date of this act.

8 **SECTION 5. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.