

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 15-0031.01 Michael Dohr x4347

**HOUSE BILL 15-1112**

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**HOUSE SPONSORSHIP**

**Landgraf**, Buck, Carver, Humphrey, Joshi, Nordberg, Saine, Brown, Coram, Lundeen, Neville P., Ransom, Tate, Willett, Windholz

**SENATE SPONSORSHIP**

(None),

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**House Committees**

Public Health Care & Human Services  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING CREATION OF THE "BORN-ALIVE INFANT PROTECTION**  
102      **ACT".**

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**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://www.leg.state.co.us/billsummaries>.)*

The bill prohibits a person from denying or depriving an infant of nourishment with the intent to cause or allow the death of the infant for any reason. A person is prohibited from depriving an infant of medically appropriate and reasonable medical care or treatment unless the medical care:

!      Is not necessary to save the life of the infant;

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

- ! Has a potential risk to the infant's life or health that outweighs the potential benefit of the medical care; or
- ! Is treatment that will do no more than temporarily prolong the act of dying when death is imminent.

The bill requires a physician performing an abortion to take all medically appropriate and reasonable steps to preserve the life of a born-alive infant. A person is prohibited from using a born-alive infant for any type of scientific research or other kind of experimentation unless it is necessary to protect or preserve the life and health of a born-alive infant. The bill prohibits infanticide.

The bill provides that a born-alive infant is a legal person under the law with the same rights to medically appropriate and legal care and treatment.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 3.7 to title  
3 18 as follows:

4 **ARTICLE 3.7**

5 **Born-alive Infant Protection Act**

6 **18-3.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY  
7 BE CITED AS THE "BORN-ALIVE INFANT PROTECTION ACT".

8 **18-3.7-102. Legislative declaration.** (1) THE GENERAL  
9 ASSEMBLY FINDS AND DETERMINES:

10 (a) THE STATE OF COLORADO HAS A PARAMOUNT INTEREST IN  
11 PROTECTING ALL HUMAN LIFE;

12 (b) IF AN ATTEMPTED ABORTION RESULTS IN THE LIVE BIRTH OF AN  
13 INFANT, THE INFANT IS A LEGAL PERSON FOR ALL PURPOSES UNDER THE  
14 LAWS OF THIS STATE;

15 (c) IT IS NOT AN INFRINGEMENT UPON A WOMAN'S RIGHT TO  
16 TERMINATE HER PREGNANCY FOR THIS STATE TO ASSERT ITS INTEREST IN  
17 PROTECTING AN INFANT WHOSE LIVE BIRTH OCCURRED AS THE RESULT OF  
18 AN ATTEMPTED ABORTION; AND

1 (d) WITHOUT PROPER LEGAL PROTECTION, NEWLY BORN INFANTS  
2 WHO HAVE SURVIVED ATTEMPTED ABORTIONS HAVE BEEN DENIED  
3 APPROPRIATE LIFE-SAVING OR LIFE-SUSTAINING MEDICAL CARE AND  
4 TREATMENT AND HAVE BEEN LEFT TO DIE.

5 (2) ACCORDINGLY, IT IS THE PURPOSE OF THIS ARTICLE TO:

6 (a) ENSURE THE PROTECTION AND PROMOTION OF THE HEALTH AND  
7 WELL-BEING OF ALL INFANTS BORN ALIVE IN THIS STATE; AND

8 (b) MANDATE THAT HEALTH CARE PROVIDERS GIVE MEDICALLY  
9 APPROPRIATE AND REASONABLE LIFE-SAVING AND LIFE-SUSTAINING  
10 MEDICAL CARE AND TREATMENT TO ALL BORN-ALIVE INFANTS.

11 **18-3.7-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
12 CONTEXT OTHERWISE REQUIRES:

13 (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY  
14 INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR  
15 MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE  
16 PREGNANCY OF A WOMAN WITH KNOWLEDGE THAT THE TERMINATION BY  
17 THOSE MEANS WILL WITH REASONABLE LIKELIHOOD CAUSE THE DEATH OF  
18 THE UNBORN CHILD. SUCH USE, PRESCRIPTION, OR MEANS IS NOT AN  
19 ABORTION IF DONE WITH THE INTENT TO:

20 (a) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN  
21 CHILD;

22 (b) REMOVE A DEAD UNBORN CHILD CAUSED BY SPONTANEOUS  
23 ABORTION; OR

24 (c) REMOVE AN ECTOPIC PREGNANCY.

25 (2) "BORN ALIVE" OR "LIVE BIRTH" MEANS THE COMPLETE OR  
26 PARTIAL EXPULSION OR EXTRACTION OF AN INFANT FROM HIS OR HER  
27 MOTHER, REGARDLESS OF THE STATE OF GESTATIONAL DEVELOPMENT,

1 THAT, AFTER EXPULSION OR EXTRACTION, WHETHER OR NOT THE  
2 UMBILICAL CORD HAS BEEN CUT OR THE PLACENTA IS ATTACHED, AND  
3 REGARDLESS OF WHETHER THE EXPULSION OR EXTRACTION OCCURS AS A  
4 RESULT OF NATURAL OR INDUCED LABOR, CESAREAN SECTION, OR INDUCED  
5 ABORTION, SHOWS ANY EVIDENCE OF LIFE, INCLUDING BUT NOT LIMITED  
6 TO ONE OR MORE OF THE FOLLOWING:

- 7 (a) BREATHING;
- 8 (b) A HEARTBEAT;
- 9 (c) UMBILICAL CORD PULSATION; OR
- 10 (d) DEFINITE MOVEMENT OF VOLUNTARY MUSCLES.

11 (3) "CONSENT" MEANS THE VOLUNTARY AGREEMENT OR  
12 ACQUIESCENCE BY A PERSON OF AGE AND WITH THE REQUISITE MENTAL  
13 CAPACITY WHO IS NOT UNDER DURESS OR COERCION AND WHO HAS  
14 KNOWLEDGE OR UNDERSTANDING OF THE ACT OR ACTION TO WHICH HE OR  
15 SHE HAS AGREED OR ACQUIESCED.

16 (4) "FACILITY" OR "MEDICAL FACILITY" MEANS ANY PUBLIC OR  
17 PRIVATE HOSPITAL, CLINIC, CENTER, MEDICAL SCHOOL, MEDICAL TRAINING  
18 INSTITUTION, HEALTH CARE FACILITY, PHYSICIAN'S OFFICE, INFIRMARY,  
19 DISPENSARY, AMBULATORY SURGICAL TREATMENT CENTER, OR OTHER  
20 INSTITUTION OR LOCATION WHEREIN MEDICAL CARE IS PROVIDED TO ANY  
21 PERSON.

22 (5) "INFANT" MEANS A CHILD OF THE SPECIES HOMO SAPIENS THAT  
23 HAS BEEN PARTIALLY OR COMPLETELY EXPULSED OR EXTRACTED FROM HIS  
24 OR HER MOTHER, REGARDLESS OF THE STAGE OF GESTATIONAL  
25 DEVELOPMENT, UNTIL THE AGE OF THIRTY DAYS AFTER BIRTH.

26 (6) "PHYSICIAN" MEANS A PERSON LICENSED TO PRACTICE  
27 MEDICINE IN THE STATE OF COLORADO. THIS TERM INCLUDES MEDICAL

1 DOCTORS AND DOCTORS OF OSTEOPATHY.

2 (7) "PREMATURE" OR "PRETERM" MEANS OCCURRING PRIOR TO THE  
3 THIRTY-SEVENTH WEEK OF GESTATION.

4 **18-3.7-104. Requirements and responsibilities.** (1) A PERSON  
5 SHALL NOT DENY OR DEPRIVE AN INFANT OF NOURISHMENT WITH THE  
6 INTENT TO CAUSE OR ALLOW THE DEATH OF THE INFANT FOR ANY REASON,  
7 INCLUDING BUT NOT LIMITED TO:

8 (a) THE INFANT WAS BORN WITH A DISABILITY;

9 (b) THE INFANT IS NOT WANTED BY THE PARENT OR GUARDIAN; OR

10 (c) THE INFANT IS BORN ALIVE BY NATURAL OR ARTIFICIAL MEANS.

11 (2) A PERSON SHALL NOT DEPRIVE AN INFANT OF MEDICALLY  
12 APPROPRIATE AND REASONABLE MEDICAL CARE AND TREATMENT OR  
13 SURGICAL CARE.

14 (3) THE REQUIREMENTS OF THIS SECTION SHALL NOT BE  
15 CONSTRUED TO PREVENT AN INFANT'S PARENT OR GUARDIAN FROM  
16 REFUSING TO GIVE CONSENT TO MEDICAL TREATMENT OR SURGICAL CARE  
17 THAT IS NOT MEDICALLY NECESSARY OR REASONABLE, INCLUDING CARE  
18 OR TREATMENT THAT EITHER:

19 (a) IS NOT NECESSARY TO SAVE THE LIFE OF THE INFANT;

20 (b) HAS A POTENTIAL RISK TO THE INFANT'S LIFE OR HEALTH THAT  
21 OUTWEIGHS THE POTENTIAL BENEFIT TO THE INFANT OF THE TREATMENT  
22 OR CARE; OR

23 (c) IS TREATMENT THAT WILL DO NO MORE THAN TEMPORARILY  
24 PROLONG THE ACT OF DYING WHEN DEATH IS IMMINENT.

25 (4) (a) THE PHYSICIAN PERFORMING AN ABORTION MUST TAKE ALL  
26 MEDICALLY APPROPRIATE AND REASONABLE STEPS TO PRESERVE THE LIFE  
27 AND HEALTH OF A BORN-ALIVE INFANT. IF AN ABORTION PERFORMED IN A

1 HOSPITAL RESULTS IN A LIVE BIRTH, THE PHYSICIAN ATTENDING THE  
2 ABORTION SHALL PROVIDE IMMEDIATE MEDICAL CARE TO THE INFANT,  
3 INFORM THE MOTHER OF THE LIVE BIRTH, AND REQUEST TRANSFER OF THE  
4 INFANT TO A RESIDENT, ON-DUTY OR EMERGENCY CARE PHYSICIAN, OR  
5 OTHER SUITABLE MEDICAL PROFESSIONAL WHO SHALL PROVIDE  
6 MEDICALLY APPROPRIATE AND REASONABLE MEDICAL CARE AND  
7 TREATMENT TO THE INFANT.

8 (b) IF AN ABORTION PERFORMED IN A FACILITY OTHER THAN A  
9 HOSPITAL RESULTS IN A LIVE BIRTH, A PHYSICIAN ATTENDING THE  
10 ABORTION SHALL PROVIDE IMMEDIATE MEDICAL CARE TO THE INFANT AND  
11 CALL 911 FOR AN EMERGENCY TRANSFER OF THE INFANT TO A HOSPITAL  
12 THAT SHALL PROVIDE MEDICALLY APPROPRIATE AND REASONABLE CARE  
13 AND TREATMENT TO THE INFANT.

14 (5) IF THE PHYSICIAN DESCRIBED IN SUBSECTION (4) OF THIS  
15 SECTION IS UNABLE TO PERFORM THE DUTIES IN SAID SUBSECTION (4)  
16 BECAUSE HE OR SHE IS ASSISTING THE WOMAN ON WHOM THE ABORTION  
17 WAS PERFORMED, THEN AN ATTENDING PHYSICIAN'S ASSISTANT, NURSE, OR  
18 OTHER HEALTHCARE PROVIDER MUST ASSUME THE DUTIES OUTLINED IN  
19 SUBSECTION (4) OF THIS SECTION.

20 (6) ANY BORN-ALIVE INFANT, INCLUDING ONE BORN IN THE  
21 COURSE OF AN ABORTION PROCEDURE, SHALL BE TREATED AS A LEGAL  
22 PERSON UNDER THE LAWS OF THIS STATE, WITH THE SAME RIGHTS TO  
23 MEDICALLY APPROPRIATE AND REASONABLE CARE AND TREATMENT, AND,  
24 IF DEATH OCCURS, BIRTH AND DEATH CERTIFICATES SHALL BE ISSUED  
25 ACCORDINGLY.

26 (7) IF, BEFORE THE ABORTION, THE MOTHER HAS STATED IN  
27 WRITING THAT SHE DOES NOT WISH TO KEEP THE INFANT IN THE EVENT

1 THAT THE ABORTION RESULTS IN A LIVE BIRTH, AND THIS WRITING IS NOT  
2 RETRACTED BEFORE THE ATTEMPTED ABORTION, THE INFANT, IF BORN  
3 ALIVE, SHALL IMMEDIATELY UPON BIRTH HAVE HIS OR HER CUSTODY AND  
4 GUARDIANSHIP TRANSFERRED TO THE COUNTY DEPARTMENT OF SOCIAL  
5 SERVICES.

6 (8) A PERSON SHALL NOT USE ANY BORN-ALIVE INFANT FOR ANY  
7 TYPE OF SCIENTIFIC RESEARCH OR OTHER KIND OF EXPERIMENTATION  
8 EXCEPT AS NECESSARY TO PROTECT OR PRESERVE THE LIFE AND HEALTH  
9 OF THE BORN-ALIVE INFANT.

10 **18-3.7-105. Infanticide - definitions.** (1) "INFANTICIDE" MEANS  
11 ANY DELIBERATE ACT THAT:

12 (a) IS INTENDED TO KILL AN INFANT WHO HAS BEEN BORN ALIVE;  
13 AND

14 (b) DOES KILL SUCH INFANT.

15 (2) ANY PHYSICIAN, NURSE, OR OTHER HEALTH CARE PROVIDER  
16 WHO DELIBERATELY FAILS TO PROVIDE MEDICALLY APPROPRIATE AND  
17 REASONABLE CARE AND TREATMENT TO A BORN-ALIVE INFANT, AND AS A  
18 RESULT OF THAT FAILURE, THE INFANT DIES, SHALL BE GUILTY OF THE  
19 CRIME OF INFANTICIDE.

20 **18-3.7-106. Exceptions.** THE PARENT OR GUARDIAN OF A  
21 BORN-ALIVE INFANT WILL NOT BE HELD CRIMINALLY OR CIVILLY LIABLE  
22 FOR THE ACTIONS OF A PHYSICIAN, NURSE, OR OTHER HEALTH CARE  
23 PROVIDER THAT IS IN VIOLATION OF THIS ARTICLE.

24 **18-3.7-107. Criminal penalties.** (1) ANY PHYSICIAN, NURSE OR  
25 OTHER HEALTH CARE PROVIDER WHO INTENTIONALLY, KNOWINGLY, OR  
26 NEGLIGENTLY FAILS TO PROVIDE MEDICALLY APPROPRIATE AND  
27 REASONABLE CARE AND TREATMENT TO A BORN-ALIVE INFANT IN THE

1 COURSE OF AN ATTEMPTED ABORTION AS REQUIRED BY SECTION  
2 18-3.7-104 IS GUILTY OF A CLASS 3 FELONY AND, UPON CONVICTION,  
3 SHALL BE SENTENCED PURSUANT TO THE PROVISIONS OF SECTION  
4 18-1.3-401.

5 (2) ANY PERSON FOUND GUILTY OF THE CRIME OF INFANTICIDE  
6 PURSUANT TO SECTION 18-3.7-105 IS GUILTY OF A CLASS 3 FELONY AND,  
7 UPON CONVICTION, SHALL BE SENTENCED PURSUANT TO THE PROVISIONS  
8 OF SECTION 18-1.3-401.

9 (3) ANY VIOLATION OF SECTION 18-3.7-104 (8) IS A CLASS 3  
10 FELONY AND, UPON CONVICTION, SHALL BE PUNISHED PURSUANT TO THE  
11 PROVISIONS OF SECTION 18-1.3-401.

12 **18-3.7-108. Civil and administrative action.** (1) IN ADDITION TO  
13 WHATEVER REMEDIES ARE AVAILABLE UNDER THE STATUTORY LAW OF  
14 THIS STATE, FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS  
15 ARTICLE SHALL:

16 (a) PROVIDE A BASIS FOR A CIVIL ACTION FOR COMPENSATORY AND  
17 PUNITIVE DAMAGES. ANY CONVICTION UNDER THIS ARTICLE SHALL BE  
18 ADMISSIBLE IN A CIVIL SUIT AS PRIMA FACIE EVIDENCE OF A FAILURE TO  
19 PROVIDE MEDICALLY APPROPRIATE AND REASONABLE CARE AND  
20 TREATMENT TO A BORN-ALIVE INFANT. ANY CIVIL ACTION MAY BE BASED  
21 ON A CLAIM THAT THE DEATH OF OR INJURY TO THE BORN-ALIVE INFANT  
22 WAS A RESULT OF GROSS NEGLIGENCE, WANTONNESS, WILLFULNESS,  
23 INTENTIONAL CONDUCT, OR ANOTHER VIOLATION OF THE LEGAL  
24 STANDARD OF CARE.

25 (b) PROVIDE A BASIS FOR PROFESSIONAL DISCIPLINARY ACTION  
26 UNDER TITLE 12, C.R.S., FOR THE SUSPENSION OR REVOCATION OF ANY  
27 LICENSE FOR PHYSICIANS, LICENSED AND REGISTERED NURSES, OR OTHER



1 LICENSED OR REGULATED PERSONS. ANY CONVICTION OF ANY PERSON FOR  
2 ANY FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE  
3 SHALL RESULT IN THE AUTOMATIC SUSPENSION OF HIS OR HER LICENSE FOR  
4 A PERIOD OF AT LEAST ONE YEAR AND SAID LICENSE SHALL BE REINSTATED  
5 AFTER THAT TIME ONLY UNDER SUCH CONDITIONS AS THE APPROPRIATE  
6 REGULATORY OR LICENSING BODY SHALL REQUIRE TO ENSURE  
7 COMPLIANCE WITH THIS ARTICLE.

8 (c) PROVIDE A BASIS FOR RECOVERY FOR THE PARENT OF THE  
9 INFANT, OR THE PARENT OR GUARDIAN OF THE MOTHER IF THE MOTHER IS  
10 A MINOR, FOR THE WRONGFUL DEATH OF THE INFANT UNDER PART 2 OF  
11 ARTICLE 21 OF TITLE 13, C.R.S., WHETHER OR NOT THE INFANT WAS  
12 VIABLE AT THE TIME THE ABORTION WAS PERFORMED.

13 **18-3.7-109. Construction.** (1) NOTHING IN THIS ARTICLE SHALL  
14 BE CONSTRUED TO AFFIRM, DENY, EXPAND, OR CONTRACT ANY LEGAL  
15 STATUS OR LEGAL RIGHT APPLICABLE TO ANY MEMBER OF THE SPECIES  
16 HOMO SAPIENS AT ANY POINT PRIOR TO BEING BORN ALIVE, AS DEFINED IN  
17 SECTION 18-3.7-103.

18 (2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AFFECT  
19 EXISTING FEDERAL OR STATE LAW REGARDING ABORTION.

20 (3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS CREATING  
21 OR RECOGNIZING A RIGHT TO ABORTION.

22 (4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO ALTER  
23 GENERALLY ACCEPTED MEDICAL STANDARDS.

24 **18-3.7-110. Severability.** ANY PROVISION OF THIS ARTICLE HELD  
25 TO BE INVALID OR UNENFORCEABLE BY ITS TERMS, OR AS APPLIED TO ANY  
26 PERSON OR CIRCUMSTANCE, SHALL BE CONSTRUED SO AS TO GIVE IT THE  
27 MAXIMUM EFFECT PERMITTED BY LAW, UNLESS SUCH HOLDING SHALL BE

1 ONE OF UTTER INVALIDITY OR UNENFORCEABILITY, IN WHICH EVENT SUCH  
2 PROVISION SHALL BE DEEMED SEVERABLE HEREFROM AND SHALL NOT  
3 AFFECT THE REMAINDER HEREOF OR THE APPLICATION OF SUCH PROVISION  
4 TO OTHER PERSONS SITUATED OR TO OTHER DISSIMILAR CIRCUMSTANCES.

5 **18-3.7-111. Right of intervention.** THE GENERAL ASSEMBLY, BY  
6 JOINT RESOLUTION, MAY APPOINT ONE OR MORE OF ITS MEMBERS, WHO  
7 SPONSORED OR COSPONSORED HOUSE BILL 15-\_\_\_\_\_, ENACTED IN 2015, IN  
8 HIS OR HER OFFICIAL CAPACITY, TO INTERVENE AS A MATTER OF RIGHT IN  
9 ANY CASE IN WHICH THE CONSTITUTIONALITY OF THIS ARTICLE IS  
10 CHALLENGED.

11 **SECTION 2. Potential appropriation.** Pursuant to section  
12 2-2-703, C.R.S., any bill that results in a net increase in periods of  
13 imprisonment in the state correctional facilities must include an  
14 appropriation of moneys that is sufficient to cover any increased capital  
15 construction and operational costs for the first five fiscal years in which  
16 there is a fiscal impact. Because this act may increase periods of  
17 imprisonment, this act may require a five-year appropriation.

18 **SECTION 3. Effective date - applicability.** This act takes effect  
19 July 1, 2015, and applies to offenses committed on or after said date.

20 **SECTION 4. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.