

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 13-0242.01 Michael Dohr x4347

HOUSE BILL 13-1131

HOUSE SPONSORSHIP

Saine,

SENATE SPONSORSHIP

Harvey,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PRENATAL SEX NONDISCRIMINATION ACT.**

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 outlaws:

- ! The performance of an abortion for the purposes of sex selection;
- ! Coercion of an abortion for the purposes of sex selection;
- ! Solicitation or acceptance of funds for the performance of an abortion for the purposes of sex selection; or
- ! Transporting a woman into Colorado so the woman can

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.*

1 AND AVAILABLE, THAT AID IN THE SEX DETERMINATION OF AN UNBORN
2 CHILD WITHOUT THE AID OF MEDICAL PROFESSIONALS. EXPERTS HAVE
3 DEMONSTRATED THAT THE SEX-DETERMINATION INDUSTRY IS ON THE RISE
4 AND PREDICT THAT IT WILL CONTINUE TO BE A GROWING TREND IN THE
5 UNITED STATES. SEX DETERMINATION IS ALWAYS A NECESSARY STEP TO
6 THE PROCUREMENT OF A SEX-SELECTION ABORTION.

7 (IV) A "SEX-SELECTION ABORTION" IS AN ABORTION UNDERTAKEN
8 FOR PURPOSES OF ELIMINATING AN UNBORN CHILD OF AN UNDESIRE D SEX.
9 SEX-SELECTION ABORTION IS BARBARIC AND DESCRIBED BY SCHOLARS
10 AND CIVIL RIGHTS ADVOCATES AS AN ACT OF SEX-BASED OR
11 GENDER-BASED VIOLENCE, PREDICATED ON SEX DISCRIMINATION.
12 SEX-SELECTION ABORTIONS ARE TYPICALLY LATE-TERM ABORTIONS
13 PERFORMED IN THE SECOND OR THIRD TRIMESTER OF PREGNANCY, AFTER
14 THE UNBORN CHILD HAS DEVELOPED SUFFICIENTLY TO FEEL PAIN.
15 SUBSTANTIAL MEDICAL EVIDENCE PROVES THAT AN UNBORN CHILD CAN
16 EXPERIENCE PAIN AT TWENTY WEEKS AFTER CONCEPTION AND PERHAPS
17 SUBSTANTIALLY EARLIER. BY DEFINITION, SEX-SELECTION ABORTIONS DO
18 NOT IMPLICATE THE HEALTH OF THE MOTHER OF THE UNBORN CHILD BUT
19 INSTEAD ARE ELECTIVE PROCEDURES MOTIVATED BY SEX OR GENDER BIAS.

20 (V) THE TARGETED VICTIMS OF SEX-SELECTION ABORTIONS
21 PERFORMED IN THE UNITED STATES AND WORLDWIDE ARE
22 OVERWHELMINGLY FEMALE. THE SELECTIVE ABORTION OF FEMALES IS
23 FEMALE INFANTICIDE, THE INTENTIONAL KILLING OF UNBORN FEMALES,
24 DUE TO THE PREFERENCE FOR MALE OFFSPRING OR "SON PREFERENCE".
25 SON PREFERENCE IS REINFORCED BY THE LOW VALUE ASSOCIATED, BY
26 SOME SEGMENTS OF THE WORLD COMMUNITY, WITH FEMALE OFFSPRING.
27 THOSE SEGMENTS TEND TO REGARD FEMALE OFFSPRING AS FINANCIAL

1 BURDENS TO A FAMILY OVER THEIR LIFETIME DUE TO THEIR PERCEIVED
2 INABILITY TO EARN OR PROVIDE FINANCIALLY FOR THE FAMILY UNIT
3 COMPARED TO MALE OFFSPRING. IN ADDITION, DUE TO SOCIAL AND LEGAL
4 CONVENTION, FEMALE OFFSPRING ARE LESS LIKELY TO CARRY ON THE
5 FAMILY NAME. SON PREFERENCE IS ONE OF THE MOST EVIDENT
6 MANIFESTATIONS OF SEX OR GENDER DISCRIMINATION IN ANY SOCIETY,
7 UNDERMINING FEMALE EQUALITY AND FUELING THE ELIMINATION OF
8 FEMALES' RIGHT TO EXIST IN INSTANCES OF SEX-SELECTION ABORTION.

9 (VI) SEX-SELECTION ABORTIONS ARE NOT EXPRESSLY PROHIBITED
10 BY UNITED STATES LAW OR THE LAWS OF FORTY-SEVEN STATES, AND
11 EVIDENCE SHOWS SEX-SELECTION ABORTIONS ARE PERFORMED IN THE
12 UNITED STATES. IN A MARCH 2008 REPORT PUBLISHED IN THE
13 PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES, COLUMBIA
14 UNIVERSITY ECONOMISTS DOUGLAS ALMOND AND LENA EDLUND
15 EXAMINED THE SEX RATIO OF CHILDREN BORN IN THE UNITED STATES AND
16 FOUND "EVIDENCE OF SEX SELECTION, MOST LIKELY AT THE PRENATAL
17 STAGE". THE DATA REVEALED OBVIOUS SON PREFERENCE IN THE FORM OF
18 UNNATURAL SEX-RATIO IMBALANCES WITHIN CERTAIN SEGMENTS OF THE
19 UNITED STATES POPULATION, PRIMARILY THOSE SEGMENTS TRACING
20 THEIR ETHNIC OR CULTURAL ORIGINS TO COUNTRIES WHERE
21 SEX-SELECTION ABORTION IS PREVALENT. THE EVIDENCE STRONGLY
22 SUGGESTS THAT SOME AMERICANS ARE EXERCISING SEX-SELECTION
23 ABORTION PRACTICES WITHIN THE UNITED STATES CONSISTENT WITH
24 DISCRIMINATORY PRACTICES COMMON TO THEIR COUNTRIES OF ORIGIN OR
25 THE COUNTRY TO WHICH THEY TRACE THEIR ANCESTRY. WHILE
26 SEX-SELECTION ABORTIONS ARE MORE COMMON OUTSIDE THE UNITED
27 STATES, THE EVIDENCE REVEALS THAT FEMALE FETICIDE IS ALSO

1 OCCURRING IN THE UNITED STATES.

2 (VII) THE AMERICAN PUBLIC SUPPORTS A PROHIBITION OF
3 SEX-SELECTION ABORTION. IN A MARCH 2006 ZOGBY INTERNATIONAL
4 POLL, EIGHTY-SIX PERCENT OF AMERICANS AGREED THAT SEX-SELECTION
5 ABORTION SHOULD BE ILLEGAL, YET ONLY THREE STATES PROHIBIT
6 SEX-SELECTION ABORTION.

7 (VIII) DESPITE THE FAILURE OF THE UNITED STATES TO PROSCRIBE
8 SEX-SELECTION ABORTION, THE UNITED STATES CONGRESS HAS
9 EXPRESSED REPEATEDLY, THROUGH CONGRESSIONAL RESOLUTION,
10 STRONG CONDEMNATION OF POLICIES PROMOTING SEX-SELECTION
11 ABORTION IN THE "COMMUNIST GOVERNMENT OF CHINA". LIKewise, AT
12 THE 2007 UNITED NATIONS' ANNUAL MEETING OF THE COMMISSION ON
13 THE STATUS OF WOMEN, FIFTY-FIRST SESSION, THE UNITED STATES'
14 DELEGATION SPEARHEADED A RESOLUTION CALLING ON COUNTRIES TO
15 CONDEMN SEX-SELECTION ABORTION, A POLICY DIRECTLY
16 CONTRADICTORY TO THE PERMISSIVENESS OF CURRENT UNITED STATES
17 LAW, WHICH PLACES NO RESTRICTION ON THE PRACTICE OF SEX-SELECTION
18 ABORTION. THE UNITED NATIONS' COMMISSION ON THE STATUS OF WOMEN
19 HAS URGED GOVERNMENTS OF ALL NATIONS "TO TAKE NECESSARY
20 MEASURES TO PREVENT . . . PRENATAL SEX SELECTION".

21 (IX) A 1990 REPORT BY HARVARD UNIVERSITY ECONOMIST
22 AMARTYA SEN ESTIMATED THAT MORE THAN ONE HUNDRED MILLION
23 WOMEN WERE "DEMOGRAPHICALLY MISSING" FROM THE WORLD AS EARLY
24 AS 1990 DUE TO SEXIST PRACTICES, INCLUDING SEX-SELECTION ABORTION.
25 MANY EXPERTS BELIEVE SEX-SELECTION ABORTION IS THE PRIMARY
26 CAUSE. CURRENT ESTIMATES OF WOMEN MISSING FROM THE WORLD RANGE
27 IN THE HUNDREDS OF MILLIONS.

1 (X) COUNTRIES WITH LONG-STANDING EXPERIENCE WITH
2 SEX-SELECTION ABORTION, SUCH AS THE REPUBLIC OF INDIA, THE UNITED
3 KINGDOM, AND THE PEOPLE'S REPUBLIC OF CHINA, HAVE ENACTED
4 RESTRICTIONS ON SEX-SELECTION ABORTION AND HAVE STEADILY
5 CONTINUED TO STRENGTHEN PROHIBITIONS AND PENALTIES. THE UNITED
6 STATES, BY CONTRAST, HAS NO LAW IN PLACE TO RESTRICT
7 SEX-SELECTION ABORTION, ESTABLISHING THE UNITED STATES AS
8 AFFORDING LESS PROTECTION FROM SEX-BASED FETICIDE THAN THE
9 REPUBLIC OF INDIA OR THE PEOPLE'S REPUBLIC OF CHINA, WHOSE RECENT
10 PRACTICES OF SEX-SELECTION ABORTION WERE VEHEMENTLY AND
11 REPEATEDLY CONDEMNED BY UNITED STATES CONGRESSIONAL
12 RESOLUTIONS AND BY THE UNITED STATES AMBASSADOR TO THE UNITED
13 NATIONS' COMMISSION ON THE STATUS OF WOMEN. PUBLIC STATEMENTS
14 FROM WITHIN THE MEDICAL COMMUNITY REVEAL THAT CITIZENS OF OTHER
15 COUNTRIES COME TO THE UNITED STATES FOR SEX-SELECTION
16 PROCEDURES THAT WOULD BE CRIMINAL IN THEIR COUNTRIES OF ORIGIN.
17 BECAUSE THE UNITED STATES PERMITS ABORTION ON THE BASIS OF SEX,
18 THE UNITED STATES MAY EFFECTIVELY FUNCTION AS A "SAFE HAVEN" FOR
19 THOSE WHO SEEK TO HAVE AMERICAN PHYSICIANS DO WHAT WOULD
20 OTHERWISE BE CRIMINAL IN THEIR HOME COUNTRIES -- A SEX-SELECTION
21 ABORTION, MOST LIKELY LATE-TERM.

22 (XI) THE AMERICAN MEDICAL COMMUNITY OPPOSES
23 SEX-SELECTION ABORTION. THE AMERICAN COLLEGE OF OBSTETRICIANS
24 AND GYNECOLOGISTS, COMMONLY KNOWN AS ACOG, STATED IN ITS
25 FEBRUARY 2007 ETHICS COMMITTEE OPINION, NUMBER 360, THAT
26 SEX-SELECTION IS INAPPROPRIATE FOR FAMILY-PLANNING PURPOSES
27 BECAUSE SEX-SELECTION "ULTIMATELY SUPPORTS SEXIST PRACTICES".

1 LIKewise, THE AMERICAN SOCIETY FOR REPRODUCTIVE MEDICINE HAS
2 OPINED THAT SEX SELECTION FOR FAMILY-PLANNING PURPOSES IS
3 ETHICALLY PROBLEMATIC, INAPPROPRIATE, AND SHOULD BE
4 DISCOURAGED.

5 (XII) SEX-SELECTION ABORTION RESULTS IN AN UNNATURAL
6 SEX-RATIO IMBALANCE. AN UNNATURAL SEX-RATIO IMBALANCE IS
7 UNDESIRABLE, DUE TO THE INABILITY OF THE NUMERICALLY
8 PREDOMINANT SEX TO FIND MATES. EXPERTS WORLDWIDE DOCUMENT
9 THAT A SIGNIFICANT SEX-RATIO IMBALANCE IN WHICH MALES
10 NUMERICALLY PREDOMINATE CAN CAUSE INCREASED VIOLENCE AND
11 MILITANCY WITHIN A SOCIETY. LIKewise, AN UNNATURAL SEX-RATIO
12 IMBALANCE GIVES RISE TO THE COMMODITIZATION OF HUMANS IN THE
13 FORM OF HUMAN TRAFFICKING, AND A CONSEQUENT INCREASE IN
14 KIDNAPPING AND OTHER VIOLENT CRIME.

15 (XIII) SEX-SELECTION ABORTIONS DIMINISH THE REPRESENTATION
16 OF WOMEN IN THE AMERICAN POPULATION AND, THEREFORE, THE
17 AMERICAN ELECTORATE; AND

18 (XIV) SEX-SELECTION ABORTION REINFORCES SEX
19 DISCRIMINATION AND HAS NO PLACE IN A CIVILIZED SOCIETY.

20 (b) **General findings.** (I) THE HISTORY OF THE UNITED STATES
21 INCLUDES EXAMPLES OF SEX DISCRIMINATION. THE PEOPLE OF THE UNITED
22 STATES ULTIMATELY RESPONDED IN THE STRONGEST POSSIBLE LEGAL
23 TERMS BY ENACTING CONSTITUTIONAL AMENDMENTS CORRECTING
24 ELEMENTS OF SUCH DISCRIMINATION. WOMEN, ONCE SUBJECTED TO SEX
25 DISCRIMINATION THAT DENIED THEM THE RIGHT TO VOTE, NOW HAVE
26 SUFFRAGE GUARANTEED BY THE NINETEENTH AMENDMENT. THE
27 ELIMINATION OF DISCRIMINATORY PRACTICES HAS BEEN AND IS AMONG

1 THE HIGHEST PRIORITIES AND GREATEST ACHIEVEMENTS OF AMERICAN
2 HISTORY; AND

3 (II) IMPLICITLY APPROVING THE DISCRIMINATORY PRACTICES OF
4 SEX-SELECTION ABORTION BY CHOOSING NOT TO PROHIBIT THEM WILL
5 REINFORCE THESE INHERENTLY DISCRIMINATORY PRACTICES AND
6 EVIDENCE A FAILURE TO PROTECT A SEGMENT OF CERTAIN UNBORN
7 AMERICANS BECAUSE THOSE UNBORN ARE OF A SEX THAT IS DISFAVORED.
8 SEX-SELECTION ABORTIONS TRIVIALIZE THE VALUE OF THE UNBORN ON
9 THE BASIS OF SEX, REINFORCING SEX DISCRIMINATION, AND COARSENING
10 SOCIETY TO THE HUMANITY OF ALL VULNERABLE AND INNOCENT HUMAN
11 LIFE, MAKING IT INCREASINGLY DIFFICULT TO PROTECT SUCH LIFE. THUS,
12 COLORADO HAS A COMPELLING INTEREST IN ACTING, INDEED IT MUST ACT,
13 TO PROHIBIT SEX-SELECTION ABORTION.

14 **18-3.5-203. Discrimination against the unborn on the basis of**
15 **sex - definitions.** (1) A PERSON SHALL NOT KNOWINGLY:

16 (a) PERFORM AN ABORTION KNOWING THAT THE ABORTION IS
17 SOUGHT BASED ON THE SEX OF THE CHILD;

18 (b) USE FORCE OR THE THREAT OF FORCE TO INTENTIONALLY
19 INJURE OR INTIMIDATE A PERSON FOR THE PURPOSE OF COERCING A
20 SEX-SELECTION ABORTION;

21 (c) SOLICIT OR ACCEPT FUNDS FOR THE PERFORMANCE OF A
22 SEX-SELECTION ABORTION; OR

23 (d) TRANSPORT A WOMAN INTO COLORADO FOR THE PURPOSE OF
24 OBTAINING A SEX-SELECTION ABORTION.

25 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION
26 COMMITS A CLASS 2 FELONY, AND THE COURT SHALL SENTENCE THE
27 DEFENDANT BETWEEN THE MINIMUM AND TWICE THE MAXIMUM OF THE

1 PRESUMPTIVE RANGE FOR A CLASS 2 FELONY.

2 (3) FOR PURPOSES OF THIS PART 2, UNLESS THE CONTEXT
3 OTHERWISE REQUIRES:

4 (a) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY
5 INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR
6 MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE
7 PREGNANCY OF A WOMAN, WITH KNOWLEDGE THAT THE TERMINATION BY
8 THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH
9 OF THE UNBORN CHILD, UNLESS THE ACT IS DONE WITH THE INTENT TO:

10 (I) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN
11 CHILD;

12 (II) REMOVE A DEAD UNBORN CHILD CAUSED BY SPONTANEOUS
13 ABORTION; OR

14 (III) REMOVE AN ECTOPIC PREGNANCY.

15 (b) "SEX-SELECTION ABORTION" IS AN ABORTION UNDERTAKEN
16 FOR PURPOSES OF ELIMINATING AN UNBORN CHILD OF AN UNDESIRED SEX.

17 **SECTION 2. Potential appropriation.** Pursuant to section
18 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
19 in periods of imprisonment in the state correctional facilities must include
20 an appropriation of moneys that is sufficient to cover any increased
21 capital construction and operational costs for the first five fiscal years in
22 which there is a fiscal impact. Because this act may increase periods of
23 imprisonment, this act may require a five-year appropriation.

24 **SECTION 3. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety.