

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0233.01 Michael Dohr x4347

HOUSE BILL 16-1218

---

HOUSE SPONSORSHIP

**Saine**, Neville P., Humphrey, Windholz, Priola, Everett, Navarro, Nordberg, Ransom

SENATE SPONSORSHIP

**Neville T.**, Woods, Holbert, Lambert, Grantham, Marble, Lundberg, Baumgardner

---

House Committees

Health, Insurance, & Environment

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE "WOMEN'S REPRODUCTIVE  
102 INFORMATION GUARANTEE FOR HEALTH AND TRANSPARENCY  
103 (RIGHT) 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 ensures that women are fully and accurately informed about their personal medical conditions regarding their pregnancies and health care options. Current medical procedures already use ultrasound technology to provide information regarding the gestational age of child in utero. The bill ensures that women have the opportunity to see or

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.*

forego the opportunity to see the ultrasound. The bill allows women the opportunity to find a provider of ultrasound technology that will provide the service free of charge. The bill requires that a woman provide voluntary and informed consent to an abortion. The bill describes the information that constitutes voluntary and informed consent that the physician performing the abortion provides to the woman. The bill requires the abortion provider to provide certain information to the woman at least 24 hours prior to performing an abortion.

The bill creates a civil right of action for noncompliance with the requirements, making a physician's noncompliance with the requirements unprofessional conduct and a violation of the requirements a crime.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article  
3 6 of title 25 as follows:

4 **PART 4**

5 **INFORMED DECISION-MAKING**

6 **25-6-401. Short title.** THE SHORT TITLE OF THIS PART 4 IS THE  
7 "WOMEN'S REPRODUCTIVE INFORMATION GUARANTEE FOR HEALTH AND  
8 TRANSPARENCY (RIGHT) ACT".

9 **25-6-402. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
10 FINDS THAT:

11 (a) CURRENT MEDICAL PROCEDURES INVOLVING SURGERY OR  
12 WOMEN'S PREGNANCIES REQUIRE THE USE OF AN ULTRASOUND OR OTHER  
13 ENDOSCOPIC PROCEDURE TO ENSURE ACCURATE PROGNOSIS;

14 (b) ULTRASOUND TECHNOLOGY IS GENERALLY ACCEPTED IN THE  
15 MEDICAL COMMUNITY AS AN EFFICIENT AND ACCURATE MEANS OF  
16 EXAMINING THE HEALTH OF BOTH INTERNAL ORGANS AND UNBORN  
17 CHILDREN;

18 (c) APPROXIMATELY SIXTEEN THOUSAND ABORTIONS EACH YEAR  
19 ARE PERFORMED WITHOUT FULL DISCLOSURE TO PREGNANT WOMEN

1 REGARDING ACCURATE INFORMATION PROVIDED BY ULTRASOUND  
2 TECHNOLOGY;

3 (d) ECTOPIC PREGNANCIES THAT ARE UNDETECTED DURING  
4 ABORTION PRESENT A DANGER TO THE LIFE OF THE MOTHER;

5 (e) EVERY YEAR THOUSANDS OF UNBORN CHILDREN ARE ABORTED  
6 WHILE THE MOTHER IS DENIED THE OPPORTUNITY TO SEE THE UNBORN  
7 CHILD FOR HERSELF;

8 (f) LACK OF TRANSPARENCY ON THE PART OF ABORTION  
9 PROVIDERS CREATES UNAWARENESS ON BEHALF OF THE EXPECTANT  
10 MOTHER REGARDING THE GESTATIONAL AGE AND DEVELOPMENT OF HER  
11 UNBORN CHILD;

12 (g) UNAWARENESS AND LACK OF EDUCATIONAL INFORMATION  
13 REGARDING UNBORN CHILDREN IS A CONTRIBUTING FACTOR TO THE  
14 NUMBER OF ABORTIONS PERFORMED IN COLORADO FOR NO OTHER REASON  
15 THAN A MINOR PHYSICAL DISABILITY OR THE INCONVENIENCE OF AN  
16 "UNPLANNED" PREGNANCY; AND

17 (h) WOMEN WHO ARE SHOWN ULTRASOUND PICTURES CAN MAKE  
18 AN INFORMED, EDUCATED HEALTH CARE DECISION BASED ON SCIENTIFIC  
19 INFORMATION MADE AVAILABLE THROUGH ULTRASOUND TECHNOLOGY.

20 (2) BASED ON THE FINDINGS IN SUBSECTION (1) OF THIS SECTION,  
21 THE GENERAL ASSEMBLY DECLARES IT IS THE PURPOSE OF THIS PART 4 TO:

22 (a) ENSURE THAT EACH WOMAN CONSIDERING AN ABORTION HAS  
23 THE OPPORTUNITY TO RECEIVE COMPLETE INFORMATION ON THE REALITY  
24 AND STATUS OF HER PREGNANCY AND OF HER FETUS AND THAT EACH  
25 WOMAN SUBMITTING TO AN ABORTION DO SO ONLY AFTER GIVING HER  
26 VOLUNTARY AND INFORMED CONSENT TO THE ABORTION PROCEDURE;

27 (b) PROTECT THE FETUS FROM A WOMAN'S UNINFORMED DECISION

1 TO HAVE AN ABORTION;

2 (c) REDUCE "THE RISK THAT A WOMAN MAY ELECT AN ABORTION,  
3 ONLY TO DISCOVER LATER, WITH DEVASTATING PSYCHOLOGICAL  
4 CONSEQUENCES, THAT HER DECISION WAS NOT FULLY INFORMED", AS  
5 STATED BY THE UNITED STATES SUPREME COURT IN *PLANNED*  
6 *PARENTHOOD v. CASEY*, 505 U.S. 833, 882 (1992); AND

7 (d) ADOPT THE CONSTRUCTION OF THE TERM "MEDICAL  
8 EMERGENCY" ACCEPTED BY THE UNITED STATES SUPREME COURT IN  
9 *PLANNED PARENTHOOD v. CASEY*, 505 U.S. 833 (1992).

10 **25-6-403. Definitions.** AS USED IN THIS PART 4, UNLESS THE  
11 CONTEXT OTHERWISE REQUIRES:

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

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

21 (b) REMOVE A DEAD UNBORN CHILD WHO DID NOT DIE AS A RESULT  
22 OF AN INTENTIONAL, KNOWING, OR RECKLESS ACTION TO TERMINATE A  
23 PREGNANCY; OR

24 (c) REMOVE AN ECTOPIC PREGNANCY.

25 (2) "ABORTION PROVIDER" MEANS:

26 (a) A PHYSICIAN PERFORMING OR INDUCING AN ABORTION; OR

27 (b) A PERSON EMPLOYED AT OR BY THE FACILITY WHERE THE

1 ABORTION IS TO BE PERFORMED OR INDUCED AND WILL PHYSICALLY ASSIST  
2 IN THE PROCEDURE; OR

3 (c) A PERSON EMPLOYED AT THE FACILITY WHO IS DESIGNATED FOR  
4 ADMINISTRATIVE DUTIES DIRECTLY CONCERNING THE PATIENT.

5 (3) "FETAL SAC" MEANS THE STRUCTURE SURROUNDING THE FETUS  
6 THAT CAN BE USED TO DETERMINE IF AN INTRAUTERINE PREGNANCY  
7 EXISTS.

8 (4) "MEDICAL EMERGENCY" MEANS A CONDITION THAT SO  
9 COMPLICATES THE MEDICAL CONDITION OF A PREGNANT WOMAN AS TO  
10 NECESSITATE THE IMMEDIATE TERMINATION OF HER PREGNANCY TO AVERT  
11 HER DEATH OR FOR WHICH A DELAY WILL CREATE SERIOUS RISK OF  
12 SUBSTANTIAL AND IRREVERSIBLE IMPAIRMENT OF A MAJOR BODILY  
13 FUNCTION.

14 (5) "VIABLE PREGNANCY" MEANS A PREGNANCY IN WHICH A FETAL  
15 SAC IS LOCATED INSIDE THE UTERUS AND A FETAL HEARTBEAT IS  
16 DETECTABLE WITHIN THE FETAL SAC.

17 **25-6-404. Informed consent.** (1) AN ABORTION SHALL NOT BE  
18 PERFORMED OR INDUCED WITHOUT THE VOLUNTARY AND INFORMED  
19 CONSENT OF THE WOMAN UPON WHOM THE ABORTION IS PERFORMED OR  
20 INDUCED. EXCEPT IN THE CASE OF A MEDICAL EMERGENCY, CONSENT TO  
21 AN ABORTION IS VOLUNTARY AND INFORMED ONLY IF AT LEAST  
22 TWENTY-FOUR HOURS BEFORE THE ABORTION, THE PHYSICIAN WHO IS TO  
23 PERFORM THE ABORTION HAS INFORMED THE WOMAN, ORALLY AND IN  
24 WRITING, OF THE FOLLOWING:

25 (a) THE NAME OF THE PHYSICIAN WHO WILL PERFORM THE  
26 ABORTION;

27 (b) A THOROUGH AND ACCURATE DESCRIPTION OF THE PROPOSED

1 METHOD FOR PERFORMING THE ABORTION, INCLUDING INFORMATION ON  
2 THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME THE  
3 ABORTION IS TO BE PERFORMED AND THE PROBABLE ANATOMICAL AND  
4 PHYSIOLOGICAL CHARACTERISTICS OF AN UNBORN CHILD AT THAT AGE;

5 (c) A DESCRIPTION OF IMMEDIATE AND LONG-TERM PHYSICAL AND  
6 PSYCHOLOGICAL RISKS INVOLVED IN THE ABORTION PROCEDURE,  
7 INCLUDING BUT NOT LIMITED TO THE RISKS OF INFECTION, HEMORRHAGE,  
8 CERVICAL OR UTERINE PERFORATION, AND INFERTILITY, AND RISKS TO  
9 SUBSEQUENT PREGNANCIES;

10 (d) A DESCRIPTION OF ALTERNATIVES TO ABORTION, INCLUDING  
11 THE AVAILABILITY OF ADOPTION ALTERNATIVES AND THE AVAILABILITY  
12 OF FINANCIAL HELP FROM ADOPTIVE PARENTS AND OTHER SOURCES FOR  
13 PRENATAL CARE, CHILD BIRTH, AND NEONATAL CARE EXPENSES;

14 (e) A DESCRIPTION OF MEDICAL ASSISTANCE BENEFITS THAT MAY  
15 BE AVAILABLE FOR PRENATAL CARE, CHILDBIRTH, AND NEONATAL CARE,  
16 TOGETHER WITH THE NAMES AND CONTACT INFORMATION FOR  
17 INDIVIDUALS AND ORGANIZATIONS THAT MAY BE WILLING TO ASSIST WITH  
18 THE COSTS INVOLVED IN CARRYING THE PREGNANCY TO TERM, AND  
19 INFORMATION ON THE LIABILITY OF THE FATHER FOR CHILD SUPPORT AND  
20 OTHER EXPENSES; AND

21 (f) ANY OTHER MEDICAL OR OTHER INFORMATION THAT A  
22 REASONABLE PATIENT WOULD CONSIDER MATERIAL TO THE DECISION OF  
23 WHETHER OR NOT TO HAVE AN ABORTION.

24 (2) AT LEAST TWENTY-FOUR HOURS PRIOR TO THE ABORTION, THE  
25 ABORTION PROVIDER SHALL PROVIDE THE WOMAN, IN WRITING AND, WHEN  
26 APPLICABLE, ORALLY:

27 (a) (I) THE OPPORTUNITY TO RECEIVE A PICTURE OF A CURRENT

1 ULTRASOUND OF THE UNBORN CHILD PORTRAYING THE ENTIRE BODY OF  
2 THE UNBORN CHILD, INCLUDING:

3 (A) AN ORAL DESCRIPTION OF ALL RELEVANT FEATURES OF THE  
4 ULTRASOUND, WITH AUDIBLE HEARTBEAT IF PRESENT;

5 (B) UPON REQUEST AND WITHOUT ADDITIONAL CHARGE, A  
6 PHOTOGRAPH OR PRINT OF THE ULTRASOUND, OF A QUALITY CONSISTENT  
7 WITH THE CURRENT STANDARD MEDICAL PRACTICE;

8 (C) A WRITTEN AND ORAL DESCRIPTION STATING WHETHER OR NOT  
9 THE WOMAN HAS A VIABLE PREGNANCY, THE LOCATION OF THE FETAL SAC,  
10 AND THE PRESENCE OR ABSENCE OF A HEARTBEAT. IF THE PREGNANCY IS  
11 NOT VIABLE, THE ABORTION PROVIDER SHALL ADVISE THE WOMAN THAT  
12 SHE WILL MISCARRY WITH NO FURTHER INTERVENTION UNLESS THE  
13 ABORTION PROVIDER HAS EVIDENCE TO THE CONTRARY.

14 (D) IN ORDER TO PROVIDE THE POSSIBILITY OF A SECOND OPINION,  
15 A LIST OF ALL KNOWN ULTRASOUND PROVIDERS WITHIN A TEN-MILE  
16 RADIUS OF THE ABORTION PROVIDER, OR IF THERE ARE NO SUCH  
17 ULTRASOUND PROVIDERS WITHIN A TEN-MILE RADIUS OF THE ABORTION  
18 PROVIDER, A LIST OF ALL KNOWN ULTRASOUND PROVIDERS WITHIN A  
19 FIFTY-MILE RADIUS OF THE ABORTION PROVIDER.

20 (II) IF THE ABORTION PROVIDER REFUSES TO COMPLY WITH THIS  
21 PARAGRAPH (a), THE ABORTION PROVIDER SHALL GIVE THE WOMAN A LIST  
22 OF PROVIDERS WHO WILL PROVIDE A FREE ULTRASOUND AND COMPLY WITH  
23 THE PROVISIONS OF THIS PARAGRAPH (a) AT LEAST TWENTY-FOUR HOURS  
24 BEFORE THE ABORTION IS PERFORMED AND SHALL POST A PUBLIC NOTICE  
25 STATING THAT THE FACILITY DOES NOT PROVIDE ULTRASOUNDS AND IS  
26 NOT A MEDICAL FACILITY.

27 (b) THE PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD,

1 INCLUDING A FETAL DEVELOPMENT CHART WITH COLOR PHOTOGRAPHS  
2 SPECIFYING WITHIN A FOUR-WEEK INCREMENT THE AGE OF THE UNBORN  
3 CHILD AND SHOWING EACH SUCCEEDING FOUR-WEEK INCREMENT DURING  
4 THE PREGNANCY;

5 (c) A DESCRIPTION OF THE DEVELOPMENT OF THE CHILD'S NERVE  
6 ENDINGS AND THE CHILD'S ABILITY TO FEEL PAIN AT EACH STAGE OF  
7 DEVELOPMENT;

8 (d) A STATEMENT THAT THE WOMAN IS FREE TO WITHHOLD OR  
9 WITHDRAW HER CONSENT TO THE ABORTION AT ANY TIME WITHOUT  
10 AFFECTING HER RIGHT TO CARE OR TREATMENT IN THE FUTURE AND  
11 WITHOUT THE LOSS OF ANY STATE OR FEDERAL BENEFITS TO WHICH SHE  
12 MIGHT OTHERWISE BE ENTITLED; AND

13 (e) ANY OTHER MEDICAL OR OTHER INFORMATION THAT A  
14 REASONABLE PATIENT WOULD CONSIDER MATERIAL TO THE DECISION OF  
15 WHETHER OR NOT TO HAVE AN ABORTION.

16 (3) (a) THE ABORTION PROVIDER SHALL PROVIDE THE  
17 INFORMATION REQUIRED IN THIS SECTION INDIVIDUALLY IN A PRIVATE  
18 ROOM, AND THE WOMAN SHALL BE PROVIDED WITH AN ADEQUATE  
19 OPPORTUNITY TO ASK QUESTIONS AND RECEIVE ANSWERS SHE CAN  
20 UNDERSTAND.

21 (b) IF THE WOMAN IS UNABLE TO READ THE WRITTEN MATERIALS  
22 REQUIRED TO BE PROVIDED TO HER UNDER THE PROVISIONS OF THIS  
23 SECTION, THE ABORTION PROVIDER SHALL READ THE MATERIALS TO HER  
24 AND, IF NECESSARY, SHALL EXPLAIN THE MATERIALS IN A WAY THAT IS  
25 UNDERSTANDABLE TO HER.

26 (c) AFTER THE ABORTION PROVIDER HAS COMPLIED WITH EACH OF  
27 THE REQUIREMENTS OF THIS SECTION, THE WOMAN SHALL SIGN SEPARATE



1 STATEMENTS ATTESTING TO THE COMPLETION OF THE REQUIREMENTS. THE  
2 ABORTION PROVIDER SHALL, UNDER OATH AND UNDER PENALTY OF  
3 PERJURY, SIGN SEPARATE STATEMENTS THAT HE OR SHE HAS COMPLIED  
4 WITH EACH OF THE REQUIREMENTS OF THIS SECTION.

5 (d) AN ABORTION PROVIDER SHALL NOT ACCEPT PAYMENT OR  
6 LEGALLY OR OTHERWISE BIND A WOMAN TO MAKE PAYMENT FOR THE  
7 PERFORMANCE OR INDUCING OF AN ABORTION PRIOR TO THE EXPIRATION  
8 OF TWENTY-FOUR HOURS FROM THE ABORTION PROVIDER'S FULFILLMENT  
9 OF ALL OF THE PROVISIONS OF THIS SECTION.

10 (4) A PERSON WHO RECKLESSLY VIOLATES ANY PROVISION OF THIS  
11 SECTION, OR WHO PERFORMS AN ABORTION WITH REASON TO BELIEVE  
12 SUCH AN ABORTION IS A VIOLATION OF THIS SECTION, COMMITS AN  
13 UNCLASSIFIED MISDEMEANOR AND SHALL BE FINED NOT MORE THAN ONE  
14 THOUSAND DOLLARS FOR EACH VIOLATION.

15 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT  
16 THE PREGNANT WOMAN FROM NOT LISTENING TO THE SOUNDS DETECTED  
17 BY THE FETAL HEART MONITOR OR FROM NOT VIEWING THE IMAGES  
18 DISPLAYED ON THE ULTRASOUND SCREEN.

19 **25-6-405. Civil cause of action.** A PERSON WHO SUFFERS A LOSS  
20 OR INJURY AS A RESULT OF A VIOLATION OF THIS PART 4 BY AN ABORTION  
21 PROVIDER MAY BRING A CAUSE OF ACTION AGAINST THE ABORTION  
22 PROVIDER FOR DAMAGES, PUNITIVE DAMAGES, TREBLE DAMAGES, AND  
23 SUCH EQUITABLE REMEDIES AS THE COURT MAY DEEM APPROPRIATE.

24 **25-6-406. Preemption and severability.** (1) THIS PART 4 SHALL  
25 NOT BE CONSTRUED TO PREEMPT OR SUPERSEDE ANY PROVISION OF LAW  
26 OR ANY PROVISION OF LAW THAT IS MORE RESTRICTIVE THAN THE  
27 PROVISIONS OF THIS PART 4, OR CREATE OR RECOGNIZE ANY RIGHT TO AN

1 ABORTION, OR TO SANCTION, APPROVE OF, OR EXPAND IN ANY WAY THE  
2 LEGALITY OF ABORTION.

3 (2) THE PROVISIONS OF THIS PART 4 ARE SEVERABLE. IF ANY  
4 PROVISION OF THIS PART 4, OR WORD, PHRASE, OR APPLICATION THEREOF,  
5 IS FOUND TO BE INVALID, THAT INVALIDITY SHALL NOT AFFECT THE  
6 VALIDITY OF THE PROVISIONS OR APPLICATIONS NOT FOUND TO BE INVALID  
7 IN THIS PART 4.

8 **SECTION 2.** In Colorado Revised Statutes, 12-36-117, **add** (1)  
9 (m) as follows:

10 **12-36-117. Unprofessional conduct.** (1) "Unprofessional  
11 conduct" as used in this article means:

12 (m) A VIOLATION OF PART 4 OF ARTICLE 6 OF TITLE 25, C.R.S.

13 **SECTION 3. Effective date - applicability.** This act takes effect  
14 upon passage and applies to offenses or actions committed on or after  
15 said date.

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