

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0765.01 Michael Dohr x4347

SENATE BILL 12-125

SENATE SPONSORSHIP

Harvey, Cadman, Grantham, Brophy, King K., Lundberg, Neville, Renfroe

HOUSE SPONSORSHIP

Holbert, Swalm, Sonnenberg, Szabo

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CRIMES AGAINST AN UNBORN CHILD.

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 creates a new article for offenses against pregnant women and their unborn children. The new offenses are unlawful termination of a pregnancy in the first degree, unlawful termination of a pregnancy in the second degree, unlawful termination of a pregnancy in the third degree, unlawful termination of a pregnancy in the fourth degree, vehicular unlawful termination of a pregnancy, and aggravated vehicular unlawful termination of a pregnancy. The bill excludes from prosecution medical

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.

care for which the mother provided consent.

The penalty for criminal abortion in which the woman does not die is increased from a class 4 felony to a class 2 felony.

The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **recreate and**
3 **reenact, with amendments,** article 3.5 of title 18 as follows:

4 **ARTICLE 3.5**

5 **Offenses Against Pregnant Women and Their Unborn Children**

6 **18-3.5-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "AFTER DELIBERATION" HAS THE SAME MEANING AS PROVIDED
9 IN SECTION 18-3-101.

10 (2) "CONSENT" HAS THE SAME MEANING AS PROVIDED IN SECTION
11 18-1-505.

12 (3) "DRIVING UNDER THE INFLUENCE" HAS THE SAME MEANING AS
13 PROVIDED IN SECTION 42-4-1301, C.R.S.

14 (4) "UNLAWFUL TERMINATION OF PREGNANCY" MEANS A
15 TERMINATION OF PREGNANCY BY MEANS OTHER THAN BIRTH OR A
16 JUSTIFIED MEDICAL TERMINATION AS DEFINED IN SECTION 18-6-101.

17 **18-3.5-102. Exclusions.** (1) NOTHING IN THIS ARTICLE SHALL
18 PERMIT THE PROSECUTION OF A PERSON FOR ANY ACT OF:

19 (a) PROVIDING MEDICAL, OSTEOPATHIC, SURGICAL, MENTAL
20 HEALTH, DENTAL, NURSING, OPTOMETRIC, OR PHARMACEUTICAL CARE;

21 (b) FURNISHING INPATIENT OR OUTPATIENT HOSPITAL OR CLINIC
22 SERVICES;

23 (c) FURNISHING TELEMEDICINE SERVICES;

1 (d) FURNISHING ANY SERVICE RELATED TO ASSISTED
2 REPRODUCTION OR GENETIC TESTING; OR

3 (e) PROVIDING A JUSTIFIED MEDICAL TERMINATION AS DEFINED IN
4 SECTION 18-6-101.

5 (2) NOTHING IN THIS ARTICLE SHALL PERMIT THE PROSECUTION OF
6 A WOMAN FOR ANY ACT OR ANY FAILURE TO ACT WITH REGARD TO HER
7 OWN PREGNANCY.

8 **18-3.5-103. Unlawful termination of pregnancy in the first**
9 **degree.** (1) A PERSON COMMITS THE OFFENSE OF UNLAWFUL
10 TERMINATION OF PREGNANCY IN THE FIRST DEGREE IF, AFTER
11 DELIBERATION AND WITH THE INTENT TO TERMINATE THE PREGNANCY OF
12 ANOTHER PERSON, THE PERSON ENDS OR CAUSES TO BE ENDED THE
13 PREGNANCY OF A WOMAN WITHOUT HER CONSENT.

14 (2) UNLAWFUL TERMINATION OF PREGNANCY IN THE FIRST DEGREE
15 IS A CLASS 1 FELONY.

16 **18-3.5-104. Unlawful termination of pregnancy in the second**
17 **degree.** (1) A PERSON COMMITS THE OFFENSE OF UNLAWFUL
18 TERMINATION OF PREGNANCY IN THE SECOND DEGREE IF THE PERSON
19 KNOWINGLY ENDS OR CAUSES TO BE ENDED THE PREGNANCY OF A WOMAN
20 WITHOUT HER CONSENT.

21 (2) UNLAWFUL TERMINATION OF PREGNANCY IN THE SECOND
22 DEGREE IS A CLASS 2 FELONY.

23 **18-3.5-105. Unlawful termination of pregnancy in the third**
24 **degree.** (1) A PERSON COMMITS THE OFFENSE OF UNLAWFUL
25 TERMINATION OF PREGNANCY IN THE THIRD DEGREE IF THE PERSON
26 RECKLESSLY ENDS OR CAUSES TO BE ENDED THE PREGNANCY OF A WOMAN
27 WITHOUT HER CONSENT.

1 (2) UNLAWFUL TERMINATION OF PREGNANCY IN THE THIRD
2 DEGREE IS A CLASS 4 FELONY.

3 **18-3.5-106. Unlawful termination of pregnancy in the fourth**
4 **degree.** (1) A PERSON COMMITS THE OFFENSE OF UNLAWFUL
5 TERMINATION OF PREGNANCY IN THE FOURTH DEGREE IF, WITH CRIMINAL
6 NEGLIGENCE, HE OR SHE ENDS OR CAUSES TO BE ENDED THE PREGNANCY
7 OF A WOMAN WITHOUT HER CONSENT.

8 (2) UNLAWFUL TERMINATION OF PREGNANCY IN THE FOURTH
9 DEGREE IS A CLASS 5 FELONY.

10 **18-3.5-107. Vehicular unlawful termination of pregnancy.**
11 (1) IF A PERSON OPERATES OR DRIVES A MOTOR VEHICLE IN A RECKLESS
12 MANNER AND THIS CONDUCT IS THE PROXIMATE CAUSE OF THE UNLAWFUL
13 TERMINATION OF THE PREGNANCY OF ANOTHER PERSON, THE PERSON
14 COMMITS VEHICULAR UNLAWFUL TERMINATION OF PREGNANCY.

15 (2) VEHICULAR UNLAWFUL TERMINATION OF PREGNANCY IN
16 VIOLATION OF SUBSECTION (1) OF THIS SECTION IS A CLASS 4 FELONY.

17 **18-3.5-108. Aggravated vehicular unlawful termination of**
18 **pregnancy.** (1) (a) IF A PERSON OPERATES OR DRIVES A MOTOR VEHICLE
19 WHILE UNDER THE INFLUENCE OF ALCOHOL OR ONE OR MORE DRUGS, OR
20 A COMBINATION OF BOTH ALCOHOL AND ONE OR MORE DRUGS, AND THIS
21 CONDUCT IS THE PROXIMATE CAUSE OF THE UNLAWFUL TERMINATION OF
22 THE PREGNANCY OF ANOTHER PERSON, SUCH PERSON COMMITS
23 AGGRAVATED VEHICULAR UNLAWFUL TERMINATION OF PREGNANCY. THIS
24 IS A STRICT LIABILITY CRIME.

25 (b) FOR THE PURPOSES OF THIS SECTION, "ONE OR MORE DRUGS"
26 MEANS ALL SUBSTANCES DEFINED AS A DRUG IN SECTION 12-22-303 (13),
27 C.R.S., ALL CONTROLLED SUBSTANCES DEFINED IN SECTION 18-18-102 (5),

1 AND GLUE-SNIFFING, AEROSOL INHALATION, OR THE INHALATION OF ANY
2 OTHER TOXIC VAPOR OR VAPORS AS DEFINED IN SECTION 18-18-412.

3 (c) THE FACT THAT A PERSON CHARGED WITH THE OFFENSE
4 DESCRIBED IN THIS SUBSECTION (1) IS OR HAS BEEN ENTITLED TO USE ONE
5 OR MORE DRUGS UNDER THE LAWS OF THIS STATE SHALL NOT CONSTITUTE
6 A DEFENSE AGAINST A CHARGE OF AGGRAVATED VEHICULAR UNLAWFUL
7 TERMINATION OF PREGNANCY.

8 (2) AGGRAVATED VEHICULAR UNLAWFUL TERMINATION OF
9 PREGNANCY IS A CLASS 3 FELONY.

10 (3) IN ANY PROSECUTION FOR AGGRAVATED VEHICULAR
11 UNLAWFUL TERMINATION OF PREGNANCY, THE AMOUNT OF ALCOHOL IN
12 THE DEFENDANT'S BLOOD OR BREATH AT THE TIME OF THE COMMISSION OF
13 THE ALLEGED OFFENSE OR WITHIN A REASONABLE TIME THEREAFTER, AS
14 SHOWN BY ANALYSIS OF THE DEFENDANT'S BLOOD OR BREATH, SHALL GIVE
15 RISE TO THE FOLLOWING PRESUMPTIONS OR INFERENCES:

16 (a) IF THERE WAS AT SUCH TIME 0.05 OR LESS GRAMS OF ALCOHOL
17 PER ONE HUNDRED MILLILITERS OF BLOOD, OR IF THERE WAS AT SUCH TIME
18 0.05 OR LESS GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF
19 BREATH, IT SHALL BE PRESUMED THAT THE DEFENDANT WAS NOT UNDER
20 THE INFLUENCE OF ALCOHOL.

21 (b) IF THERE WAS AT SUCH TIME IN EXCESS OF 0.05 GRAMS BUT
22 LESS THAN 0.08 GRAMS OF ALCOHOL PER ONE HUNDRED MILLILITERS OF
23 BLOOD, OR IF THERE WAS AT SUCH TIME IN EXCESS OF 0.05 GRAMS BUT
24 LESS THAN 0.08 GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF
25 BREATH, SUCH FACT MAY BE CONSIDERED WITH OTHER COMPETENT
26 EVIDENCE IN DETERMINING WHETHER THE DEFENDANT WAS UNDER THE
27 INFLUENCE OF ALCOHOL.

1 (c) IF THERE WAS AT SUCH TIME 0.08 OR MORE GRAMS OF ALCOHOL
2 PER ONE HUNDRED MILLILITERS OF BLOOD, OR IF THERE WAS AT SUCH TIME
3 0.08 OR MORE GRAMS OF ALCOHOL PER TWO HUNDRED TEN LITERS OF
4 BREATH, SUCH FACTS GIVE RISE TO THE PERMISSIBLE INFERENCE THAT THE
5 DEFENDANT WAS UNDER THE INFLUENCE OF ALCOHOL.

6 (4) THE LIMITATIONS OF SUBSECTION (3) OF THIS SECTION SHALL
7 NOT BE CONSTRUED AS LIMITING THE INTRODUCTION, RECEPTION, OR
8 CONSIDERATION OF ANY OTHER COMPETENT EVIDENCE BEARING UPON THE
9 QUESTION OF WHETHER THE DEFENDANT WAS UNDER THE INFLUENCE OF
10 ALCOHOL.

11 (5) (a) IF A LAW ENFORCEMENT OFFICER HAS PROBABLE CAUSE TO
12 BELIEVE THAT A PERSON WAS DRIVING UNDER THE INFLUENCE OF ALCOHOL
13 OR ONE OR MORE DRUGS, OR A COMBINATION OF BOTH ALCOHOL AND ONE
14 OR MORE DRUGS, AND THIS CONDUCT MAY RESULT IN OR IS THE
15 PROXIMATE CAUSE OF THE UNLAWFUL TERMINATION OF THE PREGNANCY
16 OF ANOTHER PERSON, THE PERSON, UPON THE REQUEST OF THE LAW
17 ENFORCEMENT OFFICER, SHALL TAKE AND COMPLETE, AND COOPERATE IN
18 COMPLETING, ANY TEST OR TESTS OF THE PERSON'S BLOOD, BREATH,
19 SALIVA, OR URINE FOR THE PURPOSE OF DETERMINING THE ALCOHOL OR
20 DRUG CONTENT WITHIN HIS OR HER SYSTEM. THE TYPE OF TEST OR TESTS
21 SHALL BE DETERMINED BY THE LAW ENFORCEMENT OFFICER REQUIRING
22 THE TEST OR TESTS. IF THE PERSON REFUSES TO TAKE, COMPLETE, OR
23 COOPERATE IN COMPLETING ANY TEST OR TESTS, THE TEST OR TESTS MAY
24 BE PERFORMED AT THE DIRECTION OF A LAW ENFORCEMENT OFFICER
25 HAVING PROBABLE CAUSE, WITHOUT THE PERSON'S AUTHORIZATION OR
26 CONSENT. IF A PERSON REFUSES TO TAKE, COMPLETE, OR COOPERATE IN
27 TAKING OR COMPLETING ANY TEST OR TESTS REQUIRED BY THIS

1 PARAGRAPH (a), THE PERSON SHALL BE SUBJECT TO LICENSE REVOCATION
2 PURSUANT TO THE PROVISIONS OF SECTION 42-2-126 (3), C.R.S. WHEN
3 THE TEST OR TESTS SHOW THAT THE AMOUNT OF ALCOHOL IN A PERSON'S
4 BLOOD WAS IN VIOLATION OF THE LIMITS PROVIDED FOR IN SECTION
5 42-2-126 (3) (a), (3) (b), (3) (d), OR (3) (e), C.R.S., THE PERSON SHALL BE
6 SUBJECT TO LICENSE REVOCATION PURSUANT TO THE PROVISIONS OF
7 SECTION 42-2-126, C.R.S.

8 (b) ANY PERSON WHO IS REQUIRED TO SUBMIT TO TESTING SHALL
9 COOPERATE WITH THE PERSON AUTHORIZED TO OBTAIN SPECIMENS OF HIS
10 OR HER BLOOD, BREATH, SALIVA, OR URINE, INCLUDING THE SIGNING OF
11 ANY RELEASE OR CONSENT FORMS REQUIRED BY ANY PERSON, HOSPITAL,
12 CLINIC, OR ASSOCIATION AUTHORIZED TO OBTAIN SUCH SPECIMENS. IF
13 SUCH PERSON DOES NOT COOPERATE WITH THE PERSON, HOSPITAL, CLINIC,
14 OR ASSOCIATION AUTHORIZED TO OBTAIN SUCH SPECIMENS, INCLUDING
15 THE SIGNING OF ANY RELEASE OR CONSENT FORMS, SUCH
16 NONCOOPERATION SHALL BE CONSIDERED A REFUSAL TO SUBMIT TO
17 TESTING.

18 (c) THE TESTS SHALL BE ADMINISTERED AT THE DIRECTION OF A
19 LAW ENFORCEMENT OFFICER HAVING PROBABLE CAUSE TO BELIEVE THAT
20 THE PERSON COMMITTED AGGRAVATED VEHICULAR UNLAWFUL
21 TERMINATION OF PREGNANCY AND IN ACCORDANCE WITH RULES
22 PRESCRIBED BY THE STATE BOARD OF HEALTH CONCERNING THE HEALTH
23 OF THE PERSON BEING TESTED AND THE ACCURACY OF THE TESTING.
24 STRICT COMPLIANCE WITH THE RULES SHALL NOT BE A PREREQUISITE TO
25 THE ADMISSIBILITY OF TEST RESULTS AT TRIAL UNLESS THE COURT FINDS
26 THAT THE EXTENT OF NONCOMPLIANCE WITH A BOARD OF HEALTH RULE
27 HAS SO IMPAIRED THE VALIDITY AND RELIABILITY OF THE TESTING

1 METHOD AND THE TEST RESULTS AS TO RENDER THE EVIDENCE
2 INADMISSIBLE. IN ALL OTHER CIRCUMSTANCES, FAILURE TO STRICTLY
3 COMPLY WITH SUCH RULES SHALL ONLY BE CONSIDERED IN THE WEIGHT TO
4 BE GIVEN TO THE TEST RESULTS AND NOT TO THE ADMISSIBILITY OF THE
5 TEST RESULTS. IT SHALL NOT BE A PREREQUISITE TO THE ADMISSIBILITY OF
6 TEST RESULTS AT TRIAL THAT THE PROSECUTION PRESENT TESTIMONY
7 CONCERNING THE COMPOSITION OF ANY KIT USED TO OBTAIN BLOOD,
8 URINE, SALIVA, OR BREATH SPECIMENS. A SUFFICIENT EVIDENTIARY
9 FOUNDATION CONCERNING THE COMPLIANCE OF SUCH KITS WITH THE
10 RULES OF THE STATE BOARD OF HEALTH SHALL BE ESTABLISHED BY THE
11 INTRODUCTION OF A COPY OF THE MANUFACTURER'S OR SUPPLIER'S
12 CERTIFICATE OF COMPLIANCE WITH THE RULES IF THE CERTIFICATE
13 SPECIFIES THE CONTENTS, STERILITY, CHEMICAL MAKEUP, AND AMOUNTS
14 OF CHEMICALS CONTAINED IN SUCH KIT.

15 (d) NO PERSON EXCEPT A PHYSICIAN, A REGISTERED NURSE, A
16 PARAMEDIC AS CERTIFIED IN PART 2 OF ARTICLE 3.5 OF TITLE 25, C.R.S.,
17 AN EMERGENCY MEDICAL TECHNICIAN AS DEFINED IN PART 1 OF ARTICLE
18 3.5 OF TITLE 25, C.R.S., OR A PERSON WHOSE NORMAL DUTIES INCLUDE
19 WITHDRAWING BLOOD SAMPLES UNDER THE SUPERVISION OF A PHYSICIAN
20 OR REGISTERED NURSE SHALL BE AUTHORIZED TO WITHDRAW BLOOD FOR
21 THE PURPOSE OF DETERMINING THE ALCOHOL OR DRUG CONTENT THEREIN.
22 IN ANY TRIAL ON A CHARGE OF AGGRAVATED VEHICULAR UNLAWFUL
23 TERMINATION OF PREGNANCY, TESTIMONY OF A LAW ENFORCEMENT
24 OFFICER THAT HE OR SHE WITNESSED THE TAKING OF A BLOOD SPECIMEN
25 BY A PERSON WHO HE OR SHE REASONABLY BELIEVED WAS AUTHORIZED
26 TO WITHDRAW BLOOD SPECIMENS SHALL BE SUFFICIENT EVIDENCE THAT
27 THE PERSON WAS SO AUTHORIZED, AND TESTIMONY FROM THE PERSON

1 WHO OBTAINED THE BLOOD SPECIMENS CONCERNING THE PERSON'S
2 AUTHORIZATION TO OBTAIN BLOOD SPECIMENS SHALL NOT BE A
3 PREREQUISITE TO THE ADMISSIBILITY OF TEST RESULTS CONCERNING THE
4 BLOOD SPECIMENS OBTAINED. NO CIVIL LIABILITY SHALL ATTACH TO ANY
5 PERSON AUTHORIZED TO OBTAIN BLOOD, BREATH, SALIVA, OR URINE
6 SPECIMENS OR TO ANY HOSPITAL, CLINIC, OR ASSOCIATION IN OR FOR
7 WHICH SUCH SPECIMENS ARE OBTAINED PURSUANT TO THIS SUBSECTION
8 (5) AS A RESULT OF THE ACT OF OBTAINING SUCH SPECIMENS FROM ANY
9 PERSON IF SUCH SPECIMENS WERE OBTAINED ACCORDING TO THE RULES
10 PRESCRIBED BY THE STATE BOARD OF HEALTH; EXCEPT THAT THIS
11 SUBSECTION (5) SHALL NOT RELIEVE ANY SUCH PERSON FROM LIABILITY
12 FOR NEGLIGENCE IN THE OBTAINING OF ANY SPECIMEN SAMPLE.

13 (e) ANY PERSON WHO IS DEAD OR UNCONSCIOUS SHALL BE TESTED
14 TO DETERMINE THE ALCOHOL OR DRUG CONTENT OF HIS OR HER BLOOD OR
15 ANY DRUG CONTENT OF HIS OR HER SYSTEM AS PROVIDED IN THIS
16 SUBSECTION (5). IF A TEST CANNOT BE ADMINISTERED TO A PERSON WHO
17 IS UNCONSCIOUS, HOSPITALIZED, OR UNDERGOING MEDICAL TREATMENT
18 BECAUSE THE TEST WOULD ENDANGER THE PERSON'S LIFE OR HEALTH, THE
19 LAW ENFORCEMENT AGENCY SHALL BE ALLOWED TO TEST ANY BLOOD,
20 URINE, OR SALIVA THAT WAS OBTAINED AND NOT UTILIZED BY A HEALTH
21 CARE PROVIDER AND SHALL HAVE ACCESS TO THAT PORTION OF THE
22 ANALYSIS AND RESULTS OF ANY TESTS ADMINISTERED BY THE PROVIDER
23 THAT SHOW THE ALCOHOL OR DRUG CONTENT OF THE PERSON'S BLOOD OR
24 ANY DRUG CONTENT WITHIN HIS OR HER SYSTEM. SUCH TEST RESULTS
25 SHALL NOT BE CONSIDERED PRIVILEGED COMMUNICATIONS, AND THE
26 PROVISIONS OF SECTION 13-90-107, C.R.S., RELATING TO THE
27 PHYSICIAN-PATIENT PRIVILEGE SHALL NOT APPLY. ANY PERSON WHO IS

1 DEAD, IN ADDITION TO THE TESTS PRESCRIBED, SHALL ALSO HAVE HIS OR
2 HER BLOOD CHECKED FOR CARBON MONOXIDE CONTENT AND FOR THE
3 PRESENCE OF DRUGS, AS PRESCRIBED BY THE DEPARTMENT OF PUBLIC
4 HEALTH AND ENVIRONMENT. ANY INFORMATION OBTAINED SHALL BE
5 MADE A PART OF THE LAW ENFORCEMENT OFFICER'S ACCIDENT REPORT.

6 (f) IF A PERSON REFUSES TO TAKE, COMPLETE, OR COOPERATE IN
7 COMPLETING ANY TEST OR TESTS AS PROVIDED IN THIS SUBSECTION (5)
8 AND THE PERSON SUBSEQUENTLY STANDS TRIAL FOR A VIOLATION OF
9 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, THE REFUSAL TO
10 TAKE, COMPLETE, OR COOPERATE WITH COMPLETING ANY TEST OR TESTS
11 SHALL BE ADMISSIBLE INTO EVIDENCE AT THE TRIAL, AND THE PERSON
12 MAY NOT CLAIM THE PRIVILEGE AGAINST SELF-INCRIMINATION WITH
13 REGARD TO THE ADMISSION OF HIS OR HER REFUSAL TO TAKE, COMPLETE,
14 OR COOPERATE WITH COMPLETING ANY TEST OR TESTS.

15 (g) NOTWITHSTANDING ANY PROVISION OF SECTION 42-4-1301.1,
16 C.R.S., CONCERNING REQUIREMENTS THAT RELATE TO THE MANNER IN
17 WHICH TESTS ARE ADMINISTERED, THE TEST OR TESTS TAKEN PURSUANT
18 TO THE PROVISIONS OF THIS SECTION MAY BE USED FOR THE PURPOSES OF
19 DRIVER'S LICENSE REVOCATION PROCEEDINGS UNDER SECTION 42-2-126,
20 C.R.S., AND FOR THE PURPOSES OF PROSECUTIONS FOR VIOLATIONS OF
21 SECTION 42-4-1301 (1) OR (2), C.R.S.

22 (6) IN ALL ACTIONS, SUITS, AND JUDICIAL PROCEEDINGS IN ANY
23 COURT OF THIS STATE CONCERNING ALCOHOL-RELATED OR DRUG-RELATED
24 TRAFFIC OFFENSES, THE COURT SHALL TAKE JUDICIAL NOTICE OF METHODS
25 OF TESTING A PERSON'S ALCOHOL OR DRUG LEVEL AND OF THE DESIGN AND
26 OPERATION OF DEVICES, AS CERTIFIED BY THE DEPARTMENT OF PUBLIC
27 HEALTH AND ENVIRONMENT, FOR TESTING A PERSON'S BLOOD, BREATH,

1 SALIVA, OR URINE TO DETERMINE HIS OR HER ALCOHOL OR DRUG LEVEL.
2 THIS SUBSECTION (6) SHALL NOT PREVENT THE NECESSITY OF
3 ESTABLISHING DURING A TRIAL THAT THE TESTING DEVICES USED WERE
4 WORKING PROPERLY AND THAT SUCH TESTING DEVICES WERE PROPERLY
5 OPERATED. NOTHING IN THIS SUBSECTION (6) SHALL PRECLUDE A
6 DEFENDANT FROM OFFERING EVIDENCE CONCERNING THE ACCURACY OF
7 TESTING DEVICES.

8 **SECTION 2.** In Colorado Revised Statutes, **amend** 18-6-102 as
9 follows:

10 **18-6-102. Criminal abortion.** (1) EXCEPT AS OTHERWISE
11 PROHIBITED BY SECTIONS 18-3.5-103, 18-3.5-104, 18-3.5-105, 18-3.5-106,
12 18-3.5-107, AND 18-3.5-108, any person who intentionally ends or causes
13 to be ended the pregnancy of a woman by any means other than justified
14 medical termination or birth commits criminal abortion.

15 (2) Criminal abortion is a ~~class 4~~ CLASS 2 felony, but if the woman
16 dies as a result of the criminal abortion, it is a class 2 felony.

17 **SECTION 3.** In Colorado Revised Statutes, 42-4-1301, **amend**
18 (6) (e) as follows:

19 **42-4-1301. Driving under the influence - driving while**
20 **impaired - driving with excessive alcoholic content - definitions -**
21 **penalties.** (6) (e) **Involuntary blood test - admissibility.** Evidence
22 acquired through an involuntary blood test pursuant to section
23 42-4-1301.1 (3) shall be admissible in any prosecution for DUI, DUI per
24 se, DWAI, habitual user, or UDD, and in any prosecution for criminally
25 negligent homicide pursuant to section 18-3-105, C.R.S., vehicular
26 homicide pursuant to section 18-3-106 (1) (b), C.R.S., assault in the third
27 degree pursuant to section 18-3-204, C.R.S., ~~or~~ vehicular assault pursuant

1 to section 18-3-205 (1) (b), C.R.S., OR AGGRAVATED VEHICULAR
2 UNLAWFUL TERMINATION OF PREGNANCY PURSUANT TO SECTION
3 18-3.5-108, C.R.S.

4 **SECTION 4.** In Colorado Revised Statutes, 42-4-1307, **amend**
5 (5) (a) introductory portion, (5) (b) introductory portion, (6) (a)
6 introductory portion, and (9) (a) as follows:

7 **42-4-1307. Penalties for traffic offenses involving alcohol and**
8 **drugs - repeal.** (5) **Second offenses.** (a) Except as otherwise provided
9 in subsection (6) of this section, a person who is convicted of DUI, DUI
10 per se, DWAI, or habitual user who, at the time of sentencing, has a prior
11 conviction of DUI, DUI per se, DWAI, habitual user, vehicular homicide
12 pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to
13 section 18-3-205 (1) (b), C.R.S., AGGRAVATED VEHICULAR UNLAWFUL
14 TERMINATION OF PREGNANCY PURSUANT TO SECTION 18-3.5-108, C.R.S.,
15 aggravated driving with a revoked license pursuant to section 42-2-206
16 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's
17 license was under restraint pursuant to section 42-2-138 (1) (d), shall be
18 punished by:

19 (b) If a person is convicted of DUI, DUI per se, DWAI, or
20 habitual user and the violation occurred less than five years after the date
21 of a previous violation for which the person was convicted of DUI, DUI
22 per se, DWAI, habitual user, vehicular homicide pursuant to section
23 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205
24 (1) (b), C.R.S., OR AGGRAVATED VEHICULAR UNLAWFUL TERMINATION OF
25 PREGNANCY PURSUANT TO SECTION 18-3.5-108, C.R.S., aggravated
26 driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A)
27 or (1) (b) (I) (B), or driving while the person's driver's license was under

1 restraint pursuant to section 42-2-138 (1) (d), the court shall not have
2 discretion to employ any sentencing alternatives described in section
3 18-1.3-106, C.R.S., during the minimum period of imprisonment
4 described in subparagraph (I) of paragraph (a) of this subsection (5);
5 except that a court may allow the person to participate in a program
6 pursuant to section 18-1.3-106 (1) (a) (II), (1) (a) (IV), or (1) (a) (V),
7 C.R.S., only if the program is available through the county in which the
8 person is imprisoned and only for the purpose of:

9 (6) **Third and subsequent offenses.** (a) A person who is
10 convicted of DUI, DUI per se, DWAI, or habitual user who, at the time
11 of sentencing, has two or more prior convictions of DUI, DUI per se,
12 DWAI, habitual user, vehicular homicide pursuant to section 18-3-106 (1)
13 (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.,
14 AGGRAVATED VEHICULAR UNLAWFUL TERMINATION OF PREGNANCY
15 PURSUANT TO SECTION 18-3.5-108, C.R.S., aggravated driving with a
16 revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I)
17 (B), or driving while the person's driver's license was under restraint
18 pursuant to section 42-2-138 (1) (d) shall be punished by:

19 (9) **Previous convictions.** (a) For the purposes of subsections (5)
20 and (6) of this section, a person shall be deemed to have a previous
21 conviction for DUI, DUI per se, DWAI, habitual user, vehicular homicide
22 pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to
23 section 18-3-205 (1) (b), C.R.S., AGGRAVATED VEHICULAR UNLAWFUL
24 TERMINATION OF PREGNANCY PURSUANT TO SECTION 18-3.5-108, C.R.S.,
25 aggravated driving with a revoked license pursuant to section 42-2-206
26 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's
27 license was under restraint pursuant to section 42-2-138 (1) (d), if the

1 person has been convicted under the laws of this state or under the laws
2 of any other state, the United States, or any territory subject to the
3 jurisdiction of the United States, of an act that, if committed within this
4 state, would constitute the offense of DUI, DUI per se, DWAI, habitual
5 user, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S.,
6 vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S.,
7 AGGRAVATED VEHICULAR UNLAWFUL TERMINATION OF PREGNANCY
8 PURSUANT TO SECTION 18-3.5-108, C.R.S., aggravated driving with a
9 revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I)
10 (B), or driving while the person's driver's license was under restraint
11 pursuant to section 42-2-138 (1) (d).

12 **SECTION 5.** In Colorado Revised Statutes, 42-4-1402, **amend**
13 (2) as follows:

14 **42-4-1402. Careless driving - penalty.** (2) (a) Except as
15 otherwise provided in paragraphs ~~(b) and (c)~~ (b), (c), AND (d) of this
16 subsection (2), any person who violates any provision of this section
17 commits a class 2 misdemeanor traffic offense.

18 (b) If the person's actions are the proximate cause of bodily injury
19 to another, such person commits a class 1 misdemeanor traffic offense.

20 (c) If the person's actions are the proximate cause of death to
21 another, such person commits a class 1 misdemeanor traffic offense.

22 (d) IF THE PERSON'S ACTIONS ARE THE PROXIMATE CAUSE OF THE
23 UNLAWFUL TERMINATION OF A PREGNANCY OF ANOTHER AS DEFINED IN
24 SECTION 18-3.5-101, C.R.S., SUCH PERSON COMMITS A CLASS 1
25 MISDEMEANOR TRAFFIC OFFENSE.

26 **SECTION 6.** In Colorado Revised Statutes, 42-4-1601, **amend**
27 (2) (c) as follows:

1 **42-4-1601. Accidents involving death or personal injuries -**
2 **duties.** (2) Any person who violates any provision of this section
3 commits:

4 (c) A ~~class 3~~ CLASS 4 felony if the accident resulted in the death
5 OR AN UNLAWFUL TERMINATION OF PREGNANCY AS DEFINED IN SECTION
6 18-3.5-101, C.R.S., of any person.

7 **SECTION 7. Potential appropriation.** Pursuant to section
8 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
9 in periods of imprisonment in the state correctional facilities must include
10 an appropriation of moneys that is sufficient to cover any increased
11 capital construction and operational costs for the first five fiscal years in
12 which there is a fiscal impact. Because this act may increase periods of
13 imprisonment, this act may require a five-year appropriation.

14 **SECTION 8. Effective date - applicability.** This act takes effect
15 July 1, 2012, and applies to offenses committed on or after said date.

16 **SECTION 9. 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.