

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 10-0013.01 Michael Dohr

SENATE BILL 10-113

SENATE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING FIRST DEGREE MURDER OF A FETUS, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

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>.)

Makes killing a fetus in certain circumstances a class 1 felony.
Makes the following exceptions to a charge involving the killing of a fetus:

- ! That the defendant was providing medical treatment to which the mother of the fetus consented; 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.

! That the act was committed by a physician in a case where, to a medical certainty, the result of childbirth would be death of the mother of the fetus or where her death from childbirth, although not medically certain, would be substantially certain or more likely than not.

Makes a 5-year appropriation.

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

2 **SECTION 1.** 18-3-102 (1) (a), (1) (b), and (1) (d), Colorado
3 Revised Statutes, are amended, and the said 18-3-102 is further amended
4 BY THE ADDITION OF A NEW SUBSECTION, to read:

5 **18-3-102. Murder in the first degree.** (1) A person commits the
6 crime of murder in the first degree if:

7 (a) After deliberation and with the intent to cause the death of a
8 person other than himself OR HERSELF, INCLUDING A FETUS, he OR SHE
9 causes the death of that person or of another person, INCLUDING A FETUS;
10 or

11 (b) Acting either alone or with one or more persons, he or she
12 commits or attempts to commit arson, robbery, burglary, kidnapping,
13 sexual assault as prohibited by section 18-3-402, sexual assault in the first
14 or second degree as prohibited by section 18-3-402 or 18-3-403 as those
15 sections existed prior to July 1, 2000, or a class 3 felony for sexual assault
16 on a child as provided in section 18-3-405 (2), or the crime of escape as
17 provided in section 18-8-208, and, in the course of or in furtherance of the
18 crime that he or she is committing or attempting to commit, or of
19 immediate flight therefrom, the death of a person, other than one of the
20 participants, INCLUDING A FETUS, is caused by anyone; or

21 (d) Under circumstances evidencing an attitude of universal
22 malice manifesting extreme indifference to the value of human life

1 generally, he OR SHE knowingly engages in conduct ~~which~~ THAT creates
2 a grave risk of death to a person, or persons, other than himself OR
3 HERSELF, INCLUDING A FETUS, and thereby causes the death of another
4 PERSON, INCLUDING A FETUS; or

5 (2.5) THE DEATH OF A FETUS SHALL NOT BE AN OFFENSE UNDER
6 THIS SECTION IF:

7 (a) THE DEATH OCCURRED DURING OR FOLLOWING MEDICAL
8 TREATMENT, INCLUDING BUT NOT LIMITED TO AN ABORTION, IN UTERO
9 TREATMENT, OR TREATMENT RESULTING IN LIVE BIRTH, TO A PREGNANT
10 WOMAN FOR WHICH THE CONSENT OF THE PREGNANT WOMAN, OR A
11 PERSON AUTHORIZED BY LAW TO ACT ON HER BEHALF, HAD BEEN
12 OBTAINED OR FOR WHICH CONSENT WAS IMPLIED BY LAW; OR

13 (b) THE DEATH WAS CAUSED BY A PHYSICIAN ACTING IN A CASE
14 WHERE, TO A MEDICAL CERTAINTY, THE RESULT OF CHILDBIRTH WOULD
15 HAVE BEEN THE DEATH OF THE MOTHER OF THE FETUS OR WHERE THE
16 MOTHER'S DEATH FROM CHILDBIRTH, ALTHOUGH NOT MEDICALLY
17 CERTAIN, WOULD HAVE BEEN SUBSTANTIALLY CERTAIN OR MORE LIKELY
18 THAN NOT.

19 **SECTION 2.** Article 18 of title 17, Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW SECTION to read:

21 **17-18-105. Appropriation to comply with section 2-2-703 - SB**
22 **10-##### - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
23 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
24 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT SENATE BILL 10-____,
25 ENACTED IN 2010:

26 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
27 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM

1 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
2 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
3 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

4 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN
5 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
6 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
7 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
8 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

9 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION
10 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
11 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
12 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

13 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
14 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
15 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
16 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
17 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

18 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
19 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
20 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
21 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

22 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN
23 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
24 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
25 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
26 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

27 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION

1 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
2 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
3 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

4 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
5 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
6 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
7 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
8 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

9 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
10 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
11 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
12 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

13 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

14 **SECTION 3.** The introductory portion to 24-75-302 (2) and
15 24-75-302 (2) (w), (2) (x), and (2) (y), Colorado Revised Statutes, are
16 amended, and the said 24-75-302 (2) is further amended BY THE
17 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

18 **24-75-302. Capital construction fund - capital assessment fees**
19 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
20 through July 1, ~~2012~~ 2014, a sum as specified in this subsection (2) shall
21 accrue to the capital construction fund. The state treasurer and the
22 controller shall transfer such sum out of the general fund and into the
23 capital construction fund as moneys become available in the general fund
24 during the fiscal year beginning on said July 1. Transfers between funds
25 pursuant to this subsection (2) shall not be deemed to be appropriations
26 subject to the limitations of section 24-75-201.1. The amount that shall
27 accrue pursuant to this subsection (2) shall be as follows:

1 (w) On July 1, 2010, five hundred twenty-three thousand one
2 hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
3 regular session of the sixty-fifth general assembly; plus five hundred
4 twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
5 06-207, enacted at the second regular session of the sixty-fifth general
6 assembly; plus forty-three thousand five hundred ninety-seven dollars
7 pursuant to H.B. 06-1145, enacted at the second regular session of the
8 sixty-fifth general assembly; plus five hundred twenty-three thousand one
9 hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
10 second regular session of the sixty-fifth general assembly; plus sixty-nine
11 thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004,
12 enacted at the first extraordinary session of the sixty-fifth general
13 assembly; plus seven hundred fifty thousand nine hundred ninety dollars
14 pursuant to S.B. 07-096, enacted at the first regular session of the
15 sixty-sixth general assembly; plus one hundred twelve thousand six
16 hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the
17 second regular session of the sixty-sixth general assembly; plus one
18 hundred thirty-seven thousand six hundred eighty-two dollars pursuant to
19 S.B. 08-239, enacted at the second regular session of the sixty-sixth
20 general assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 10-____,
21 ENACTED IN 2010;

22 (x) On July 1, 2011, seven hundred fifty thousand nine hundred
23 ninety dollars pursuant to S.B. 07-096, enacted at the first regular session
24 of the sixty-sixth general assembly; plus three hundred seventy-five
25 thousand four hundred ninety-five dollars pursuant to S.B. 08-239,
26 enacted at the second regular session of the sixty-sixth general assembly;
27 PLUS _____ DOLLARS PURSUANT TO S.B. 10-____, ENACTED IN 2010;

1 (y) On July 1, 2012, one hundred twelve thousand six hundred
2 forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular
3 session of the sixty-sixth general assembly; plus three hundred
4 seventy-five thousand four hundred ninety-five dollars pursuant to S.B.
5 08-239, enacted at the second regular session of the sixty-sixth general
6 assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 10-____, ENACTED
7 IN 2010;

8 (z) ON JULY 1, 2013, _____ DOLLARS PURSUANT TO S.B. 10-____,
9 ENACTED IN 2010.

10 (aa) ON JULY 1, 2014, _____ DOLLARS PURSUANT TO S.B.
11 10-____, ENACTED IN 2010.

12 **SECTION 4. Effective date - applicability.** This act shall take
13 effect July 1, 2010, and shall apply to offenses committed on or after said
14 date.

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