

Revised Legislative Council Draft

Proposition 115: Prohibit Abortions After 22 Weeks

1 **Proposition 115 proposes amending the Colorado statutes to:**

- 2 • prohibit abortion after 22 weeks gestational age of the fetus, except when
- 3 an abortion is immediately required to save the life of a pregnant woman;
- 4 • create a criminal penalty for any person who performs a prohibited
- 5 abortion; and
- 6 • require that the state suspend the medical license for at least three years
- 7 of any physician who violates the measure.

8 **What Your Vote Means**

YES

A “yes” vote on Proposition 115 prohibits abortions in Colorado after 22 weeks gestational age, except when an abortion is immediately required to save the life of a pregnant woman.

NO

A “no” vote on Proposition 115 means that abortion in Colorado continues to be legal at any time during a pregnancy.

SUBMITTED WRITTEN TESTIMONY

Committee
Meeting Date

Joint Committee Legislative Council
9/3/2020 10:00

Registered **Bill Number** **First Name** **Last Name** **Position on Bill**

9/3/2020 8:37 *RKPN-BSKKUM Kristi

Burton Brown

Witness Signup List

Text of Testimony

Dear Legislative Council,

Thank you for your work on Prop #115 for the blue book. One thing I believe is still missing from the analysis, particularly the PRO argument section, is a description of the humanity of a fetus at 22 weeks. The committees supporting Prop #115 continue to make the argument to voters that a child at 22 weeks can suck her thumb, respond to her mother's voice, and feel pain. That is also medically accurate information, and would help voters analyze this initiative. It could easily be added to the end of the "pro" section: "This is a balanced approach with reasonable and limited exceptions that recognizes the dignity of women and the humanity of their unborn children" who can feel pain, suck their thumbs, and respond to their mothers' voice at 22 weeks.

Thank you,
Kristi Burton Brown

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1 **Summary and Analysis for Proposition 115**

2 **What happens if Proposition 115 passes?**

3 Under Proposition 115, abortions may not be performed after 22 weeks gestational
4 age of the fetus. The measure allows for an exception when, in the reasonable
5 medical judgement of a physician:

- 6 • the pregnant woman's life is threatened by a physical disorder, physical illness,
7 or physical injury, but not including psychological or emotional conditions; and
- 8 • an abortion, rather than an expedited delivery of the living fetus, is immediately
9 required to save the life of a pregnant woman.

10 **How does the measure define abortion?**

11 Under the measure, abortion is any surgical or medication-assisted procedure
12 performed with the intent to terminate a pregnancy. A procedure is not an abortion if
13 performed with the intent to:

- 14 • save the life or preserve the health of the embryo or fetus;
- 15 • remove a dead embryo or fetus caused by miscarriage; or
- 16 • remove an embryo or fetus growing outside of the uterus.

17 **What would be the penalties for performing an abortion after 22 weeks gestational** 18 **age?**

19 If the measure passes, any person who intentionally or recklessly performs or
20 attempts to perform an abortion after 22 weeks gestation would be guilty of a class 1
21 misdemeanor punishable by a fine of \$500 to \$5,000. The measure specifies that jail
22 time for this offense is not allowed. In addition, the measure classifies performing an
23 abortion after 22 weeks gestation as unprofessional conduct for a licensed physician.
24 The Colorado Medical Board must suspend the professional license of a physician
25 for at least three years who is found to have violated the law.

26 There would be no penalty for a woman who receives an abortion or for a person
27 who fills a prescription or provides equipment used in an abortion.

28 **What is Colorado's current law related to abortion?**

29 Abortion is legal in Colorado, and an adult woman may seek an abortion at any time
30 during her pregnancy. For minors seeking an abortion, Colorado law requires that
31 the parents or caregivers of the minor receive written notification of the abortion at
32 least 48 hours prior to the procedure, with certain exceptions.

33 **Can states place restrictions on the time at which a woman may seek an abortion?**

34 Yes. The U.S. Supreme Court has ruled that a woman has the right to choose to
35 have an abortion before the fetus is viable, and that states may regulate or prohibit
36 abortions after fetal viability because the fetus is capable of meaningful life outside of
37 the mother's womb. The state law must contain exceptions for pregnancies that
38 endanger the woman's life or health. Currently, 43 states have laws limiting
39 abortions after a certain point in pregnancy.

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For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

1 **Argument For Proposition 115**

- 2 1) The measure protects viable human life by placing a reasonable restriction on
3 abortion after an infant can live outside the mother's womb. Colorado is one of
4 only seven states that allows abortion at any time during a pregnancy even
5 though infants born as early as 22 weeks gestation can survive outside the womb
6 and experience good developmental outcomes. The measure allows time for a
7 pregnant woman to make a choice about her pregnancy, and permits abortion
8 after 22 weeks when necessary to save the life of the mother. In addition, the
9 measure does not penalize women who receive prohibited abortions. This is a
10 balanced approach with reasonable and limited exceptions that recognizes the
11 dignity of women and the humanity of their unborn children.

12 **Argument Against Proposition 115**

- 13 1) Restricting access to abortion limits a woman's right to bodily autonomy and
14 interferes with the patient and doctor relationship. The choice to end a
15 pregnancy is often a serious and difficult decision, and should be left solely up to
16 the woman, in consultation with her doctor and in accordance with her beliefs.
17 The measure does not include any exceptions for risks to the woman's health or
18 for a woman who has been the victim of rape or incest to obtain an abortion after
19 22 weeks. In addition, it provides no exceptions for the detection of a serious
20 fetal abnormality after 22 weeks, which may force women to carry a nonviable
21 pregnancy to term. Every pregnancy is unique, and decisions related to
22 pregnancy should not be arbitrarily limited by state government.

23 **Estimate of Fiscal Impact for Proposition 115**

24 **State revenue.** Proposition 115 will minimally increase state revenue from criminal
25 fines and court fees beginning in state budget year 2020-21. It may also increase
26 revenue from civil penalties and regulatory fees by a minimal amount.

27 **State spending.** Starting in state budget year 2020-21, Proposition 115 will
28 minimally increase workload in the Department of Regulatory Agencies and may
29 increase costs in the Department of Health Care Policy and Financing.

30 **Local government revenue and spending.** Starting in state budget year 2020-21,
31 Proposition 115 will increase costs and workload for district attorneys and may
32 increase revenue, costs, and workload for the Denver County Court.