

2 ESHB 2395 - S AMD - 911
3 By Senator Swecker

4 OUT OF ORDER AFTER ADOPTION OF #827

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. Sec. 1. A new section is added to chapter 9.02 RCW
8 to read as follows:

9 (1) It is a class C felony for a physician to perform a partial-
10 birth abortion.

11 (2) For purposes of sections 1 and 2 of this act, "partial-birth
12 abortion" means a procedure in which the person performing the
13 procedure deliberately and intentionally delivers a fetus or a
14 substantial portion of a fetus into or partially through the birth
15 canal for the purpose of performing a procedure the physician knows
16 will terminate the life of the fetus and then terminates the life of
17 the fetus before the fetus has been completely removed from the birth
18 canal.

19 NEW SECTION. Sec. 2. A new section is added to chapter 9.02 RCW
20 to read as follows:

21 (1) Sections 1 and 2 of this act shall not apply to an abortion
22 performed to terminate a pregnancy when the abortion is:

23 (a) Performed on a fetus that has not reached viability, as
24 viability is defined under law; or

25 (b) Performed to preserve the physical health of a mother; or

26 (c) Performed to save the life of a mother because her life is
27 endangered by a physical disorder, physical illness, or physical
28 injury.

29 (2) For purposes of sections 1 and 2 of this act and RCW 9.02.100
30 and 9.02.110, "preserve the physical health of a mother" means a threat
31 to the health of a mother exists that so complicates the medical
32 condition of the mother as to require the immediate termination of the
33 pregnancy for which a delay will create serious risk of substantial and
34 irreversible impairment of a major bodily function of the mother.

1 **Sec. 3.** RCW 9.02.100 and 1992 c 1 s 1 are each amended to read as
2 follows:

3 The sovereign people hereby declare that every individual possesses
4 a fundamental right of privacy with respect to personal reproductive
5 decisions.

6 Accordingly, it is the public policy of the state of Washington
7 that:

8 (1) Every individual has the fundamental right to choose or refuse
9 birth control;

10 (2) Every woman has the fundamental right to choose or refuse to
11 have an abortion, except as specifically limited by RCW 9.02.100
12 through 9.02.170 (~~and~~), 9.02.900 through 9.02.902, and sections 1 and
13 2 of this act;

14 (3) Except as specifically permitted by RCW 9.02.100 through
15 9.02.170 (~~and~~), 9.02.900 through 9.02.902, and sections 1 and 2 of
16 this act, the state shall not deny or interfere with a woman's
17 fundamental right to choose or refuse to have an abortion; and

18 (4) Except as specifically permitted by RCW 9.02.100 through
19 9.02.170, 9.02.900 through 9.02.902, and sections 1 and 2 of this act,
20 the state shall not discriminate against the exercise of these rights
21 in the regulation or provision of benefits, facilities, services, or
22 information.

23 **Sec. 4.** RCW 9.02.110 and 1992 c 1 s 2 are each amended to read as
24 follows:

25 The state may not deny or interfere with a woman's right to choose
26 to have an abortion prior to viability of the fetus, or to protect her
27 life or health: PROVIDED, That if a physician determines that a
28 surgical procedure is necessary to protect the life or health of the
29 mother, then every reasonable effort shall be made by the physician to
30 protect and preserve the life of the viable fetus. The term "surgical
31 procedure" includes a partial-birth abortion.

32 A physician may terminate and a health care provider may assist a
33 physician in terminating a pregnancy as permitted by this section.

34 NEW SECTION. **Sec. 5.** The secretary of state shall submit this act
35 to the people for their adoption and ratification, or rejection, at the
36 next general election to be held in this state, in accordance with

1 Article II, section 1 of the state Constitution and the laws adopted to
2 facilitate its operation."

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6 On page 1, line 1 of the title, after "abortions;" strike the
7 remainder of the title and insert "amending RCW 9.02.100 and 9.02.110;
8 adding new sections to chapter 9.02 RCW; prescribing penalties; and
9 providing for submission of this act to a vote of the people."

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