

SENATE BILL REPORT

SB 6612

As Reported by Senate Committee On:
Law & Justice, February 3, 2016

Title: An act relating to sex-selection abortions.

Brief Description: Prohibiting sex-selection abortions.

Sponsors: Senators Rivers, Padden, Miloscia and Angel.

Brief History:

Committee Activity: Law & Justice: 2/02/16, 2/03/16 [DP, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille and Frockt.

Staff: Aldo Melchiori (786-7439)

Background: Seven states currently ban abortions for the purpose of sex selection. In an eighth state, Illinois, enforcement of the ban has been enjoined by a federal court. Since 2009, legislation prohibiting abortion for sex selection has been introduced in at least 21 other states and in the United States Congress.

Summary of Bill: "Sex-selection abortion" is defined as an abortion performed solely on account of the sex of the unborn child. No person may intentionally perform or attempt to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the unborn child. If this provision is held invalid as applied to the period of pregnancy prior to viability, it remains applicable to the period of pregnancy subsequent to viability. Any physician or other person who intentionally or knowingly performs or attempts to perform a sex-selection abortion is guilty of an unranked class C felony punishable by up to 364 days incarceration and/or a fine of up to \$10,000.

A pregnant woman upon whom the sex-selection abortion has been performed, the parent or legal guardian of the woman if she is an unemancipated minor, or the legal guardian of the

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woman if she has been adjudged incompetent may commence a civil action for any knowing, intentional, or reckless violation and may seek both actual and punitive damages, including, but are not limited to:

- money damages for all psychological and physical injuries; and
- statutory damages equal to three times the cost of the abortion.

Any physician who performs a sex-selection abortion is considered to have engaged in unprofessional conduct for which his or her license to provide health care services in the state of Washington must be suspended or revoked.

The woman upon whom the sex-selection abortion was performed or attempted to be performed; any person who is the spouse, parent, guardian, or a current or former licensed health care provider of the woman upon whom a sex-selection abortion has been performed or attempted to be performed; or the Office of the Attorney General of Washington may bring a cause of action for injunctive relief against any physician or other person to prevent the physician or person from performing further sex-selection abortions. Any person who knowingly violates the terms of the injunction is subject to contempt proceedings.

Any woman upon whom a sex-selection abortion is performed or attempted may not be prosecuted or otherwise held criminally or civilly liable. It is not the intention of the act to make lawful an abortion that is currently unlawful.

In any criminal proceeding or action, the woman upon whom a sex-selection abortion is performed or attempted is entitled to all rights, protections, and notifications afforded to crime victims. The anonymity of the woman upon whom a sex-selection abortion is performed or attempted must be preserved from public disclosure unless she gives her consent to such disclosure. A court of competent jurisdiction, upon motion or *sua sponte*, must issue orders to the parties, witnesses, and counsel and must direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms, to the extent necessary to safeguard her identity from public disclosure. In the absence of written consent of the woman upon whom a sex-selection abortion has been performed or attempted, anyone who initiates a proceeding or action shall do so under a pseudonym.

The Legislature, by joint resolution, may appoint one or more of its members, who sponsored or cosponsored the act in his or her official capacity, to intervene as a matter of right in any case in which the constitutionality of the act is challenged.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Women should have many choices, but not this one. Doctors should help women avoid really bad decisions. Abortion is a divisive issue in policy and culture and this bill attempts to find common ground that we can all agree on.

Sex-selection abortion is profoundly disturbing. There is a bias toward male children in certain ethnic groups. These are inappropriate applications of medical technology. Women should not be discriminated against in the womb.

CON: This will restrict the ability for women to make private choices. You can't advance women rights by taking away a woman's rights. This creates a communication barrier between a doctor and a patient. It opens the door to abortion bans based upon a woman's motivations. Doctors should not be asked to police a woman's reasons. This will hurt most those women who do not know how to navigate the medical system.

Persons Testifying: PRO: Danille Turisin, Family Policy Institute of Washington; Michael Pauley, Human Life of Washington; Angela Connelly, Washington Womens Network; Sarah Davenport, Family Policy Institute of Washington.

CON: Janet Chung and Dr. Anij Khattar, Legal Voice; Melanie Smith, NARAL and Pro-Choice Washington.

Persons Signed In To Testify But Not Testifying: No one.