

# SENATE BILL REPORT

## ESB 5282

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As Amended by House, February 27, 2020

**Title:** An act relating to informed consent for pelvic exams.

**Brief Description:** Requiring informed consent for pelvic exams.

**Sponsors:** Senators Liias, Cleveland, Darneille, Short, Kuderer, Walsh, Brown, Randall, Dhingra, Rolfes, Billig, Das, Hunt, Keiser and Pedersen.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 2/01/19, 2/18/19 [DP, w/oRec].

**Floor Activity:**

Passed Senate: 1/24/20, 45-0.

Passed House: 2/27/20, 98-0.

<p style="text-align: center;"><b>Brief Summary of Engrossed Bill</b></p> <ul style="list-style-type: none"><li>• Requires health care providers to obtain informed consent before performing a pelvic exam on an anesthetized patient.</li><li>• Subjects a provider who fails to obtain proper consent to discipline under the Uniform Disciplinary Act.</li></ul>
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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Conway, Dhingra, Frockt, Keiser and Van De Wege.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Bailey and Becker.

**Staff:** Greg Attanasio (786-7410)

**Background:** Informed Consent. A health care provider must obtain informed consent from a patient or the patient's representative before performing medical treatment. Informed consent is the process by which the treating health care provider discloses information to a patient or the patient's representative so that the patient may make a voluntary choice to

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accept or refuse treatment. Informed consent generally includes a discussion of the following elements:

- the nature of the decision or procedure proposed by the provider;
- reasonable alternatives to the proposed intervention;
- the relevant risks, benefits, and uncertainties related to each alternative;
- assessment of patient understanding; and
- the acceptance of the intervention by the patient.

Uniform Disciplinary Act. The Uniform Disciplinary Act (Act) is a standardized set of procedures for enforcing laws concerning licensure and misconduct of licensed health care professionals. The Act includes the list of acts that constitute unprofessional conduct. All licensed health care professionals are subject to the Act.

**Summary of Engrossed Bill:** A licensed health care provider may not perform or authorize a student practicing under their authority to perform a pelvic examination on a patient who is anesthetized or unconscious unless:

- the patient or the patient's representative provides informed consent; or
- the examination is necessary for diagnostic or treatment purposes.

A provider who violates this act is subject to discipline pursuant to the Uniform Disciplinary Act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: While the practice is not widespread in Washington, it is important that all people have the opportunity to provide informed consent before a provider conducts any procedure or examination.

OTHER: The concept of the bill is good, but the provision allowing examinations pursuant to a court order is potentially harmful to sexual assault survivors and courts do not have the authority to issue such orders. The inclusion of the provision could discourage reporting and erode trust in the medical profession.

**Persons Testifying:** PRO: Senator Marko Liias, Prime Sponsor.

OTHER: Kim Clark, Legal Voice.

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

**EFFECT OF HOUSE AMENDMENT(S):**

- A pelvic exam may be performed without consent if sexual assault is suspected, evidence may be collected if the patient is not capable of informed consent due to longer term medical condition, or if evidence will be lost.