
Health Care & Wellness Committee

HB 1851

Brief Description: Preserving a pregnant individual's ability to access abortion care.

Sponsors: Representatives Thai, Macri, Fitzgibbon, Bateman, Berry, Cody, Duerr, Peterson, Ramel, Santos, Senn, Simmons, Chopp, Slatter, Bergquist, Valdez, Pollet, Taylor, Ormsby and Harris-Talley.

Brief Summary of Bill

- Grants specific statutory authorization for physician assistants, advanced registered nurse practitioners, and certain other providers acting within their scopes of practice to perform abortions.
- Prohibits the state from taking action against an individual based on pregnancy outcomes or for assisting a pregnant individual in exercising the right to reproductive freedom.

Hearing Date: 1/20/22

Staff: Jim Morishima (786-7191).

Background:

The state is statutorily prohibited from interfering with a pregnant woman's right to choose to have an abortion prior to viability or to protect the woman's life or health. Physicians are statutorily authorized to terminate a pregnancy in these circumstances, and health care providers are authorized to assist the physicians. The following are defenses in any proceeding alleging violations of these provisions: (1) the good faith judgment of the physician as to the viability of the fetus or as the risk to the life or health of the woman; and (2) the good faith judgment of a health care provider as to the duration of the pregnancy. For these purposes, a health care provider is a physician or a person acting under direction of a physician.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Unless authorized by these statutory provisions, any person who performs an abortion on another person is guilty of an unranked class C felony (standard sentence range 0-12 months).

Several Attorney General Opinions (AGOs) have interpreted the statutory authorization for physicians to perform abortions as not necessarily limiting the ability physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to perform abortions. For example, the most recent AGO on this topic, which was issued in 2019, concluded that PAs and ARNPs may perform aspiration abortions as long as it is consistent with their training, certification, and scope of practice.

Summary of Bill:

The list of providers statutorily authorized to terminate a pregnancy is expanded to include a physician assistant, an advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice. The definition of the health care provider is changed to mean a person licensed to practice health or health-related services or otherwise practicing health care services in the state consistent with state law.

The state is prohibited from penalizing, prosecuting, or otherwise taking adverse action against an individual based on the individual's actual, potential, perceived, or alleged pregnancy outcomes against an individual for aiding or assisting a pregnant individual in exercising the pregnant individual's right to reproductive freedom with the individual's voluntary consent.

Statutory references to "woman" are changed to "pregnant individual."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.