

FINAL BILL REPORT

EHB 1851

C 65 L 22
Synopsis as Enacted

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.

House Committee on Health Care & Wellness
Senate Committee on Health & Long Term Care

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 to 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.

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.

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.

Summary:

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 or 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."

Votes on Final Passage:

House	55	40	
Senate	28	21	(Senate amended)
House	57	41	(House concurred)

Effective: June 9, 2022