

SENATE BILL REPORT

EHB 1851

As of March 10, 2022

Title: An act relating to preserving a pregnant individual's ability to access abortion care.

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 History: Passed House: 2/11/22, 55-40.

Committee Activity: Health & Long Term Care: 2/21/22.

Brief Summary of Bill

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

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Julie Tran (786-7283)

Background: Washington State enacted the Reproductive Privacy Act in 1991. The state may not deny or interfere with a 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.

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. 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 the good faith judgment of a health care provider as to the duration of the pregnancy are defenses to prosecution. A health care provider is a physician or a person acting under the direction of a physician.

Several attorney general (AG) opinions have interpreted the statutory authorization for physicians to perform abortions as not necessarily limiting the ability of physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to perform abortions in Washington State. Most recently, an AG opinion was issued on February 1, 2019, concluding that the Reproductive Privacy Act allows PAs and ARNPs to 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 term the health care provider is defined as 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 a woman and another individual based on her and their actual, potential, perceived, or alleged pregnancy outcomes or against an individual for aiding or assisting a pregnant woman and individual in exercising the right to reproductive freedom with her and their voluntary consent.

References to woman are changed to woman and pregnant individual.

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.