
ENGROSSED HOUSE BILL 1851

State of Washington

67th Legislature

2022 Regular Session

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

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1 AN ACT Relating to preserving a pregnant individual's ability to
2 access abortion care; amending RCW 9.02.100, 9.02.110, 9.02.130,
3 9.02.140, 9.02.160, 9.02.170, and 9.02.120; and creating a new
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature affirms that:

7 (1) It is the longstanding public policy of this state to promote
8 access to affordable, high quality sexual and reproductive health
9 care, including abortion care, without unnecessary burdens or
10 restrictions on patients or providers. In 1970 Washington was one of
11 the first states to decriminalize abortion before Roe v. Wade; and in
12 1991 the people of Washington passed Initiative Measure 120, the
13 reproductive privacy act, further protecting access to abortion
14 services;

15 (2) It has been 30 years since the passage of the reproductive
16 privacy act. It is time that we modernize and update the language to
17 reflect current medical practice;

18 (3) In 2004 and 2019, respectively, Washington attorneys general
19 Christine Gregoire and Robert W. Ferguson issued opinions clarifying
20 that Washington state law allows certain qualified advanced practice
21 clinicians to provide early in-clinic and medication abortion care

1 and recommended that Washington statutes be updated to provide
2 further clarity;

3 (4) Although the abortion rights movement has historically
4 centered on women in our advocacy, that must no longer be the case
5 and it is critical that we recognize that transgender, nonbinary, and
6 gender expansive people also get pregnant and require abortion care.
7 Washington's law should reflect the most inclusive understanding of
8 who needs abortions and be updated with gender neutral language. All
9 people deserve access to qualified providers in their community who
10 can provide whatever method of abortion care works for them and no
11 individual who chooses to manage their own abortion should fear
12 arrest or prosecution because of their pregnancy decision or outcome;
13 and

14 (5) All people deserve to make their own decisions about their
15 pregnancies, including deciding to end a pregnancy. It is the public
16 policy of the state of Washington to continue to protect and advance
17 equal rights to access abortion care that meets each individual's
18 needs, regardless of gender or gender identity, race, ethnicity,
19 income level, or place of residence.

20 **Sec. 2.** RCW 9.02.100 and 1992 c 1 s 1 are each amended to read
21 as follows:

22 The sovereign people hereby declare that every individual
23 possesses a fundamental right of privacy with respect to personal
24 reproductive decisions.

25 Accordingly, it is the public policy of the state of Washington
26 that:

27 (1) Every individual has the fundamental right to choose or
28 refuse birth control;

29 (2) Every (~~woman~~) pregnant individual has the fundamental right
30 to choose or refuse to have an abortion, except as specifically
31 limited by RCW 9.02.100 through 9.02.170 and 9.02.900 through
32 9.02.902;

33 (3) Except as specifically permitted by RCW 9.02.100 through
34 9.02.170 and 9.02.900 through 9.02.902, the state shall not deny or
35 interfere with a (~~woman's~~) pregnant individual's fundamental right
36 to choose or refuse to have an abortion; and

37 (4) The state shall not discriminate against the exercise of
38 these rights in the regulation or provision of benefits, facilities,
39 services, or information.

1 **Sec. 3.** RCW 9.02.110 and 1992 c 1 s 2 are each amended to read
2 as follows:

3 The state may not deny or interfere with a (~~woman's~~) pregnant
4 individual's right to choose to have an abortion prior to viability
5 of the fetus, or to protect (~~her~~) the pregnant individual's life or
6 health.

7 A physician, physician assistant, advanced registered nurse
8 practitioner, or other health care provider acting within the
9 provider's scope of practice may terminate and a health care provider
10 may assist a physician, physician assistant, advanced registered
11 nurse practitioner, or other health care provider acting within the
12 provider's scope of practice in terminating a pregnancy as permitted
13 by this section.

14 **Sec. 4.** RCW 9.02.130 and 1992 c 1 s 4 are each amended to read
15 as follows:

16 The good faith judgment of a physician, physician assistant,
17 advanced registered nurse practitioner, or other health care provider
18 acting within the provider's scope of practice as to viability of the
19 fetus or as to the risk to life or health of a (~~woman~~) pregnant
20 individual and the good faith judgment of a health care provider as
21 to the duration of pregnancy shall be a defense in any proceeding in
22 which a violation of this chapter is an issue.

23 **Sec. 5.** RCW 9.02.140 and 1992 c 1 s 5 are each amended to read
24 as follows:

25 Any regulation promulgated by the state relating to abortion
26 shall be valid only if:

27 (1) The regulation is medically necessary to protect the life or
28 health of the (~~woman~~) pregnant individual who is terminating
29 (~~her~~) the pregnancy,

30 (2) The regulation is consistent with established medical
31 practice, and

32 (3) Of the available alternatives, the regulation imposes the
33 least restrictions on the (~~woman's~~) pregnant individual's right to
34 have an abortion as defined by RCW 9.02.100 through 9.02.170 and
35 9.02.900 through 9.02.902.

36 **Sec. 6.** RCW 9.02.160 and 1992 c 1 s 7 are each amended to read
37 as follows:

1 If the state provides, directly or by contract, maternity care
2 benefits, services, or information (~~(to women)~~) through any program
3 administered or funded in whole or in part by the state, the state
4 shall also provide (~~(women)~~) pregnant individuals otherwise eligible
5 for any such program with substantially equivalent benefits,
6 services, or information to permit them to voluntarily terminate
7 their pregnancies.

8 **Sec. 7.** RCW 9.02.170 and 1992 c 1 s 8 are each amended to read
9 as follows:

10 For purposes of this chapter:

11 (1) "Viability" means the point in the pregnancy when, in the
12 judgment of the physician, physician assistant, advanced registered
13 nurse practitioner, or other health care provider acting within the
14 provider's scope of practice on the particular facts of the case
15 before such physician, physician assistant, advanced registered nurse
16 practitioner, or other health care provider acting within the
17 provider's scope of practice, there is a reasonable likelihood of the
18 fetus's sustained survival outside the uterus without the application
19 of extraordinary medical measures.

20 (2) "Abortion" means any medical treatment intended to induce the
21 termination of a pregnancy except for the purpose of producing a live
22 birth.

23 (3) "Pregnancy" means the reproductive process beginning with the
24 implantation of an embryo.

25 (4) "Physician" means a physician licensed to practice under
26 chapter 18.57 or 18.71 RCW in the state of Washington.

27 (5) "Physician assistant" means a physician assistant licensed to
28 practice under chapter 18.71A RCW in the state of Washington.

29 (6) "Advanced registered nurse practitioner" means an advanced
30 registered nurse practitioner licensed under chapter 18.79 RCW.

31 (7) "Health care provider" means a (~~(physician or a)~~) person
32 (~~(acting under the general direction of a physician)~~) regulated under
33 Title 18 RCW to practice health or health-related services or
34 otherwise practicing health care services in this state consistent
35 with state law.

36 (~~(+6)~~) (8) "State" means the state of Washington and counties,
37 cities, towns, municipal corporations, and quasi-municipal
38 corporations in the state of Washington.

1 (~~(7)~~) (9) "Private medical facility" means any medical facility
2 that is not owned or operated by the state.

3 **Sec. 8.** RCW 9.02.120 and 1992 c 1 s 3 are each amended to read
4 as follows:

5 Unless authorized by RCW 9.02.110, any person who performs an
6 abortion on another person shall be guilty of a class C felony
7 punishable under chapter 9A.20 RCW. The state shall not penalize,
8 prosecute, or otherwise take adverse action against an individual
9 based on their actual, potential, perceived, or alleged pregnancy
10 outcomes. Nor shall the state penalize, prosecute, or otherwise take
11 adverse action against someone for aiding or assisting a pregnant
12 individual in exercising their right to reproductive freedom with
13 their voluntary consent.

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