
SENATE BILL 5416

State of Washington

67th Legislature

2021 Regular Session

By Senators Padden, Fortunato, Holy, McCune, and Warnick

Read first time 02/03/21. Referred to Committee on Law & Justice.

1 AN ACT Relating to prohibiting abortion on the basis of Down
2 syndrome; amending RCW 9.02.110 and 9.02.170; and adding new sections
3 to chapter 9.02 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.02 RCW
6 to read as follows:

7 (1) No person may intentionally perform or induce, or attempt to
8 perform or induce, an abortion on a pregnant woman if the person has
9 knowledge that the pregnant woman is seeking the abortion, in whole
10 or in part, because of any of the following:

11 (a) A test result indicating Down syndrome in an unborn child;
12 (b) A prenatal diagnosis of Down syndrome in an unborn child; or
13 (c) Any other reason to believe that an unborn child has Down
14 syndrome.

15 (2) Whoever violates subsection (1) of this section is subject to
16 the penalties established in RCW 9.02.120.

17 (3) The Washington medical commission or the board of osteopathic
18 medicine and surgery, as applicable, must revoke the license of a
19 physician who has violated subsection (1) of this section.

20 (4) Any physician who violates subsection (1) of this section is
21 liable in a civil action for compensatory and exemplary damages, as

1 well as reasonable attorneys' fees, to the person, or the
2 representative of the estate of any person, who sustains injury,
3 death, or loss to person or property as the result of the intentional
4 performance or inducement, or the attempted performance or
5 inducement, of the abortion. In any action under this subsection, the
6 court may also award injunctive or other equitable relief that the
7 court considers appropriate.

8 (5) A pregnant woman on whom an abortion is intentionally
9 performed or induced, or attempted to be performed or induced, in
10 violation of subsection (1) of this section is not guilty of
11 violating subsection (1) of this section or attempting to commit,
12 conspiring to commit, or complicity in committing a violation of
13 subsection (1) of this section.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.02 RCW
15 to read as follows:

16 (1) The attending physician performing or inducing an abortion
17 must indicate in a report to the department of health that the
18 attending physician does not have knowledge that the pregnant woman
19 was seeking the abortion, in whole or in part, because of any of the
20 following:

- 21 (a) A test result indicating Down syndrome in an unborn child;
22 (b) A prenatal diagnosis of Down syndrome in an unborn child; or
23 (c) Any other reason to believe that an unborn child has Down
24 syndrome.

25 (2) The department of health shall adopt rules to facilitate the
26 submission of the reports, including establishing reporting forms and
27 allowing for the incorporation of reporting into existing reporting
28 requirements for hospitals and facilities where abortions are
29 performed or induced.

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

32 The state may not deny or interfere with a woman's right to
33 choose to have an abortion prior to viability of the fetus, except
34 when prohibited by section 1 of this act, or to protect her life or
35 health.

36 A physician may terminate and a health care provider may assist a
37 physician in terminating a pregnancy as permitted by this section.

1 **Sec. 4.** RCW 9.02.170 and 1992 c 1 s 8 are each amended to read
2 as follows:

3 For purposes of this chapter:

4 (1) "Viability" means the point in the pregnancy when, in the
5 judgment of the physician on the particular facts of the case before
6 such physician, there is a reasonable likelihood of the fetus's
7 sustained survival outside the uterus without the application of
8 extraordinary medical measures.

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

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

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

16 (5) "Health care provider" means a physician or a person acting
17 under the general direction of a physician.

18 (6) "State" means the state of Washington and counties, cities,
19 towns, municipal corporations, and quasi-municipal corporations in
20 the state of Washington.

21 (7) "Private medical facility" means any medical facility that is
22 not owned or operated by the state.

23 (8) "Down syndrome" means a chromosome disorder associated either
24 with an extra chromosome twenty-one, in whole or in part, or an
25 effective trisomy for chromosome twenty-one.

26 (9) "Unborn child" means the offspring of human beings from
27 conception until birth.

28 NEW SECTION. **Sec. 5.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

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