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**SENATE BILL 5713**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senator Fortunato

AN ACT Relating to chemical abortion; amending RCW 9.02.120; reenacting and amending RCW 9.02.170; adding new sections to chapter 9.02 RCW; creating a new section; and prescribing penalties.

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

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

(1) In every civil, criminal, or administrative proceeding or action brought under this act, the court shall rule whether the anonymity of any patient upon whom an abortion has been performed or attempted shall be preserved from public disclosure if the patient does not consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that the patient's anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the patient's identity from public disclosure.

(2) Each such order shall be accompanied by specific written findings explaining why the anonymity of the patient should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists.

(3) In the absence of written consent of the patient upon whom an abortion has been performed or attempted, anyone other than the public official who brings an action under this act shall do so under a pseudonym.

(4) This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

**Sec.**  RCW 9.02.120 and 2022 c 65 s 8 are each amended to read as follows:

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

(2) A cause of action for civil damages against a person who has performed or prescribed a chemical abortion in violation of section 4 of this act may be maintained by:

(a) Any patient upon whom a chemical abortion has been performed or prescribed in violation of section 4 of this act;

(b) The spouse of the patient, if married to the patient at the time the chemical abortion was performed or prescribed;

(c) If the patient had not attained the age of 18 when the chemical abortion was performed or prescribed or has died as a result of the abortion, then the maternal grandparents of the unborn child; or

(d) If the patient has died from the complications, then the patient's next of kin.

(3) No damages may be awarded to a plaintiff if the pregnancy resulted from the plaintiff's criminal conduct.

(4) Damages awarded in such action shall include:

(a) Money damages for all injuries, psychological and physical, caused by the chemical abortion; and

(b) Statutory damages equal to three times the cost of the chemical abortion.

(5) No criminal or civil penalty may be assessed against the patient upon whom the abortion is performed, induced, or attempted.

(6) The attorney general or a district attorney with appropriate jurisdiction may investigate the alleged violation of section 4 of this act and initiate a civil action on behalf of the state to assess civil penalties.

(7) Prior to asserting a cause of action, the attorney general or a district attorney with appropriate jurisdiction shall provide the abortion pill provider, physician, physician assistant, advanced practice registered nurse, or other health care provider with at least 30 days to comply with section 4 of this act.

(8) Any abortion pill provider, physician, physician assistant, advanced practice registered nurse, or other health care provider that violates section 4 of this act may be liable for a civil penalty, to be assessed by the court, of not more than $5,000 for each day in violation to be paid to the state to fund pregnancy resource centers that do not perform or refer for abortions.

(9) In addition to the remedies provided in this section, the attorney general or a district attorney with appropriate jurisdiction may request, and the court may impose, an additional civil penalty not to exceed $10,000 for each violation of section 4 of this act against any abortion pill provider, physician, physician assistant, advanced practice registered nurse, or other health care professional found by the court to have knowingly failed to conduct reasonable informed consent prior to a chemical abortion. The civil penalty shall be paid to the state to fund pregnancy resource centers that do not perform or refer for abortions.

(10) Each violation may be treated as a separate violation or may be combined into one violation at the option of the attorney general or a district attorney with appropriate jurisdiction.

(11) Any commercial entity that violates this section may be liable to the attorney general or a district attorney with appropriate jurisdiction for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorneys' fees.

(12) If the court assesses a civil penalty pursuant to this section, the state shall be entitled to the statutory legal interest from the date of imposition of the penalty until paid in full.

(13) If judgment is rendered in favor of the plaintiff, the court shall also render judgment for reasonable attorneys' fees in favor of the plaintiff.

(14) If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall render judgment for reasonable attorneys' fees in favor of the defendant.

(15) No attorneys' fees may be assessed against the patient upon whom an abortion was performed or attempted except in accordance with subsection (14) of this section.

(16) Any person who violates section 4 of this act shall be fined $10,000 or is guilty of a class B misdemeanor. No criminal or civil penalty may be assessed against the patient upon whom the abortion is performed or attempted.

**Sec.**  RCW 9.02.170 and 2022 c 65 s 7 are each reenacted and amended to read as follows:

For purposes of this chapter:

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

(2) "Abortion-inducing drug" means a medicine, drug, or substance prescribed or dispensed with the intent of terminating a clinically diagnosable pregnancy with the knowledge that the termination will, with reasonable likelihood, cause the death of the fetus. The term includes the off-label use of a drug known to have abortion-inducing properties if the drug is prescribed with the intent of causing an abortion.

(3) "Abortion pill provider" means any person, regardless of whether they are authorized or licensed by the state, who provides in any capacity the means to deliver, arrange, offer, or give the abortion pill to a woman with the intention of terminating the woman's pregnancy.

(4) "Advanced practice registered nurse ((~~practitioner~~))" means an advanced practice registered nurse ((~~practitioner~~)) licensed under chapter 18.79 RCW.

((~~(3)~~)) (5) "Agent" means any person who acts for another at the request or with the knowledge of the other in dealing with third parties.

(6) "Attempt to perform an abortion" means to do anything that, under the circumstances as the actor believes them to be, is an act constituting a substantial step in a course of conduct planned to culminate in performing an abortion. Such substantial steps include, but are not limited to:

(a) Agreeing with an individual to perform an abortion on that individual or on another individual, regardless of whether the term "abortion" is used in the agreement and whether the agreement is contingent on another factor such as receipt of payment or a determination of pregnancy; and

(b) Scheduling or planning a time to perform an abortion on an individual, regardless of whether the term "abortion" is used and whether the performance is contingent on another factor such as receipt of payment or a determination of pregnancy.

(7) "Chemical abortion" means the use or prescription of an abortion-inducing drug dispensed with the intent to cause the death of the unborn child.

(8) "Complication" means any harmful event or adverse outcome with respect to a patient related to chemical abortion that is performed on the patient and that is diagnosed or treated by a health care practitioner or at a health care facility. "Complications" include, but are not limited to:

(a) Shock;

(b) Hemorrhage;

(c) Aspiration or allergic response;

(d) Infection;

(e) Sepsis;

(f) Death of the patient;

(g) Incomplete chemical abortion requiring additional treatment;

(h) Incomplete chemical abortion requiring further surgical procedures that include risks such as uterine perforation, cervical laceration, or scarring;

(i) Damage to the uterus;

(j) The continuation of the pregnancy;

(k) Psychological or emotional trauma; and

(l) Excessive pain, discomfort, or nausea.

(9) "Health care provider" means a person regulated under Title 18 RCW to practice health or health-related services or otherwise practicing health care services in this state consistent with state law.

((~~(4)~~)) (10) "Medical emergency" means a condition which, in reasonable medical judgment, so complicates the medical condition of the patient as to necessitate the immediate abortion of the pregnancy to avert the patient's death or for which a delay will create serious risk of substantial and irreversible physical impairment of a major bodily function of the patient, not including psychological or emotional conditions. If, based on a claim by the patient or a diagnosis by a medical provider, the patient will engage in conduct the patient intends to result in the patient's death or in substantial and irreversible physical impairment of a major bodily function of the patient, then this shall not be deemed a medical emergency.

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

((~~(5)~~)) (12) "Physician assistant" means a physician assistant licensed to practice under chapter 18.71A RCW in the state of Washington.

((~~(6)~~)) (13) "Pregnancy" means the reproductive process beginning with the implantation of an embryo.

((~~(7)~~)) (14) "Private medical facility" means any medical facility that is not owned or operated by the state.

((~~(8)~~)) (15) "State" means the state of Washington and counties, cities, towns, municipal corporations, and quasi-municipal corporations in the state of Washington.

((~~(9)~~)) (16) "Viability" means the point in the pregnancy when, in the judgment of the physician, physician assistant, advanced practice registered nurse ((~~practitioner~~)), or other health care provider acting within the provider's scope of practice on the particular facts of the case before such physician, physician assistant, advanced practice registered nurse ((~~practitioner~~)), or other health care provider acting within the provider's scope of practice, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

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

(1) Except in the case of a medical emergency, a chemical abortion may not be provided, performed, induced, or attempted, and an abortion-inducing drug may not be prescribed with the intent to terminate a pregnancy, unless, prior to any chemical abortion provided, performed, or attempted using any abortion-inducing drug with the intent to terminate a pregnancy, the abortion pill provider, physician, physician assistant, advanced practice registered nurse, other health care provider, or their agents shall provide written information to accompany any instructions along with a list of complications given to the patient, which must include the following statement:

"If you decide to take any abortion-inducing drug to end your pregnancy, the state of Washington informs you that either you or your family may hold the manufacturer, distributor, or your prescriber financially liable should you die, suffer injury or complication, or any debilitating side effects (e.g. infection, excessive bleeding, the rupture of a previously undiscovered ectopic pregnancy, etc.) from the chemical abortion. Additionally, should the manufacturer, distributor, or your prescriber fail to address side effects or if the abortion-inducing drug fails and the pregnancy continues so that you have an incomplete abortion or require surgical intervention, you may hold them financially liable. You or your family may also hold the abortion pill provider, physician, physician assistant, advanced practice registered nurse, other health care provider, or their agents financially liable for failing to inform you of complications.

If you experience complications and are in need of emergency care or a hospital visit, then you have the right to inform the health care provider treating the complications that you have had a chemical abortion. Providing this information will not subject you to any criminal or civil penalty and will further help save your life."

(2) Certification of the statement in subsection (1) of this section is required. The patient shall certify in writing, prior to the chemical abortion, that the information described in subsection (1) of this section has been provided to the patient and that the patient has been informed of the opportunity to review the information referred to in subsection (1) of this section.

(3) Prior to performance of the chemical abortion, the abortion pill provider, physician, physician assistant, advanced practice registered nurse, other health care provider performing the chemical abortion, or their agents shall receive a copy of the written certification outlined in subsection (2) of this section.

(4) The abortion pill provider, physician, physician assistant, advanced practice registered nurse, other health care provider, or their agents shall retain a copy of the written certification outlined in subsection (2) of this section.

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

(1) Within 90 days after the effective date of this section, the department of health shall prepare a reporting form for all abortion pill providers and facilities providing, performing, or prescribing chemical abortions containing a copy of this chapter and providing for the listing of the following:

(a) The number of individuals to whom the abortion pill provider gave the information described in section 4(1) of this act; of that number, the number provided by telephone, electronically, and in-person; and, of each of those numbers, the number provided specifically by abortion pill providers, physicians, physicians assistants, advanced practice registered nurses, or other health care providers by provider type, and their agents.

(b) The number of chemical abortions performed by the abortion pill provider, physician, physician assistant, advanced practice registered nurse, other health care provider, or their agents whereby information otherwise required to be provided before the chemical abortion was not provided because an immediate abortion was necessary to avert the patient's death or injury, along with the number of chemical abortions in which such information was not provided because a delay would create a medical emergency.

(2) Within 90 days after the effective date of this section, the department of health shall prepare a reporting form for all physicians or facilities that treat any adverse event or complication arising from a known chemical abortion that has been performed, attempted, or prescribed containing a copy of this chapter and providing a listing of the following:

(a) The date the patient presented for treatment for the chemical abortion complication;

(b) The age of the patient;

(c) The race of the patient;

(d) The county and state of the patient's residence;

(e) The name of the abortion-inducing drug obtained by the patient;

(f) The date of the abortion;

(g) The name of the physician or health care facility where the procedures were performed;

(h) Whether the patient obtained the abortion-inducing medication via mail order or a website, including information identifying the online source of the medication;

(i) Whether the complication was previously managed by the abortion pill provider or the abortion pill provider's relief health care provider;

(j) A list of each diagnosed complication;

(k) A description of the treatment provided for each complication requiring treatment;

(l) Whether the patient's visit to treat the complications was the original visit or a follow-up visit;

(m) The date of each follow-up visit, if any; and

(n) A list of each complication diagnosed or treated at a follow-up visit, if any.

(3) The reporting requirements of subsection (2) of this section apply only to:

(a) A physician, physician assistant, advanced practice registered nurse, or other health care provider who:

(i) Provides, performs, or induces a chemical abortion that results in an abortion complication diagnosed or treated by that physician, physician assistant, advanced practice registered nurse, or other health care provider; or

(ii) Diagnoses or treats an abortion complication arising from an abortion-inducing drug that is the result of an abortion performed by another physician, physician assistant, advanced practice registered nurse, or other health care provider; and

(b) A hospital, clinic, or health care facility providing emergency services as defined in RCW 48.43.005.

(4) An abortion pill provider, physician, physician assistant, advanced practice registered nurse, or other health care provider shall electronically submit to the department of health a report on each abortion complication diagnosed or treated by the abortion pill provider, physician, physician assistant, advanced practice registered nurse, or other health care provider no later than the end of the third business day after the date the abortion complication was diagnosed or treated.

(5) The department of health shall ensure that no personally identifiable health information of any patient is included in the report.

(6) No later than July 1st of each year, the department of health shall issue a public annual abortion report on its website providing statistics for the previous calendar year compiled from all the reports covering that year submitted in accordance with subsections (1) and (2) of this section.

(7) Any abortion pill provider, physician, physician assistant, advanced practice registered nurse, or other health care provider that knowingly violates this section and fails to complete a report detailed in subsections (1) or (2) of this section is subject to a civil penalty of $500 for each violation.

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

NEW SECTION. **Sec.**  This act may be known and cited as the abortion pill provider liability education (APPLE) act.

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