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**HOUSE BILL 1560**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Klippert, Shea, and Barkis

AN ACT Relating to prohibition of certain types of abortions; amending RCW 9.02.110 and 9.02.170; adding a new section 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.**  The legislature finds that:

(1) Moral and philosophical concepts of dignity hold that a human being is entitled to receive ethical and humane treatment and is to be respected and valued in all phases of life;

(2) The declaration of independence recognizes the fundamental truth that all people have been endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness;

(3) The Constitution guarantees that all human beings have the right of enjoying and defending their lives and liberty, as well as seeking and pursuing their safety and happiness;

(4) The United States supreme court has recognized that states have a legitimate interest in protecting the life of the unborn;

(5) Recognizing the human rights of an unborn child does not contravene prior United States supreme court jurisprudence nor undermine a woman's right to self-determination or bodily autonomy, but instead upholds the state's legitimate interest in protecting the life of the unborn;

(6) The United States supreme court, in *Gonzales v. Carhart*, 550 U.S. 124 (2007), has further held that the states, with a rational basis to act and without creating an undue burden on women, may bar certain procedures for the purpose of regulating the medical profession so as to promote respect for life, including the life of the unborn;

(7) Giving the life of the unborn equal consideration as that of the mother does not create an undue burden on the mother;

(8) It is an indisputable scientific fact that by the end of ten weeks, the unborn child can be seen on an ultrasound to have fingers, hands, arms, toes, feet, legs, eyelids, and ears, further confirming the statutory acknowledgment that the unborn child is a human being;

(9) Certain abortive medical procedures resulting in dismemberment, crushing, or human vivisection are brutal for unborn children in contravention of their unalienable rights that replicates past indiscretions of a disregard for the rights of others;

(10) In *Stenberg v. Carhart*, 530 U.S. 914 (2000), Justice Kennedy recognized the brutality of these procedures by stating, "The fetus, in many cases, dies just as a human adult or child would: It bleeds to death as it is torn limb from limb.";

(11) Also in *Stenberg v. Carhart*, Justice Stevens, with whom Justice Ginsburg concurred, reflected on the dichotomy of upholding the ban on partial-birth abortions but not dilation and extraction procedures by writing, "The notion that either of these two equally gruesome procedures performed at this late stage of gestation is more akin to infanticide than the other, or that the state furthers any legitimate interest by banning one but not the other, is simply irrational"; and

(12) Past failures to uphold and respect the unalienable rights and dignity of other human beings protected by the laws of this state and this great nation resulted in unfair and detrimental practices that still affect the lives of so many Washingtonians and Americans today.

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

Except as provided in section 3 of this act, the state may not deny or interfere with a woman's right to choose to have an abortion prior to viability of the fetus, or to protect her life or health.

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

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, no person may intentionally perform, attempt to perform, or induce an abortion on a pregnant woman:

(a) That will result in the bodily dismemberment, crushing, or human vivisection of the unborn child; and

(b) When the probable postfertilization age of the unborn child is eleven weeks or greater.

(2) A pregnant woman on whom an abortion is performed, attempted to be performed, or induced in violation of subsection (1) of this section is not guilty of violating this section or attempting to commit, conspiring to commit, or complicity in committing a violation of subsection (1) of this section.

(3) A violation of subsection (1) of this section is a class C felony punishable according to chapter 9A.20 RCW.

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

For purposes of this chapter:

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

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

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

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

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

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

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

(8) "Bodily dismemberment, crushing, or human vivisection" means a procedure in which a person, with the purpose of causing the death of an unborn child, dismembers the living unborn child and extracts portions, pieces, or limbs of the unborn child from the uterus through the use of clamps, grasping forceps, tongs, scissors, or similar instruments that, through the convergence of two rigid levers, slices, crushes, grasps, or performs any combination of those actions on any portion, piece, or limb of the unborn child's body to cut or separate the portion, piece, or limb from the body. The term includes a procedure that is used to cause the death of an unborn child and in which suction is subsequently used to extract portions, pieces, or limbs of the unborn child after the unborn child's death.

(9) "Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(10) "Probable postfertilization age" means the age of the unborn child as calculated from the fusion of a human spermatozoon with a human ovum.

(11) "Unborn child" means an individual organism of the species homo sapiens from fertilization until live birth.

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