
HOUSE BILL 2121

State of Washington

67th Legislature

2022 Regular Session

By Representatives Young and Klippert

1 AN ACT Relating to abortion; amending RCW 9.02.110, 9.02.120,
2 9.02.130, 9.02.140, and 9.02.170; adding a new section to chapter
3 9.02 RCW; repealing RCW 9.02.100; prescribing penalties; and
4 declaring an emergency.

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

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

8 (1) The state may not deny or interfere with a woman's right to
9 choose to have an abortion prior to (~~(viability of the fetus, or to~~
10 ~~protect her life or health)~~ 15 weeks of gestational age or prior to
11 the fetal heartbeat being detected, or in case of a medical emergency
12 or severe fetal abnormality.

13 ((A)) (2) Except in a medical emergency or in the case of a
14 severe fetal abnormality, a physician may not terminate and a health
15 care provider may not assist a physician in terminating a pregnancy
16 ((as permitted by this section)) if the probable gestational age of
17 the unborn human being has been determined to be greater than 15
18 weeks or if a fetal heartbeat has been detected.

19 (3) No person may perform an abortion except as authorized in
20 this section.

1 **Sec. 2.** RCW 9.02.120 and 1992 c 1 s 3 are each amended to read
2 as follows:

3 ~~((Unless authorized by RCW 9.02.110, any))~~ (1) Any person who
4 performs an abortion on another person in violation of this chapter
5 shall be guilty of a class C felony punishable under chapter 9A.20
6 RCW.

7 (2) Any health care practitioner licensed under Title 18 RCW who
8 violates this chapter commits an act of unprofessional conduct and
9 his or her license shall be suspended by the appropriate disciplining
10 authority pursuant to chapter 18.130 RCW.

11 (3) A physician who knowingly or intentionally delivers to the
12 department of health any report required by RCW 9.02.130 that is
13 known by the physician to be false is subject to a civil penalty of
14 up to \$500 per violation imposed by the department of health.

15 (4) The attorney general has the authority to bring an action in
16 law or equity to enforce the provisions of this chapter on behalf of
17 any disciplining authority as defined in chapter 18.130 RCW. The
18 disciplining authorities also have the authority to bring such an
19 action on their own.

20 **Sec. 3.** RCW 9.02.130 and 1992 c 1 s 4 are each amended to read
21 as follows:

22 (1) Except in a medical emergency or in the case of a severe
23 fetal abnormality, prior to performing an abortion as authorized in
24 RCW 9.02.110, the physician or the referring physician shall first:

25 (a) Make a determination of the probable gestational age of the
26 unborn human being and document that gestational age;

27 (b) Make a determination of whether the unborn human being has a
28 detectable fetal heartbeat; and

29 (c) Document in the maternal patient's chart:

30 (i) The probable gestational age of the unborn human being; and

31 (ii) Whether a fetal heartbeat has been detected.

32 (2) Whenever a physician performs an abortion on an unborn human
33 being whose gestational age is greater than 15 weeks or whose fetal
34 heartbeat is detected, the physician shall cause to be filed with the
35 department of health, on a form supplied by the department, a report.

36 (a) The report shall contain the following:

37 (i) The date of the abortion;

38 (ii) The specific method of abortion used;

1 (iii) The probable gestational age of the unborn human being and
2 the method used to calculate the gestational age;

3 (iv) Whether a fetal heartbeat was detected and the method used
4 to determine whether the unborn human being had a detectable fetal
5 heartbeat;

6 (v) A statement declaring that the abortion was necessary to
7 preserve the life or physical health of the maternal patient;

8 (vi) Specific medical indications supporting the abortion; and

9 (vii) Probable health consequences of the abortion and specific
10 abortion method used.

11 (b) The report may not contain the name of the maternal patient
12 upon whom the abortion was performed or any other information or
13 identifiers that would make it possible to identify, in any manner or
14 any circumstances, a woman who sought to obtain an abortion.

15 (c) The department of health shall, within 30 days of the
16 effective date of this section, create the forms required by this
17 section. This subsection (2) does not apply until at least 10 days
18 after the requisite forms have been made available.

19 (3) The good faith judgment of a physician as to (~~viability of~~
20 ~~the fetus or as to the risk to life or health of a woman~~) the
21 gestational age of the unborn human being, the presence of a fetal
22 heartbeat, or the presence of a medical emergency or severe fetal
23 abnormality and the good faith judgment of a health care provider as
24 to the duration of pregnancy (~~shall be~~) is not a defense in any
25 proceeding in which a violation of this chapter is an issue, unless
26 all of the requirements of this section have been met.

27 (4) Determinations of gestational age under this section must be
28 made according to standard medical practices and techniques used in
29 the community. Determinations of fetal heartbeat must be made using a
30 test that is consistent with the physician's good faith and
31 reasonable understanding of standard medical practice and appropriate
32 for the estimated gestational age of the unborn human being and the
33 condition of the maternal patient and her pregnancy.

34 **Sec. 4.** RCW 9.02.140 and 1992 c 1 s 5 are each amended to read
35 as follows:

36 Any regulation promulgated by the state relating to abortion
37 shall be valid only if(~~÷~~

38 ~~(1) The regulation is medically necessary to protect the life or~~
39 ~~health of the woman terminating her pregnancy,~~

1 ~~(2) The regulation is consistent with established medical~~
2 ~~practice, and~~

3 ~~(3) Of the available alternatives, the regulation imposes the~~
4 ~~least restrictions on the woman's right to have an abortion as~~
5 ~~defined by RCW 9.02.100 through 9.02.170 and 9.02.900 through~~
6 ~~9.02.902) consistent with the requirements of this chapter.~~

7 **Sec. 5.** RCW 9.02.170 and 1992 c 1 s 8 are each amended to read
8 as follows:

9 For purposes of this chapter:

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

15 ~~(2))~~ "Fetal heartbeat" means cardiac activity or the steady and
16 repetitive rhythmic contraction of the fetal heart within the
17 gestational sac.

18 (2) "Gestational age" or "probable gestational age" means the age
19 of an unborn human being as calculated from the first day of the last
20 menstrual period of the pregnant woman.

21 (3) "Human being" means an individual member of the species *homo*
22 *sapiens*, from and after the point of conception.

23 (4) "Severe fetal abnormality" means a life-threatening physical
24 condition that, in reasonable medical judgment, regardless of the
25 provision of lifesaving medical treatment, is incompatible with life
26 outside the womb.

27 (5) "Medical emergency" means a condition in which, on the basis
28 of a physician's good faith clinical judgment, an abortion is
29 necessary to preserve the life of a pregnant woman whose life is
30 endangered by a physical disorder, physical illness, or physical
31 injury, including a life-endangering physical condition arising from
32 the pregnancy itself, or when the continuation of the pregnancy will
33 create a serious risk of substantial and irreversible impairment of a
34 major bodily function.

35 (6) "Major bodily function" includes, but is not limited to,
36 functions of the immune system, normal cell growth, and digestive,
37 bowel, bladder, neurological, brain, respiratory, circulatory,
38 endocrine, and reproductive functions.

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

4 ~~((3))~~ (8) "Pregnancy" means the reproductive process beginning
5 with the implantation of an embryo.

6 ~~((4))~~ (9) "Physician" means a physician licensed to practice
7 under chapter 18.57 or 18.71 RCW in the state of Washington.

8 ~~((5))~~ (10) "Health care provider" means a physician or a person
9 acting under the general direction of a physician.

10 ~~((6))~~ (11) "State" means the state of Washington and counties,
11 cities, towns, municipal corporations, and quasi-municipal
12 corporations in the state of Washington.

13 ~~((7))~~ (12) "Private medical facility" means any medical
14 facility that is not owned or operated by the state.

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

17 Nothing in this chapter shall be construed as creating or
18 recognizing a right to abortion or as altering generally accepted
19 medical standards. It is not the intent of this chapter to make
20 lawful an abortion that is otherwise unlawful. An abortion that
21 complies with this chapter, but violates any other state law, is
22 unlawful. An abortion that complies with another state law, but
23 violates this section, is unlawful.

24 NEW SECTION. **Sec. 7.** RCW 9.02.100 (Reproductive privacy—Public
25 policy) and 1992 c 1 s 1 are each repealed.

26 NEW SECTION. **Sec. 8.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of
32 the state government and its existing public institutions, and takes
33 effect immediately.

--- END ---