

2 **ESHB 2395** - S AMD - 912  
3 By Senator Swecker

4 OUT OF ORDER AFTER ADOPTION OF #827

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9.02 RCW  
8 to read as follows:

9 (1) "Partial-birth abortion" means the act of intentionally  
10 terminating the life of a fetus after the fetus or a portion of the  
11 fetus has entered the birth canal.

12 (2) It is a felony for a physician to perform a partial-birth  
13 abortion.

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

16 The sovereign people hereby declare that every individual possesses  
17 a fundamental right of privacy with respect to personal reproductive  
18 decisions.

19 Accordingly, it is the public policy of the state of Washington  
20 that:

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

23 (2) Every woman has the fundamental right to choose or refuse to  
24 have an abortion, except as specifically limited by RCW 9.02.100  
25 through 9.02.170 (~~and~~), 9.02.900 through 9.02.902, and section 1 of  
26 this act;

27 (3) Except as specifically permitted by RCW 9.02.100 through  
28 9.02.170 (~~and~~), 9.02.900 through 9.02.902, and section 1 of this act,  
29 the state shall not deny or interfere with a woman's fundamental right  
30 to choose or refuse to have an abortion; and

31 (4) Except as specifically permitted by RCW 9.02.100 through  
32 9.02.170, 9.02.900 through 9.02.902, and section 1 of this act, the  
33 state shall not discriminate against the exercise of these rights in  
34 the regulation or provision of benefits, facilities, services, or  
35 information.

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

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

6       (2) A woman's choice to have an abortion to terminate her pregnancy  
7 after the fetus has reached viability does not necessarily include a  
8 right to terminate the life of the viable fetus.

9       (3) If a physician determines that an abortion to terminate a  
10 pregnancy is necessary to protect the life or health of the mother,  
11 then every reasonable effort shall be made by the physician to protect  
12 and preserve the life of the viable fetus.

13       (4) A physician may terminate and a health care provider may assist  
14 a physician in terminating a pregnancy as permitted by this section.

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

17       The ~~((good faith))~~ reasonable judgment of a physician as to  
18 viability of the fetus ~~((or as to))~~, the risk to life or health of ~~((a~~  
19 ~~woman and the good faith judgment of a health care provider as to))~~ the  
20 mother, or the duration of pregnancy shall be a defense in any  
21 proceeding in which a violation of this chapter is an issue.

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

24       For purposes of this chapter:

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

30       (2) "Abortion" means the use or application of any ~~((medical~~  
31 ~~treatment))~~ instrument, drug, or other device or substance intended to  
32 induce the termination of a pregnancy except for the purpose of  
33 producing a live birth but does not necessarily mean the termination of  
34 the life of a viable fetus.

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

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

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

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

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

10 NEW SECTION. **Sec. 6.** The secretary of state shall submit this act  
11 to the people for their adoption and ratification, or rejection, at the  
12 next general election to be held in this state, in accordance with  
13 Article II, section 1 of the state Constitution and the laws adopted to  
14 facilitate its operation."

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18 On page 1, line 1 of the title, after "abortions;" strike the  
19 remainder of the title and insert "amending RCW 9.02.100, 9.02.110,  
20 9.02.130, and 9.02.170; adding a new section to chapter 9.02 RCW;  
21 prescribing penalties; and providing for submission of this act to a  
22 vote of the people."

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