
SENATE BILL 6612

State of Washington 64th Legislature 2016 Regular Session

By Senators Rivers, Padden, Miloscia, and Angel

Read first time 01/29/16. Referred to Committee on Law & Justice.

1 AN ACT Relating to sex-selection abortions; amending RCW
2 9.02.110; adding a new chapter to Title 9 RCW; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** TITLE. This chapter may be cited as the
6 "prenatal nondiscrimination act."

7 NEW SECTION. **Sec. 2.** LEGISLATIVE FINDINGS, INTENT. (1) The
8 legislature of the state of Washington finds that:

9 (a) A sex-selection abortion is used to prevent the birth of a
10 child of an undesired sex. The victims of sex-selection abortion are
11 overwhelmingly female.

12 (b) The United States, along with other countries, has petitioned
13 the United Nations General Assembly to declare sex-selection abortion
14 a crime against women.

15 (c) Countries such as India, Great Britain, and China have taken
16 steps to end sex-selection abortion. For example, China and India do
17 not allow doctors to reveal the sex of an unborn child.

18 (d) Women are a vital part of our society and culture and possess
19 the same fundamental human rights as men.

1 (e) The United States prohibits discrimination on the basis of
2 sex in various areas including employment, education, athletics, and
3 health insurance.

4 (f) It is undesirable to have a sex imbalance within a society,
5 particularly when there is a shortage of women. Countries with high
6 rates of male-preference have experienced ill effects as a result of
7 an increasing number of young, unmarried men.

8 (g) A large population of young, unmarried men can be a cause of
9 increased violence and militancy within a society.

10 (2) The legislature intends to ban abortions performed solely for
11 reasons of sex selection.

12 NEW SECTION. **Sec. 3.** DEFINITIONS. As used in this chapter only:

13 (1) "Abortion" means the act of using or prescribing any
14 instrument, medicine, drug, or any other substance, device, or means
15 with the intent to terminate the clinically diagnosable pregnancy of
16 a woman with knowledge that the termination by those means will with
17 reasonable likelihood cause the death of the unborn child. Such use,
18 prescription, or means is not an abortion if done with the intent to:

19 (a) Save the life or preserve the health of the unborn child;

20 (b) Remove a dead unborn child caused by spontaneous abortion; or

21 (c) Remove an ectopic pregnancy.

22 (2) "Incompetent" means any person who has been adjudged a
23 disabled person and has had a guardian appointed for him or her under
24 chapter 11.88 or 13.36 RCW.

25 (3) "Minor" means any person under the age of eighteen who is not
26 and has not been married and has not been legally emancipated.

27 (4) "Physician" means any person licensed to practice medicine in
28 this state. The term includes medical doctors and doctors or
29 osteopathy.

30 (5) "Pregnant woman" means any female, including a female who has
31 not reached the age of eighteen, who is in the reproductive condition
32 of having an unborn child in her uterus.

33 (6) "Sex-selection abortion" means an abortion performed solely
34 on account of the sex of the unborn child.

35 (7) "Unborn child" means the offspring of human beings from
36 conception until birth.

37 (8) "Viability" means the state of fetal development when, in the
38 judgment of the physician based on the particular facts of the case
39 before him or her and in light of the most advanced medical

1 technology and information available to him or her, there is a
2 reasonable likelihood of sustained survival of the unborn child
3 outside the body of his or her mother, with or without artificial
4 support.

5 NEW SECTION. **Sec. 4.** PROHIBITION ON SEX-SELECTION ABORTION. (1)
6 No person may intentionally perform or attempt to perform an abortion
7 with the knowledge that the pregnant woman is seeking the abortion
8 solely on account of the sex of the unborn child.

9 (2) Nothing in this section shall be construed to proscribe the
10 performance of an abortion because the unborn child has a genetic
11 abnormality or disorder that is linked to the unborn child's sex.

12 (3) If this section is held invalid as applied to the period of
13 pregnancy prior to viability, then it shall remain applicable to the
14 period of pregnancy subsequent to viability.

15 NEW SECTION. **Sec. 5.** CRIMINAL PENALTIES. Any physician or other
16 person who intentionally or knowingly performs or attempts to perform
17 an abortion prohibited by this chapter is guilty of a class C felony
18 punishable under chapter 9A.20 RCW.

19 NEW SECTION. **Sec. 6.** CIVIL PENALTIES AND PROFESSIONAL
20 SANCTIONS. (1) Any physician or person who intentionally or knowingly
21 violates this chapter is liable for damages and shall, if applicable,
22 have his or her medical license suspended or revoked. He or she may
23 also be enjoined from future acts prohibited by section 4 of this
24 act.

25 (2) A pregnant woman upon whom an abortion has been performed in
26 violation of this chapter, the parent or legal guardian of the woman
27 if she is an unemancipated minor under chapter 13.64 RCW, or the
28 legal guardian of the woman if she has been adjudged incompetent
29 under chapter 11.88 RCW may commence a civil action for any knowing,
30 intentional, or reckless violation of this chapter and may seek both
31 actual and punitive damages. Such damages shall include, but are not
32 limited to:

33 (a) Money damages for all psychological and physical injuries
34 occasioned by a violation or violations of this chapter; and

35 (b) Statutory damages equal to three times the cost of the
36 abortion performed in violation of this chapter.

1 (3) Any physician who performs an abortion in violation of this
2 chapter is considered to have engaged in unprofessional conduct for
3 which his or her license to provide health care services in the state
4 of Washington shall be suspended or revoked by the medical quality
5 assurance commission, chapter 18.71 RCW.

6 (4) A cause of action for injunctive relief against any physician
7 or other person who has knowingly violated this chapter may be
8 maintained by the woman upon whom the abortion was performed or
9 attempted to be performed in violation of this chapter; any person
10 who is the spouse, parent, guardian, or a current or former licensed
11 health care provider of the woman upon whom an abortion has been
12 performed or attempted to be performed in violation of this chapter;
13 or by the office of the attorney general of Washington. The
14 injunction shall prevent the physician or person from performing
15 further abortions in violation of this chapter.

16 (5) Any physician or other person who knowingly violates the
17 terms of an injunction issued in accordance with this chapter is
18 subject to contempt proceedings under chapter 7.21 RCW.

19 NEW SECTION. **Sec. 7.** EXCLUSION OF LIABILITY FOR A WOMAN WHO
20 UNDERGOES AN ABORTION PROHIBITED UNDER THIS CHAPTER. (1) Any woman
21 upon whom an abortion in violation of this chapter is performed or
22 attempted may not be prosecuted under this chapter for a conspiracy
23 to violate this chapter or otherwise held criminally or civilly
24 liable for any violation.

25 (2) In any criminal proceeding or action brought under this
26 chapter, any woman upon whom an abortion in violation of this chapter
27 is performed or attempted is entitled to all rights, protections, and
28 notifications afforded to crime victims under chapter 7.68 RCW.

29 (3) In every civil proceeding or action brought under this
30 chapter, the anonymity of the woman upon whom an abortion is
31 performed or attempted shall be preserved from public disclosure
32 unless she gives her consent to such disclosure. A court of competent
33 jurisdiction, upon motion or sua sponte, shall issue orders to the
34 parties, witnesses, and counsel and shall direct the sealing of the
35 record and exclusion of individuals from courtrooms or hearing rooms,
36 to the extent necessary to safeguard her identity from public
37 disclosure. In the absence of written consent of the woman upon whom
38 an abortion has been performed or attempted, anyone who initiates a

1 proceeding or action under section 6(2) or (4) of this act shall do
2 so under a pseudonym.

3 NEW SECTION. **Sec. 8.** CONSTRUCTION. (1) Nothing in this chapter
4 shall be construed as creating or recognizing a right to abortion.

5 (2) It is not the intention of this chapter to make lawful an
6 abortion that is currently unlawful.

7 NEW SECTION. **Sec. 9.** RIGHT OF INTERVENTION. The legislature, by
8 joint resolution, may appoint one or more of its members, who
9 sponsored or cosponsored this act in his or her official capacity, to
10 intervene as a matter of right in any case in which the
11 constitutionality of this law is challenged.

12 NEW SECTION. **Sec. 10.** SEVERABILITY. If any provision of this
13 act or its application to any person or circumstance is held invalid,
14 the remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 **Sec. 11.** RCW 9.02.110 and 1992 c 1 s 2 are each amended to read
17 as follows:

18 The state may not deny or interfere with a woman's right to
19 choose to have an abortion prior to viability of the fetus, except
20 when prohibited by chapter 9.--- RCW (the new chapter created in
21 section 12 of this act), or to protect her life or health.

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

24 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act
25 constitute a new chapter in Title 9 RCW.

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