S-3497.1

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**SENATE BILL 5766**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Randall, Trudeau, Billig, Cleveland, Das, Dhingra, Frockt, Hasegawa, Hunt, Kuderer, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Robinson, Saldaña, Salomon, Stanford, Van De Wege, and C. Wilson

AN ACT Relating to preserving a pregnant individual's ability to access abortion care; amending RCW 9.02.100, 9.02.110, 9.02.130, 9.02.140, 9.02.160, 9.02.170, and 9.02.120; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature affirms that:

(1) It is the longstanding public policy of this state to promote access to affordable, high quality sexual and reproductive health care, including abortion care, without unnecessary burdens or restrictions on patients or providers. In 1970 Washington was one of the first states to decriminalize abortion before Roe v. Wade; and in 1991 the people of Washington passed Initiative Measure 120, the reproductive privacy act, further protecting access to abortion services;

(2) It has been 30 years since the passage of the reproductive privacy act. It is time that we modernize and update the language to reflect current medical practice;

(3) In 2004 and 2019, respectively, Washington attorneys general Christine Gregoire and Robert W. Ferguson issued opinions clarifying that Washington state law allows certain qualified advanced practice clinicians to provide early in-clinic and medication abortion care and recommended that Washington statutes be updated to provide further clarity;

(4) Although the abortion rights movement has historically centered on women in our advocacy, that must no longer be the case and it is critical that we recognize that transgender, nonbinary, and gender expansive people also get pregnant and require abortion care. Washington's law should reflect the most inclusive understanding of who needs abortions and be updated with gender neutral language. All people deserve access to qualified providers in their community who can provide whatever method of abortion care works for them and no individual who chooses to manage their own abortion should fear arrest or prosecution because of their pregnancy decision or outcome; and

(5) All people deserve to make their own decisions about their pregnancies, including deciding to end a pregnancy. It is the public policy of the state of Washington to continue to protect and advance equal rights to access abortion care that meets each individual's needs, regardless of gender or gender identity, race, ethnicity, income level, or place of residence.

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

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

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

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

(2) Every ((~~woman~~)) pregnant individual has the fundamental right to choose or refuse to have an abortion, except as specifically limited by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902;

(3) Except as specifically permitted by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902, the state shall not deny or interfere with a ((~~woman's~~)) pregnant individual's fundamental right to choose or refuse to have an abortion; and

(4) The state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.

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

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

A physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice may terminate and a health care provider may assist a physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice in terminating a pregnancy as permitted by this section.

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

The good faith judgment of a physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice as to viability of the fetus or as to the risk to life or health of a ((~~woman~~)) pregnant individual and the good faith judgment of a health care provider as to the duration of pregnancy shall be a defense in any proceeding in which a violation of this chapter is an issue.

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

Any regulation promulgated by the state relating to abortion shall be valid only if:

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

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

(3) Of the available alternatives, the regulation imposes the least restrictions on the ((~~woman's~~)) pregnant individual's right to have an abortion as defined by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902.

**Sec.**  RCW 9.02.160 and 1992 c 1 s 7 are each amended to read as follows:

If the state provides, directly or by contract, maternity care benefits, services, or information ((~~to women~~)) through any program administered or funded in whole or in part by the state, the state shall also provide ((~~women~~)) pregnant individuals otherwise eligible for any such program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies.

**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, physician assistant, advanced 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 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.

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

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

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

((~~(6)~~)) (8) "State" means the state of Washington and counties, cities, towns, municipal corporations, and quasi-municipal corporations in the state of Washington.

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

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

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.

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