
HOUSE BILL 2859

State of Washington 52nd Legislature 1992 Regular Session
By Representatives Padden, Hargrove, Fuhrman, Hochstatter, Morton,
Chandler, Casada and Paris

Read first time 01/29/92. Referred to Committee on Health Care.

1 AN ACT Relating to protecting the lives and health of women,
2 children, and families; adding a new chapter to Title 70 RCW; creating
3 new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** This act is necessary for the immediate
6 preservation of the public peace, health, morals, or safety, or the
7 support of the state government and its existing public institutions,
8 and shall take effect immediately.

9 NEW SECTION. **Sec. 2.** This chapter shall be known and cited as
10 the consent and responsibility enactment (CARE).

1 NEW SECTION. **Sec. 3.** The people find that the following are
2 in the best interests of the women, children, and families of the state
3 of Washington:

4 (1) The state has a compelling interest in protecting the life and
5 health of all its citizens;

6 (2) Individuals have a fundamental right to ensure that the choices
7 they make for themselves or their children are fully informed, and that
8 they have information essential to protecting their health or the
9 health of their children;

10 (3) Parents have a fundamental right to direct the upbringing of
11 their minor children, and to ensure that the family structure is
12 fostered and preserved as an essential social unit; and

13 (4) Both individual physicians and the medical profession have a
14 fundamental responsibility to perpetuate and protect the lives and
15 health of their patients and to do them no harm.

16 This chapter is intended to protect the lives and health of the
17 women, children, and families by ensuring consent of the patient, the
18 patient's parent or parents if the patient is a minor child, or the
19 patient's legal guardian, and to establish responsibilities for the
20 physician and medical profession.

21 NEW SECTION. **Sec. 4.** An abortion may not be performed upon an
22 unemancipated minor unless she first has obtained the signed consent of
23 her parents, or that of her legal guardian.

24 If neither of the parents nor the legal guardian is available
25 within a reasonable time or manner, or cannot be located after a
26 reasonable effort has been made to locate the parents or guardian, or
27 the parties from whom consent must be obtained refuse to consent to the
28 performance of an abortion, then the unemancipated minor may petition

1 the superior court of the county in which she resides for a waiver of
2 the consent requirement of this section.

3 A notice shall be given to the minor, the parents, and the guardian
4 of the date, time, and place of the hearing on the petition, and the
5 minor, the parents, and the guardian shall be allowed to testify.
6 Court proceedings under this section shall be confidential and shall be
7 given such precedence over other pending matters as is necessary to
8 ensure that the court may reach a decision promptly, but in no case may
9 the court fail to rule within seven court days from the time of
10 application.

11 A court that conducts proceedings under this section shall issue
12 written and specific findings of fact and conclusions of law supporting
13 its decision and shall order that a confidential record of the evidence
14 be maintained.

15 An expedited confidential appeal shall be available to the minor,
16 the parents and the guardian, but in no case may the court of appeals
17 fail to rule within seven court days from the time that notice of
18 appeal has been filed.

19 NEW SECTION. **Sec. 5.** A physician shall not perform an
20 abortion unless, before such performance, the physician and the patient
21 or the patient's parent or parents if the patient is an unemancipated
22 minor child or the patient's legal guardian, certify in writing that:
23 The patient was provided the language of this section in a manner that
24 was not biased or misleading and that was understood by the patient;
25 and that she is voluntarily giving her informed consent after receiving
26 the information described in subsections (1) through (7) of this
27 section; or that she is voluntarily waiving her right to receive any or
28 some of the information described in subsections (1) through (7) of
29 this section.

1 Information that a patient has a right to receive includes the
2 following:

3 (1) That according to the best medical judgment of the physician
4 the patient is or is not pregnant, and the approximate age of the
5 unborn child considering the number of weeks elapsed from the probable
6 time of the conception of the unborn child, based upon the information
7 provided by the client as to the time of her last menstrual period, her
8 medical history, a physical examination, or appropriate laboratory
9 tests;

10 (2) The general anatomical and physiological characteristics of the
11 unborn child or of an unborn child at the stage of development
12 approximately equal to that of the patient's, including distinct
13 photographs of the actual unborn child or of an actual unborn child at
14 a stage of development approximately equal to that of the patient's;

15 (3) The particular risks to the patient associated with pregnancy
16 and childbirth;

17 (4) The particular immediate and long-term physical, emotional, and
18 psychological dangers to the patient associated with the abortion;

19 (5) A description of the abortion technique or procedure to be used
20 and its consequences, and the particular risks to the patient
21 associated with the abortion technique or procedure to be used;

22 (6) Alternatives to abortion such as childbirth and adoption and
23 information concerning public and private agencies that will assist in
24 those alternatives; and

25 (7) In addition, the physician shall answer any questions or
26 concerns of the patient, including those regarding her health, the
27 unborn child, or the abortion technique or procedure, or may inform her
28 of any other material facts or opinions, or may provide any explanation
29 of the above information that, in the best medical judgment of the
30 physician, is reasonably necessary to allow the patient to give her

1 voluntary informed consent to the proposed abortion with full knowledge
2 of its nature and consequences.

3 An abortion may not be performed until after twenty-four hours from
4 the time the information has been received or waived and the
5 certification in writing has been completed.

6 NEW SECTION. **Sec. 6.** (1) Only a person licensed under chapter
7 18.57 or 18.71 RCW may perform or attempt to perform an abortion.

8 (2) An abortion may be performed only in a hospital accredited by
9 the joint commission on accreditation of hospitals, or at a medical
10 facility approved for that purpose by the state board of health, which
11 facility meets standards prescribed by regulations issued for an
12 ambulatory surgical center for the safe and adequate care and treatment
13 of patients.

14 (3) To develop statistical data relating to the protection of the
15 lives and health of children and women, a report shall be certified and
16 filed with the department of health by the physician who performed the
17 abortion no later than ten days following the day on which the abortion
18 was performed. The report shall indicate the type of abortion
19 performed, the facility where the abortion occurred, the age of the
20 patient and the unborn child, the reason for the abortion, if consent
21 was obtained in accordance with the requirements of sections 4 and 5 of
22 this act or, if not so obtained, shall indicate if a waiver was
23 obtained or the medical indications on which the physician's judgment
24 was based that a medical emergency existed. The report shall be
25 transmitted to the department no later than ten days following the end
26 of the month in which the abortion is performed. The report forms
27 shall not identify a patient by name but by an individual number to be
28 noted in the patient's permanent record in the possession of the
29 physician.

1 The department shall report annually to the legislature all
2 statistical data gathered under this chapter and shall report any
3 recommendations that it has to further the purposes of this chapter.

4 NEW SECTION. **Sec. 7.** The requirements of sections 4, 5, and
5 6(2) of this act do not apply if the physician determines that a
6 medical emergency exists that so complicates the pregnancy as to
7 require an immediate abortion to preserve the life of the patient or
8 unborn child.

9 NEW SECTION. **Sec. 8.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the chapter or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 9.** The provisions of this act are to be
14 liberally construed to effectuate the policies and purposes of this
15 chapter. In the event of conflict between this chapter and any other
16 provision of law, the provisions of this chapter shall govern.

17 NEW SECTION. **Sec. 10.** Sections 2 through 7 of this act shall
18 constitute a new chapter in Title 70 RCW.