

EHB 1851 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED 03/01/2022

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature affirms that:

4 (1) It is the longstanding public policy of this state to promote
5 access to affordable, high quality sexual and reproductive health
6 care, including abortion care, without unnecessary burdens or
7 restrictions on patients or providers. In 1970 Washington was one of
8 the first states to decriminalize abortion before Roe v. Wade; and in
9 1991 the people of Washington passed Initiative Measure 120, the
10 reproductive privacy act, further protecting access to abortion
11 services;

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

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

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

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

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

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

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

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

16 (2) Every ((~~woman~~)) pregnant individual has the fundamental right
17 to choose or refuse to have an abortion, except as specifically
18 limited by RCW 9.02.100 through 9.02.170 and 9.02.900 through
19 9.02.902;

20 (3) Except as specifically permitted by RCW 9.02.100 through
21 9.02.170 and 9.02.900 through 9.02.902, the state shall not deny or
22 interfere with a ((~~woman's~~)) pregnant individual's fundamental right
23 to choose or refuse to have an abortion; and

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

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

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

33 A physician, physician assistant, advanced registered nurse
34 practitioner, or other health care provider acting within the
35 provider's scope of practice may terminate and a health care provider
36 may assist a physician, physician assistant, advanced registered
37 nurse practitioner, or other health care provider acting within the

1 provider's scope of practice in terminating a pregnancy as permitted
2 by this section.

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

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

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

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

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

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

21 (3) Of the available alternatives, the regulation imposes the
22 least restrictions on the ((woman's)) pregnant individual's right to
23 have an abortion as defined by RCW 9.02.100 through 9.02.170 and
24 9.02.900 through 9.02.902.

25 **Sec. 6.** RCW 9.02.160 and 1992 c 1 s 7 are each amended to read
26 as follows:

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

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

36 For purposes of this chapter:

1 (1) "Viability" means the point in the pregnancy when, in the
2 judgment of the physician, physician assistant, advanced registered
3 nurse practitioner, or other health care provider acting within the
4 provider's scope of practice on the particular facts of the case
5 before such physician, physician assistant, advanced registered nurse
6 practitioner, or other health care provider acting within the
7 provider's scope of practice, there is a reasonable likelihood of the
8 fetus's sustained survival outside the uterus without the application
9 of extraordinary medical measures.

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

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

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

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

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

21 (7) "Health care provider" means a ((physician or a)) person
22 ((acting under the general direction of a physician)) regulated under
23 Title 18 RCW to practice health or health-related services or
24 otherwise practicing health care services in this state consistent
25 with state law.

26 ~~((6))~~ (8) "State" means the state of Washington and counties,
27 cities, towns, municipal corporations, and quasi-municipal
28 corporations in the state of Washington.

29 ~~((7))~~ (9) "Private medical facility" means any medical facility
30 that is not owned or operated by the state.

31 **Sec. 8.** RCW 9.02.120 and 1992 c 1 s 3 are each amended to read
32 as follows:

33 Unless authorized by RCW 9.02.110, any person who performs an
34 abortion on another person shall be guilty of a class C felony
35 punishable under chapter 9A.20 RCW. The state shall not penalize,
36 prosecute, or otherwise take adverse action against an individual
37 based on their actual, potential, perceived, or alleged pregnancy
38 outcomes. Nor shall the state penalize, prosecute, or otherwise take
39 adverse action against someone for aiding or assisting a pregnant

1 individual in exercising their right to reproductive freedom with
2 their voluntary consent."

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3 On page 1, line 2 of the title, after "care;" strike the
4 remainder of the title and insert "amending RCW 9.02.100, 9.02.110,
5 9.02.130, 9.02.140, 9.02.160, 9.02.170, and 9.02.120; and creating a
6 new section."

EFFECT: Modifies language in the bill by removing gender-specific terms.

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