

SENATE BILL REPORT

SJR 8202

As of January 23, 2023

Brief Description: Amending the Constitution to address reproductive freedom.

Sponsors: Senators Keiser, Kuderer, Conway, Dhingra, Frame, Hasegawa, Hunt, Lias, Nguyen, Pedersen, Rolfes, Salomon, Stanford, Valdez, Van De Wege and Wilson, C.; by request of Office of the Governor.

Brief History:

Committee Activity: Health & Long Term Care: 1/24/23.

Brief Summary of Bill

- Amends the State Constitution to provide that the state shall not deny or interfere with an individual's reproductive freedom decisions including the fundamental right to choose to have an abortion and the fundamental right to choose to use contraception.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Julie Tran (786-7283)

Background: Amending the State Constitution. The State Constitution provides a method for the adoption of amendments. To amend the Constitution, a joint resolution must be passed by a two-thirds majority of both houses of the Legislature. To be enacted, the proposed amendment must be placed on the next general election ballot and must be approved by a simple majority of the voters.

The Constitution provides requirements for two methods of publicity for proposed constitutional amendments. The first is a requirement that the Secretary of State send a copy of the proposed amendment, with arguments for and against the proposal, to every residence in the state. The second is a requirement that notice of the proposed amendment be published in every legal newspaper in the state at least four times during the four weeks

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preceding the election.

Current Status of Abortion Rights Under State Law. In 1991, Washington State voters approved Initiative 120, also known as the Reproductive Privacy Act. Initiative 120 declared that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

The 1991 law prohibits the state from interfering with a pregnant individual's right to choose to have an abortion prior to viability, or to have an abortion to protect a pregnant individual's life or health. Physicians, physician assistants, advanced registered nurse practitioners, or other health care providers acting within their scope of practice are authorized to terminate a pregnancy in these circumstances, and health care providers may assist in the procedure. For these purposes, a health care provider is a person licensed to practice health or health-related services or otherwise practicing health care services in the state consistent with state law. The following defenses are provided in any proceeding alleging violations of these provisions:

- the physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within their scope of practice exercised good faith in judgment as to the viability of the fetus or as to the risk to the life or health of the pregnant individual; or
- the health care provider exercised good faith judgment as to the duration of the pregnancy.

Unless authorized by these provisions, any person who performs an abortion on another person is guilty of an unranked class C felony. The state is prohibited from penalizing, prosecuting, or otherwise taking adverse action against an individual based on the individual's actual, potential, perceived, or alleged pregnancy outcomes or against an individual for aiding or assisting a pregnant individual in exercising the pregnant individual's right to reproductive freedom with the individual's voluntary consent.

Summary of Bill: A constitutional amendment is placed on the ballot of the next general election asking voters to approve or reject a new article to the Washington State Constitution providing that the state must not deny or interfere with an individual's reproductive freedom decisions and specifying that an individual has a fundamental right to have an abortion and a fundamental right to choose to use contraception.

The amendment is intended to expressly set forth the existing constitutional right to make reproductive freedom decisions for oneself included in a person's liberty, privacy, and equal protection rights as guaranteed in the State Constitution and that nothing in this amendment narrows or limits the rights to liberty, privacy, or equal protection under the law.

The Secretary of State must publish notice of the amendment at least four times during the four weeks preceding the election in every legal newspaper in the state.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.