
SENATE BILL 5227

State of Washington

68th Legislature

2023 Regular Session

By Senator Short

Read first time 01/10/23. Referred to Committee on Health & Long Term Care.

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.** SHORT TITLE. This chapter may be cited as
6 the "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 an individual with knowledge that the termination by those means will
17 with reasonable likelihood cause the death of the unborn child. Such
18 use, prescription, or means is not an abortion if done with the
19 intent to:

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

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

22 (c) Remove an ectopic pregnancy.

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

25 (3) "Incompetent" means any person who has been adjudged a
26 disabled person and has had a guardian appointed for him or her under
27 chapter 11.130 or 13.36 RCW.

28 (4) "Minor" means any person under the age of 18 who is not and
29 has not been married and has not been legally emancipated.

30 (5) "Physician" means any person licensed to practice medicine in
31 this state. The term includes medical doctors and doctors of
32 osteopathy.

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

35 (7) "Pregnant individual" means any individual, including an
36 individual who has not reached the age of 18, who is in the
37 reproductive condition of having an unborn child in their uterus.

38 (8) "Sex-selection abortion" means an abortion performed solely
39 on account of the sex of the unborn child.

1 (9) "Unborn child" means the offspring of human beings from
2 conception until birth.

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

12 NEW SECTION. **Sec. 4.** PROHIBITION ON SEX-SELECTION ABORTION. (1)
13 No person may intentionally perform or attempt to perform an abortion
14 with the knowledge that the pregnant individual is seeking the
15 abortion solely on account of the sex of the unborn child.

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

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

22 NEW SECTION. **Sec. 5.** CRIMINAL PENALTIES. Any physician,
23 physician assistant, advanced registered nurse practitioner, other
24 health care provider, or person who intentionally or knowingly
25 performs or attempts to perform an abortion prohibited by this
26 chapter is guilty of a class C felony punishable under chapter 9A.20
27 RCW.

28 NEW SECTION. **Sec. 6.** CIVIL PENALTIES AND PROFESSIONAL
29 SANCTIONS. (1) Any physician, physician assistant, advanced
30 registered nurse practitioner, other health care provider, or person
31 who intentionally or knowingly violates this chapter is liable for
32 damages and shall, if applicable, have their medical license
33 suspended or revoked. They may also be enjoined from future acts
34 prohibited by section 4 of this act.

35 (2) A pregnant individual upon whom an abortion has been
36 performed in violation of this chapter, the parent or legal guardian
37 of the individual if they are an unemancipated minor under chapter

1 13.64 RCW, or the legal guardian of the individual if the individual
2 is subject to guardianship under chapter 11.130 RCW may commence a
3 civil action for any knowing, intentional, or reckless violation of
4 this chapter and may seek both actual and punitive damages. Such
5 damages shall include, but are not limited to:

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

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

10 (3) Any physician, physician assistant, advanced registered nurse
11 practitioner, or other health care provider who performs an abortion
12 in violation of this chapter is considered to have engaged in
13 unprofessional conduct for which their license to provide health care
14 services in the state of Washington shall be suspended or revoked by
15 the medical commission, chapter 18.71 RCW.

16 (4) A cause of action for injunctive relief against any
17 physician, physician assistant, advanced registered nurse
18 practitioner, other health care provider, or person who has knowingly
19 violated this chapter may be maintained by the individual upon whom
20 the abortion was performed or attempted to be performed in violation
21 of this chapter; any person who is the spouse, parent, guardian, or a
22 current or former licensed health care provider of the individual
23 upon whom an abortion has been performed or attempted to be performed
24 in violation of this chapter; or by the office of the attorney
25 general of Washington. The injunction shall prevent the physician or
26 person from performing further abortions in violation of this
27 chapter.

28 (5) Any physician, physician assistant, advanced registered nurse
29 practitioner, other health care provider, or person who knowingly
30 violates the terms of an injunction issued in accordance with this
31 chapter is subject to contempt proceedings under chapter 7.21 RCW.

32 NEW SECTION. **Sec. 7.** EXCLUSION OF LIABILITY FOR AN INDIVIDUAL
33 WHO UNDERGOES AN ABORTION PROHIBITED UNDER THIS CHAPTER. (1) Any
34 individual upon whom an abortion in violation of this chapter is
35 performed or attempted may not be prosecuted under this chapter for a
36 conspiracy to violate this chapter or otherwise held criminally or
37 civilly liable for any violation.

38 (2) In any criminal proceeding or action brought under this
39 chapter, any individual upon whom an abortion in violation of this

1 chapter is performed or attempted is entitled to all rights,
2 protections, and notifications afforded to crime victims under
3 chapter 7.68 RCW.

4 (3) In every civil proceeding or action brought under this
5 chapter, the anonymity of the individual upon whom an abortion is
6 performed or attempted shall be preserved from public disclosure
7 unless consent is given to such disclosure. A court of competent
8 jurisdiction, upon motion or sua sponte, shall issue orders to the
9 parties, witnesses, and counsel and shall direct the sealing of the
10 record and exclusion of individuals from courtrooms or hearing rooms,
11 to the extent necessary to safeguard the identity from public
12 disclosure. In the absence of written consent of the individual upon
13 whom an abortion has been performed or attempted, anyone who
14 initiates a proceeding or action under section 6 (2) or (4) of this
15 act shall do so under a pseudonym.

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

18 (2) It is not the intent of this chapter to make lawful an
19 abortion that is currently unlawful.

20 NEW SECTION. **Sec. 9.** RIGHT OF INTERVENTION. The legislature, by
21 joint resolution, may appoint one or more of its members, who
22 sponsored or cosponsored this act in their official capacity, to
23 intervene as a matter of right in any case in which the
24 constitutionality of this act is challenged.

25 NEW SECTION. **Sec. 10.** SEVERABILITY. If any provision of this
26 act or its application to any person or circumstance is held invalid,
27 the remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 **Sec. 11.** RCW 9.02.110 and 2022 c 65 s 3 are each amended to read
30 as follows:

31 The state may not deny or interfere with ((a—pregnant)) an
32 individual's right to choose to have an abortion prior to viability
33 of the fetus, except when prohibited by chapter 9.--- RCW (the new
34 chapter created in section 12 of this act), or to protect ((the
35 pregnant individual's)) their life or health.

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

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

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