

**Chapter 9.02 RCW
ABORTION**

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Advertising or selling means of abortion: RCW 9.68.030.

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Right to medical treatment of infant born alive in the course of an abortion procedure: RCW 18.71.240.

RCW 9.02.005 Transfer of duties to the department of health.

The powers and duties of the state board of health under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 202; 1985 c 213 § 3.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Savings—Effective date—1985 c 213: See notes following RCW 43.20.050.

RCW 9.02.050 Concealing birth. Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a gross misdemeanor. [1909 c 249 § 200; RRS § 2452.]

RCW 9.02.100 Reproductive privacy—Public policy. 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 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 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. [2022 c 65 § 2; 1992 c 1 § 1 (Initiative Measure No. 120, approved November 5, 1991).]

Legislative affirmation—2022 c 65: "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." [2022 c 65 § 1.]

RCW 9.02.110 Right to have and provide. The state may not deny or interfere with a pregnant individual's right to choose to have an abortion prior to viability of the fetus, or to protect 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. [2022 c 65 § 3; 1992 c 1 § 2 (Initiative Measure No. 120, approved November 5, 1991).]

Legislative affirmation—2022 c 65: See note following RCW 9.02.100.

RCW 9.02.120 Unauthorized abortions—Penalty. 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. [2022 c 65 § 8; 1992 c 1 § 3 (Initiative Measure No. 120, approved November 5, 1991).]

Legislative affirmation—2022 c 65: See note following RCW 9.02.100.

RCW 9.02.130 Defenses to prosecution. 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 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. [2022 c 65 § 4; 1992 c 1 § 4 (Initiative Measure No. 120, approved November 5, 1991).]

Legislative affirmation—2022 c 65: See note following RCW 9.02.100.

RCW 9.02.140 State regulation. 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 pregnant individual who is terminating 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 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. [2022 c 65 § 5; 1992 c 1 § 5 (Initiative Measure No. 120, approved November 5, 1991).]

Legislative affirmation—2022 c 65: See note following RCW 9.02.100.

RCW 9.02.150 Refusing to perform. No person or private medical facility may be required by law or contract in any circumstances to participate in the performance of an abortion if such person or private medical facility objects to so doing. No person may be discriminated against in employment or professional privileges because of the person's participation or refusal to participate in the

termination of a pregnancy. [1992 c 1 § 6 (Initiative Measure No. 120, approved November 5, 1991).]

RCW 9.02.160 State-provided benefits. If the state provides, directly or by contract, maternity care benefits, services, or information through any program administered or funded in whole or in part by the state, the state shall also provide pregnant individuals otherwise eligible for any such program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies. [2022 c 65 § 6; 1992 c 1 § 7 (Initiative Measure No. 120, approved November 5, 1991).]

Legislative affirmation—2022 c 65: See note following RCW 9.02.100.

RCW 9.02.170 Definitions. For purposes of this chapter:

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

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

(3) "Health care provider" means a person 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.

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

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

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

(9) "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. [2022 c 65 § 7; 1992 c 1 § 8 (Initiative Measure No. 120, approved November 5, 1991).]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Legislative affirmation—2022 c 65: See note following RCW 9.02.100.

RCW 9.02.900 Construction—1992 c 1 (Initiative Measure No. 120). RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902 shall not be construed to define the state's interest in the fetus for any purpose other than the specific provisions of RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902. [1992 c 1 § 10 (Initiative Measure No. 120, approved November 5, 1991).]

RCW 9.02.902 Short title—1992 c 1 (Initiative Measure No. 120). RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902 shall be known and may be cited as the Reproductive Privacy Act. [1992 c 1 § 12 (Initiative Measure No. 120, approved November 5, 1991).]