

INITIATIVE 120

to the Washington State Legislature

Chapter 1, Laws of 1992

REPRODUCTIVE PRIVACY ACT

EFFECTIVE DATE: 12/24/91

Approved by the
People of the State of Washington
in the General Election on
November 5, 1991

ORIGINALLY FILED

April 2, 1990

**Secretary of State
State of Washington**

INITIATIVE 120

State of Washington 52nd Legislature 1991 Regular Session

By the People of the State of Washington.

Read first time January 18, 1991. Referred to Committee on Health Care.

1 AN ACT Relating to reproductive privacy; adding new sections to
2 chapter 9.02 RCW; repealing RCW 9.02.010, 9.02.020, 9.02.030, 9.02.040,
3 9.02.060, 9.02.070, 9.02.080, and 9.02.090; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The sovereign people hereby declare that
6 every individual possesses a fundamental right of privacy with respect
7 to personal reproductive decisions.

8 Accordingly, it is the public policy of the state of Washington
9 that:

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

12 (2) Every woman has the fundamental right to choose or refuse to
13 have an abortion, except as specifically limited by this act;

1 (3) Except as specifically permitted by this act, the state shall
2 not deny or interfere with a woman's fundamental right to choose or
3 refuse to have an abortion; and

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

7 NEW SECTION. **Sec. 2.** The state may not deny or interfere with
8 a woman's right to choose to have an abortion prior to viability of the
9 fetus, or to protect her life or health.

10 A physician may terminate and a health care provider may assist a
11 physician in terminating a pregnancy as permitted by this section.

12 NEW SECTION. **Sec. 3.** Unless authorized by section 2 of this
13 act, any person who performs an abortion on another person shall be
14 guilty of a class C felony punishable under chapter 9A.20 RCW.

15 NEW SECTION. **Sec. 4.** The good faith judgment of a physician
16 as to viability of the fetus or as to the risk to life or health of a
17 woman and the good faith judgment of a health care provider as to the
18 duration of pregnancy shall be a defense in any proceeding in which a
19 violation of this chapter is an issue.

20 NEW SECTION. **Sec. 5.** Any regulation promulgated by the state
21 relating to abortion shall be valid only if:

22 (1) The regulation is medically necessary to protect the life or
23 health of the woman terminating her pregnancy,

24 (2) The regulation is consistent with established medical practice,
25 and

1 (3) Of the available alternatives, the regulation imposes the least
2 restrictions on the woman's right to have an abortion as defined by
3 this act.

4 NEW SECTION. **Sec. 6.** No person or private medical facility
5 may be required by law or contract in any circumstances to participate
6 in the performance of an abortion if such person or private medical
7 facility objects to so doing. No person may be discriminated against
8 in employment or professional privileges because of the person's
9 participation or refusal to participate in the termination of a
10 pregnancy.

11 NEW SECTION. **Sec. 7.** If the state provides, directly or by
12 contract, maternity care benefits, services, or information to women
13 through any program administered or funded in whole or in part by the
14 state, the state shall also provide women otherwise eligible for any
15 such program with substantially equivalent benefits, services, or
16 information to permit them to voluntarily terminate their pregnancies.

17 NEW SECTION. **Sec. 8.** For purposes of this chapter:

18 (1) "Viability" means the point in the pregnancy when, in the
19 judgment of the physician on the particular facts of the case before
20 such physician, there is a reasonable likelihood of the fetus's
21 sustained survival outside the uterus without the application of
22 extraordinary medical measures.

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

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

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

3 (5) "Health care provider" means a physician or a person acting
4 under the general direction of a physician.

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

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

10 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
11 repealed:

12 (1) RCW 9.02.010 and 1909 c 249 s 196, Code of 1881 s 821, 1873 p
13 188 s 42, 1869 p 209 s 40, & 1854 p 81 s 38;

14 (2) RCW 9.02.020 and 1909 c 249 s 197;

15 (3) RCW 9.02.030 and 1909 c 249 s 198;

16 (4) RCW 9.02.040 and 1909 c 249 s 199;

17 (5) RCW 9.02.060 and 1970 ex.s. c 3 s 1;

18 (6) RCW 9.02.070 and 1970 ex.s. c 3 s 2;

19 (7) RCW 9.02.080 and 1970 ex.s. c 3 s 3; and

20 (8) RCW 9.02.090 and 1970 ex.s. c 3 s 5.

21 NEW SECTION. **Sec. 10.** This act shall not be construed to
22 define the state's interest in the fetus for any purpose other than the
23 specific provisions of this act.

24 NEW SECTION. **Sec. 11.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 12.** This act shall be known and may be cited
2 as the Reproductive Privacy Act.

3 NEW SECTION. **Sec. 13.** Sections 1 through 8 and 10 through 12
4 of this act are each added to chapter 9.02 RCW.