

ABORTION

When may an abortion be performed?

Under Washington law, every woman has the fundamental right to choose¹ or refuse to have an abortion.²

An abortion may only be performed prior to the viability of the fetus or to protect the woman's life or health.³ "Viability" means the point in the pregnancy when there is a reasonable likelihood that the fetus would survive outside the uterus without the application of extraordinary medical measures.⁴

The good faith judgment of a physician as to the viability of the fetus, as to the risk to the life or health of the woman, or as to the duration of a pregnancy, is a defense in any proceeding against the physician in which violation of Washington's abortion law is in issue.⁵

Who may perform an abortion?

Only a physician⁶ may perform an abortion, but any health care provider may assist the physician. For anyone else to do so or for a doctor to do so contrary to the provisions of the law is a felony, punishable by up to five years in jail⁷.

May a physician refuse to participate in the performance of an abortion?

Yes⁸. No person, including a physician, can be required to participate in the performance of an abortion. State law gives health providers the right to refuse⁹ to perform abortions on moral and ethical grounds. No person may be discriminated against in employment or professional privilege for participating or refusing to participate in performing an abortion.

Are there waiting periods before an abortion may be performed?

No¹⁰. There are no set waiting periods in Washington law.

Must care be given to an infant born alive?

Yes¹¹. A physician must treat an infant born alive in the course of an abortion procedure.

¹ All medical procedures require the informed consent of the patient, including abortion. *See* RCW 7.70.050 (2012).

² RCW 9.02.110 (2012)..

³ RCW 9.02.110.

⁴ RCW 9.020170(1).

⁵ RCW 9.02.130.

⁶ RCW 9.02.110 (2012); RCW 9.02.170 (2012).

⁷ RCW 9.02.120 (2012); RCW 9A.20.021 (2012).

⁸ RCW 9.02.150 (2012) provides for the right to refuse to perform an abortion.

⁹ RCW 9.02.150 (2012).

¹⁰ Guttmacher Institute; About <http://www.guttmacher.org/about/index.html>; Washington data <http://www.guttmacher.org/pubs/sfaa/washington.html>

May an abortion be performed on a minor?

Yes. An abortion may be performed on a pregnant woman under the age of 18.

Is parental notification or parental consent required for an abortion on a minor?

Generally, no. Washington law does not specifically impose a requirement of parental notification or parental consent before an abortion may be performed on a competent or emancipated minor. A Washington statute which conditioned the right of an unmarried minor to obtain an abortion on parental consent was held unconstitutional¹². Before performing an abortion on a minor without parental notification or parental consent, however, care should be taken to assure that the minor is competent to provide meaningful and informed consent. Among the factors to be considered in determining a minor's competence are the minor's age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult, and freedom from parental control.

May an abortion be performed on a minor against the minor's will?

Generally, no.¹³ An abortion cannot be performed on a minor against the minor's will unless it is pursuant to a court order to preserve the life or health of the minor.

May a husband or spouse prevent a woman from receiving an abortion?

No¹⁴. A husband cannot prevent a wife from having an abortion in Washington.

Are there any reporting requirements for abortions?

Yes¹⁵. Each hospital and facility where lawfully induced abortions are performed must complete a report form each month for the Department of Health which specifies the number and dates of abortions performed during the previous month. For each such abortion, the following information must also be reported:

- The age of the patient.
- The geographic location of the patient's residence.
- The patient's previous pregnancy history.
- The duration of the pregnancy.
- The method of abortion.
- Any complications, such as perforations, infections, and incomplete evacuations.

¹¹ RCW 18.71.240 (2012) provides for the right to treatment of infant born alive.

¹² *State v. Koome*; 82 Wn.2d 816, 514 P.2d 520 (1975); Statute requiring parental consent for abortion was unconstitutional. There are no subsequent adverse rulings.

¹³ *State v. Koome*, 82 Wn.2d 816, 903 (quoting *Roe v. Wade*); 904

¹⁴ Guttmacher Institute; About <http://www.guttmacher.org/about/index.html>; Washington data <http://www.guttmacher.org/pubs/sfaa/washington.html>

¹⁵ WAC 246-490-100 (2012) details the reporting requirements of for terminations of pregnancy.

- The name of physician(s) performing or participating in the abortion.
- Such other information as may be required by the department.

A physician who performs an abortion in a nonapproved facility based on a determination that an abortion was immediately necessary to meet a medical emergency must report the information listed above and must also provide a clear and detailed statement of the facts which led to the conclusion that a medical emergency existed.

Does the state provide benefits¹⁶ for abortion?

Yes¹⁷. If the state provides maternity care benefits, services or information to women through any program funded to some degree by the state, then the state will provide equivalent benefits, information or services related to voluntary termination of pregnancy to those women that would have otherwise been eligible for the maternity care programs.

¹⁶ WAC 182-532-120 (2012) details those reproductive health services that are “covered” by the Department of Social and Health Services.

¹⁷ RCW 9.02.160 (2012) : State-provided benefits for abortions services available if the state provides, directly or by contract, maternity care benefits, services, or information to women through any program funded by the state.