

1 **H. B. 2098**

2
3 (By Delegate Duke)

4 [Introduced January 12, 2011; referred to the
5 Committee on Health and Human Resources then the
6 Judiciary.]
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10 A BILL to amend and reenact §33-42-3 of the Code of West Virginia,
11 1931, as amended, relating to the definition of "born" and
12 providing that when any body part of an unborn child is
13 outside the mother's womb, the child is born and is considered
14 a citizen of the state with the same rights and privileges
15 under the law as any other citizen.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §33-42-3 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 42. WOMEN'S ACCESS TO HEALTH CARE ACT.**

20 **§33-42-3. Definitions.**

21 For purposes of this article:

22 (1) "Advanced nurse practitioner" means a certified nurse-
23 midwife or an advanced nurse practitioner certified to practice in

1 family practice, women's health (ob/gyn), or primary care adult,
2 geriatric or pediatric practice, practicing within the lawful scope
3 of that provider's practice.

4 (2) "Born" means that once any body part of a child is outside
5 the mother's womb, the child is considered born and is protected
6 under the laws as a citizen of West Virginia with full rights and
7 privileges of citizenship.

8 ~~(2)~~ (3) "Health benefits policy" means ~~any~~ an individual or
9 group plan, policy or contract for health care services issued,
10 delivered, issued for delivery or renewed in this state by a health
11 care corporation, health maintenance organization, accident and
12 sickness insurer, fraternal benefit society, nonprofit hospital
13 service corporation, nonprofit medical service corporation or
14 similar entity, when the policy or plan covers hospital, medical or
15 surgical expenses.

16 ~~(3)~~ (4) "Partial-birth abortion" means an abortion in which
17 the person performing the abortion partially vaginally delivers a
18 living fetus before killing the fetus and completing the delivery.

19 ~~(4)~~ (5) "Physician performing a partial-birth abortion" means
20 a doctor of medicine or osteopathy legally authorized to practice
21 medicine and surgery in West Virginia or any other individual who
22 is legally authorized by the state to perform abortions. ~~Provided,~~
23 ~~That~~ Any individual who is not a physician or not otherwise legally
24 authorized by the state to perform abortions but who nevertheless

1 directly performs a "partial-birth abortion" is subject to the
2 provisions of this article.

3 ~~(5)~~ (6) "Vaginally delivers a living fetus before killing the
4 fetus" means ~~deliberately and~~ intentionally delivering into the
5 vagina a living fetus, or a substantial portion thereof, for the
6 purpose of performing a procedure that the physician or person
7 delivering the living fetus knows will kill the fetus and ~~kills~~
8 does kill the fetus.

9 ~~(6)~~ (7) "Women's health care provider" means an obstetrician/
10 gynecologist, advanced nurse practitioner certified to practice in
11 women's health (ob/gyn), certified nurse-midwife or physician
12 assistant-midwife practicing within the lawful scope of that
13 provider's practice.

NOTE: The purpose of this bill is to provide that when any
body part of an unborn child is outside the mother's womb, the
child is born and is considered a citizen of the state with same
rights and privileges under the law as any other citizen.

Strike-throughs indicate language that would be stricken from
the present law and underscoring indicates new language that would
be added.