

H. B. 2326

(By Delegate J. Miller)  
[Introduced January 12, 2011; referred to the  
Committee on Health and Human Resources then the  
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §16-2I-11, relating  
to reporting requirements for physicians and the Department of  
Health and Human Resources when it is suspected that a woman  
has suffered injury or death due to an induced abortion;  
contents of the reports; duties of the department; and  
providing criminal penalties.

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

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new section, designated §16-2I-11, to read as  
follows:

**ARTICLE 2I. WOMEN'S RIGHT TO KNOW ACT.**

**§16-2I-11. Reporting requirements when it is suspected that a  
woman suffered injury or death due to induced**

1                    **abortion; contents; physician duties; department**  
2                    **duties; criminal penalties.**

3            (a) A physician shall file a written report with the  
4 Department of Health and Human Resources regarding each patient who  
5 comes under the physician's professional care and requires physical  
6 medical treatment or suffers death the physician has a reasonable  
7 basis to believe is a primary, secondary or tertiary result of an  
8 induced abortion.

9            (b) The report shall be submitted within thirty days of the  
10 discharge or death of the patient treated for the complication, and  
11 shall contain the following information available to the physician:

12            (1) The patient's age and race;

13            (2) The patient's residency status, including city and county  
14 of residence;

15            (3) The patient's marital status, education, number of  
16 previous pregnancies, number of stillbirths, number of living  
17 children and number of previous abortions;

18            (4) The date the abortion was performed and method used;

19            (5) The approximate gestational age, in weeks, of the aborted  
20 fetus;

21            (6) The date the abortion complication was diagnosed;

22            (7) The name and type of facility where the abortion was  
23 performed;

24            (8) Whether the physician performing an induced abortion has

1 ever been subject to professional sanction;

2 (9) The condition of the patient that led to treatment of, but  
3 not limited to, pelvic infection, hemorrhage, damage to pelvic  
4 organs, renal failure, metabolic disorder, shock, embolism, coma or  
5 death;

6 (10) The type of anesthetic, if any, used for each induced  
7 abortion; and

8 (11) The amount billed to cover the treatment of the  
9 complication, including whether under: (A) A fee-for-service  
10 insurance company; (B) a managed care company; or (C) another type  
11 of health benefit.

12 (c) The physician report may not contain the name of the  
13 woman, common identifiers such as her social security number or  
14 motor vehicle operator's license number, or other information that  
15 would make it possible to identify in any manner a woman who has  
16 obtained or seeks to obtain an abortion.

17 (d) The department has the following duties with respect to  
18 these reports:

19 (1) Summarizing aggregate data from the physician reports  
20 required under this section for inclusion in an annual report;

21 (2) Developing and distributing or making available online in  
22 a downloadable format a standardized form for the physician report;

23 (3) Communicating this reporting requirement to all medical  
24 professional organizations, licensed physicians, hospitals,

1 emergency rooms, abortion facilities, department clinics and  
2 ambulatory surgical facilities operating in the state; and

3 (4) Maintaining each physician report for five years from the  
4 date of its receipt, and then destroying the report.

5 (e) The department or any department employee may neither  
6 maintain statistical data that may reveal the identity of a woman  
7 who has obtained or seeks to obtain an abortion, nor disclose to a  
8 person or entity outside the department the contents of the  
9 physician or annual reports required under this section to permit  
10 the person or entity to identify the woman.

11 (f) A state agency or employee may not compare the data  
12 collected under this section with data in another electronic or  
13 other information system to reveal in any manner the identity of a  
14 woman who has obtained or seeks to obtain an abortion.

15 (g) Nothing in this section is an instruction to discontinue  
16 collecting data currently being collected.

17 (h) Except as provided in subsection (i), a person who  
18 willfully violates the provisions of this section is guilty of a  
19 misdemeanor and, upon conviction thereof, shall be confined in jail  
20 not more than one year nor less than six months or fined not more  
21 than \$1000 nor less than \$500, or both fined and confined.

22 (i) A person who willfully discloses confidential identifying  
23 information in violation of this section is guilty of a felony and,  
24 upon conviction thereof, shall be imprisoned in a state

1 correctional facility not less than one year nor more than three  
2 years or fined not more than \$5,000, or both fined and imprisoned.

NOTE: The purpose of this bill is to require physicians to report to the Department of Health and Human Resources when he or she believes that a woman has suffered injury or death due to an induced abortion, to impose duties on the Department of Health and Human Resources regarding these reports and to outline penalties for violations.

This section is new; therefore, it has been completely underscored.