

Senate Bill No. 48

(By Senator Barnes)

[Introduced February 13, 2013; referred to the Committee on
Health and Human Resources; and then to the Committee on the
Judiciary.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto two new sections, designated §33-42-9 and
§33-42-10, all relating to the care of aborted fetuses;
requiring medical facilities that provide abortions to
administer anesthesia to an unborn fetus when aborted if it is
older than seven weeks; requiring all available medical means
to be used to preserve the life of a fetus if it is alive when
aborted; and providing criminal penalties for violations.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto two new sections, designated §33-42-9 and
§33-42-10, all to read as follows:

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

1 **§33-42-9. Requirement that certain medical facilities provide**
2 **anesthesia to unborn babies who are aborted, when**
3 **older than seven weeks.**

4 (a) When a facility provides abortions, it is responsible for
5 ensuring that anesthesia is administered to an unborn fetus who is
6 aborted if it is older than seven weeks. The kind of anesthesia
7 used and the method of administering the anesthesia shall conform
8 to medical standards used in fetal surgery.

9 (b) A facility or person violating the requirements of this
10 section is guilty of a misdemeanor and, upon conviction thereof,
11 shall be fined not less than \$1,000 nor more than \$5,000 and, if an
12 individual, confined in jail not less than six months nor more than
13 one year, or both fined and confined.

14 (c) Nothing contained in this section endorses, allows,
15 permits or approves of any abortion.

16 **§33-42-10. Requirement to preserve life when fetus aborted alive.**

17 (a) In cases in which, during the course of an abortion
18 procedure, a fetus is aborted alive, the facility in which the
19 abortion is performed and all individuals directly involved in
20 performing the abortion shall use all available medical means to
21 preserve, promote and maintain the life of the fetus.

22 (b) A person who violates the provisions of this section is

1 guilty of a felony and, upon conviction thereof, shall be fined not
2 less than \$1,000 nor more than \$5,000 or imprisoned in a state
3 correctional facility for not less than one nor more than three
4 years, or both fined and imprisoned.

5 (c) Nothing in this section endorses, allows, permits or
6 approves of any abortion.

NOTE: The purpose of this bill is to require medical facilities that provide abortions to administer anesthesia to an unborn fetus when aborted if it is older than seven weeks. It also provides that when, during the course of an abortion procedure, a fetus is aborted alive, all available medical means must be used to preserve its life. The bill provides criminal penalties for violations.

These sections are new; therefore, strike-throughs and underscoring have been omitted.