

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 20**

BY SENATORS KARNES AND BOSO

[Introduced February 8, 2017; referred  
to the Committee on Banking and Insurance; and then to  
the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §9-2-11a, relating to limiting health insurance coverage for elective abortions  
 3 to coverage provided through supplemental policies; and providing for elective abortion  
 4 exceptions.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §9-2-11a, to read as follows:

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND  
 RESPONSIBILITIES GENERALLY.**

**§9-2-11a. Elective abortion coverage only offered through supplemental policies;  
 exceptions.**

1 (a) Pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-  
 2 148, all qualified health plans offered through an exchange established in the state are prohibited  
 3 from including elective abortion coverage. Nothing in this section prevents anyone from  
 4 purchasing optional supplemental coverage for elective abortions for which there is paid a  
 5 separate premium in accordance with subsection (c) of this section in the health insurance market  
 6 outside of the exchange.

7 (b) For purposes of this section, an "elective abortion" means an abortion for any reason  
 8 other than any of the following:

9 (1) An abortion to prevent the death of the mother: *Provided*, That an abortion is not one  
 10 to prevent the death of the mother based on a claim or diagnosis that she will engage in conduct  
 11 that will result in her death;

12 (2) An abortion when the pregnancy is the result of criminal sexual misconduct as defined  
 13 in sections three, four and five (a) (1), article eight-b, chapter sixty-one of this code, and the  
 14 incident is reported within forty-eight hours after the incident occurs to a valid law-enforcement

15 agency for investigation: *Provided*, That if the victim is physically unable to report the criminal  
16 sexual misconduct during any portion of that forty-eight hours, the incident must be reported within  
17 forty-eight hours after the victim becomes physically able to report the criminal sexual misconduct;  
18 or

19 (3) The pregnancy is the result of incest, as set forth in section five, article eight-d, chapter  
20 sixty-one of this code, in which the mother is a minor, and the incident and perpetrator are reported  
21 to a valid law-enforcement agency prior to the abortion.

22 (c) The issuer of any health plan providing elective abortion coverage:

23 (1) Shall calculate the premium for coverage so that it fully covers the estimated cost of  
24 covering elective abortions, per enrollee, determined on an average actuarial basis, and the issuer  
25 of the plan may not take into account any cost reduction in a health plan covering an enrollee  
26 estimated to result from the provision of abortion coverage, including prenatal care, delivery, or  
27 postnatal care;

28 (2) If the enrollee is enrolling in a health plan providing other coverage at the same time  
29 as the enrollee is enrolling in a plan providing elective abortion coverage, shall require a separate  
30 signature, distinct from that to enroll in the health plan providing other coverage, in order to enroll  
31 in the separate supplemental plan providing elective abortion coverage.

32 (3) Shall provide a notice to enrollees, at the time of enrollment, that:

33 (A) Specifically states the cost of the separate premium for coverage of elective abortions,  
34 distinct and apart from the cost of the premium for a health plan providing other coverage and this  
35 cost shall be agreed with a separate signature;

36 (B) States that enrollment in elective abortion coverage is optional; and

37 (C) If the enrollee is enrolling in a health plan providing other coverage at the same time  
38 the enrollee is enrolling in a plan providing elective abortion coverage, states that the enrollee

39 may choose to enroll in the plan providing other coverage without enrolling in the plan providing  
40 elective abortion coverage.

41 (d) The issuer of a health plan providing coverage other than elective abortion may not  
42 discount or reduce the premium for such coverage on the basis that an enrollee has elective  
43 abortion coverage.

44 (e) Nothing in this section applies in circumstances in which federal law preempts state  
45 health insurance regulation.

NOTE: The purpose of this bill is to limit health insurance coverage for elective abortions to coverage provided through supplemental policies. Elective abortion exceptions are provided for certain pregnancies that threaten the life of the mother or result from rape or incest.

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