

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 92

BY SENATORS KARNES, BOSO, RUCKER, AND MAYNARD

[Introduced January 10, 2018; Referred
to the Committee on Banking and Insurance; and then to
the Committee on Finance]

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:

**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 §61-8B-3, §61-8B-4 and §61-8B-5(a)(1) of this code, and the incident is reported within forty-
 14 eight hours after the incident occurs to a valid law-enforcement agency for investigation:
 15 *Provided*, That if the victim is physically unable to report the criminal sexual misconduct during
 16 any portion of that forty-eight hours, the incident must be reported within forty-eight hours after

17 the victim becomes physically able to report the criminal sexual misconduct; or

18 (3) The pregnancy is the result of incest, as set forth in §61-8D-5 of this code, in which the
19 mother is a minor, and the incident and perpetrator are reported to a valid law-enforcement
20 agency prior to the abortion.

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

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

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

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

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

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

36 (C) If the enrollee is enrolling in a health plan providing other coverage at the same time
37 the enrollee is enrolling in a plan providing elective abortion coverage, states that the enrollee
38 may choose to enroll in the plan providing other coverage without enrolling in the plan providing
39 elective abortion coverage.

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

- 43 (e) Nothing in this section applies in circumstances in which federal law preempts state
- 44 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.