

**Senate Bill No. 236**

(By Senators Karnes, Blair, Boley, Carmichael, Ferns, Gaunch, Leonhardt, Maynard, Mullins,  
Nohe, Sypolt, Takubo, Trump, Walters and D. Hall)

[Introduced January 15, 2015; referred to the Committee on Banking and Insurance; and then to  
the Committee on the Judiciary.]

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

*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 §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.**

(a) Pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148,  
all qualified health plans offered through an exchange established in the state are prohibited from  
including elective abortion coverage. Nothing in this section prevents anyone from purchasing

1 optional supplemental coverage for elective abortions for which there is paid a separate premium in  
2 accordance with subsection (c) of this section in the health insurance market outside of the exchange.

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

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

8 (2) An abortion when the pregnancy is the result of criminal sexual misconduct as defined  
9 in sections three, four and five (a) (1), article eight-b, chapter sixty-one of this code, and the incident  
10 is reported within forty-eight hours after the incident occurs to a valid law-enforcement agency for  
11 investigation: *Provided*, That if the victim is physically unable to report the criminal sexual  
12 misconduct during any portion of that forty-eight hours, the incident must be reported within  
13 forty-eight hours after the victim becomes physically able to report the criminal sexual misconduct;  
14 or

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

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

19 (1) Shall calculate the premium for coverage so that it fully covers the estimated cost of  
20 covering elective abortions, per enrollee, determined on an average actuarial basis, and the issuer of  
21 the plan may not take into account any cost reduction in a health plan covering an enrollee estimated

1 to result from the provision of abortion coverage, including prenatal care, delivery, or postnatal care;

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

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

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

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

11 (C) If the enrollee is enrolling in a health plan providing other coverage at the same time the  
12 enrollee is enrolling in a plan providing elective abortion coverage, states that the enrollee may  
13 choose to enroll in the plan providing other coverage without enrolling in the plan providing elective  
14 abortion coverage.

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

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

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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.

This section is new; therefore, strike-throughs and underscoring have been omitted.