

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4498**

BY DELEGATES RODIGHIERO, KESSINGER, TOMBLIN,

HICKS, R. THOMPSON AND WORRELL

[Introduced January 23, 2020; Referred to the  
Committee on Health and Human Resources then the  
Judiciary]

1 A BILL to amend and reenact §16-2I-2 of the Code of West Virginia, 1931, as amended, relating  
2 to a Woman's Right to Know; requiring an ultrasound be performed by a physician or other  
3 licensed healthcare provider prior to performing an abortion; requiring the woman to view  
4 the ultrasound image prior to the procedure; and providing the woman with the right to ask  
5 any questions regarding the ultrasound image or the procedure prior to performing the  
6 procedure.

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

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

### **§16-2I-2. Informed consent.**

1 No abortion may be performed in this state except with the voluntary and informed consent  
2 of the female upon whom the abortion is to be performed. Except in the case of a medical  
3 emergency, consent to an abortion is voluntary and informed if, and only if:

4 (a) The female is told the following, by telephone or in person, by the physician or the  
5 licensed health care professional to whom the responsibility has been delegated by the physician  
6 who is to perform the abortion at least 24 hours before the abortion:

7 (1) The particular medical risks associated with the particular abortion procedure to be  
8 employed, including, when medically accurate, the risks of infection, hemorrhage, danger to  
9 subsequent pregnancies, and infertility;

10 (2) The probable gestational age of the embryo or fetus at the time the abortion is to be  
11 performed; and

12 (3) The medical risks associated with carrying her child to term.

13 The information required by this subsection may be provided by telephone without  
14 conducting a physical examination or tests of the patient, in which case the information required  
15 to be provided may be based on facts supplied by the female to the physician or other licensed  
16 health care professional to whom the responsibility has been delegated by the physician and  
17 whatever other relevant information is reasonably available to the physician or other licensed

18 health care professional to whom the responsibility has been delegated by the physician. It may  
19 not be provided by a tape recording, but must be provided during a consultation in which the  
20 physician or licensed health care professional to whom the responsibility has been delegated by  
21 the physician is able to ask questions of the female and the female is able to ask questions of the  
22 physician or the licensed health care professional to whom the responsibility has been delegated  
23 by the physician.

24 If a physical examination, tests or the availability of other information to the physician or  
25 other licensed health care professional to whom the responsibility has been delegated by the  
26 physician subsequently indicate, in the medical judgment of the physician or the licensed health  
27 care professional to whom the responsibility has been delegated by the physician, a revision of  
28 the information previously supplied to the patient, that revised information may be communicated  
29 to the patient at any time before the performance of the abortion procedure.

30 Nothing in this section may be construed to preclude provision of required information in  
31 a language understood by the patient through a translator.

32 (b) The female is informed, by telephone or in person, by the physician who is to perform  
33 the abortion, or by an agent of the physician, at least 24 hours before the abortion procedure:

34 (1) That medical assistance benefits may be available for prenatal care, childbirth and  
35 neonatal care through governmental or private entities;

36 (2) That the father, if his identity can be determined, is liable to assist in the support of her  
37 child based upon his ability to pay even in instances in which the father has offered to pay for the  
38 abortion;

39 (3) That she has the right to review the printed materials described in section three of this  
40 article, that these materials are available on a state-sponsored website and the website address;  
41 and

42 (4) That the female will be presented with a form which she will be required to execute  
43 prior to the abortion procedure that is available pursuant to section three of this article, and that

44 the form to be presented will inform her of the ~~opportunity to view the~~ required ultrasound image  
45 to be performed by the physician or other licensed health care provider and that the female viewed  
46 the ultrasound image and was provided with the opportunity to ask questions regarding the image,  
47 the fetus, or any part of the procedure prior to the abortion procedure. ~~her right to view or decline~~  
48 ~~to view the ultrasound image, if an ultrasound is performed~~

49 The physician or an agent of the physician shall orally inform the female that the materials  
50 have been provided by the State of West Virginia and that they describe the embryo or fetus and  
51 list agencies and entities which offer alternatives to abortion.

52 If the female chooses to view the materials other than on the website, then they shall either  
53 be provided to her at least 24 hours before the abortion or mailed to her at least 72 hours before  
54 the abortion by first class mail in an unmarked envelope.

55 The information required by this subsection may be provided by a tape recording if  
56 provision is made to record or otherwise register specifically whether the female does or does not  
57 choose to have the printed materials given or mailed to her.

58 (c) The form required pursuant to subdivision (4), subsection (b) of this section shall  
59 include the following information: ~~(1) It is a female's decision whether or not to undergo any~~  
60 ~~ultrasound imaging procedure in consultation with her health care provider;~~ ~~(2) if an~~ (1) An  
61 ultrasound is required to be performed by a physician or other licensed healthcare provider in  
62 conjunction with the performance of an abortion procedure, the female has the right to view or to  
63 ~~decline to view~~ ask any questions regarding the image or any other part of the procedure; and  
64 ~~(3)~~(2) that the woman has been previously informed of the required ultrasound and the  
65 requirement that she ~~her opportunity to view the ultrasound image and her right to view or decline~~  
66 ~~to view~~ to ask any questions relating to the ultrasound image or the procedure. The woman shall  
67 certify her choice on this form prior to the abortion procedure being performed.

68 The female shall certify in writing, before the abortion, that the information described in  
69 subsections (a) and (b) of this section has been provided to her and that she has been informed

70 of her opportunity to review the information referred to in subdivision (3), subsection (b) of this  
71 section.

72 Before performing the abortion procedure, the physician who is to perform the abortion or  
73 the physician's agent shall obtain a copy of the executed certification required by the provisions  
74 of subsections (b) and (c) of this section.

NOTE: The purpose of this bill is to require an ultrasound be performed prior to an abortion procedure and to require the woman to view the ultrasound image prior to the procedure.

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