

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3265

BY DELEGATE PRITT

[Introduced March 16, 2021; 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 mandating an ultrasound imaging procedure prior to an abortion.

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 ultrasound image and her
45 right to view or decline to view the ultrasound image, if an ultrasound is performed.

46 The physician or an agent of the physician shall orally inform the female that the materials
47 have been provided by the State of West Virginia and that they describe the embryo or fetus and

48 list agencies and entities which offer alternatives to abortion.

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

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

55 (c) The form required pursuant to subdivision (4), subsection (b) of this section shall
56 include the following information: (1) ~~It is a female's decision whether or not to~~ The female shall
57 ~~undergo any~~ ultrasound imaging procedure in consultation with her health care provider; (2) ~~if an~~
58 ~~ultrasound is performed in conjunction with the performance of an abortion procedure~~ the female
59 has the right to view or to decline to view the image; and (3) that the woman has been previously
60 informed of her opportunity to view the ultrasound image and her right to view or decline to view
61 the ultrasound image. The woman shall certify her choice on this form prior to the abortion
62 procedure being performed.

63 The female shall certify in writing, before the abortion, that the information described in
64 subsections (a) and (b) of this section has been provided to her and that she has been informed
65 of her opportunity to review the information referred to in subdivision (3), subsection (b) of this
66 section.

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

NOTE: The purpose of this bill is to mandate ultrasound imaging procedure prior to an abortion.

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