

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4004

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AND HORST

[Introduced January 12, 2022; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §16-2Q-1, relating to limiting an abortion to 15 weeks' gestation; defining
3 terms; requiring reports; providing professional discipline; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2Q. LIMITATION ON ABORTION.

§16-2Q-1. Abortion limited to fifteen weeks' gestation except in medical emergency and in cases of severe fetal abnormality.

1 (a) As used in this section:

2 "Abortion" has the same meaning as that set forth in §16-2M-2 of this code.

3 "Attempt to perform an abortion" has the same meaning as that set forth in §16-2M-2 of
4 this code.

5 "Gestational age" means the age of the fetus as calculated from the first day of the last
6 menstrual period of a patient.

7 "Licensed medical professional" means a person licensed under Chapter 30 of this code
8 practicing within his or her scope of practice.

9 "Medical emergency" has the same meaning as that set forth in §16-2I-1 of this code.

10 "Physician" has the same meaning as set forth in §16-2M-2 of this code.

11 "Pregnancy" means the human female reproductive condition that begins with fertilization,
12 when the woman is carrying the developing human offspring, and that is calculated from the first
13 day of the last menstrual period of the woman.

14 "Reasonable medical judgment" has the same meaning as set forth in §16-2M-2 of this
15 code.

16 "Severe fetal abnormality" means a life-threatening physical condition that, in reasonable
17 medical judgment, regardless of the provision of life-saving medical treatment, is incompatible
18 with life outside the womb.

19 (b) Except in a medical emergency or in the case of a severe fetal abnormality, a licensed

20 medical professional may not perform, induce, or attempt to perform or induce an abortion unless
21 the licensed medical professional has first made a determination of the probable gestational age
22 of the fetus being and documented that gestational age in the patient's chart and, if required, in a
23 report to be filed with the Bureau for Public Health. The determination of probable gestational
24 age shall be made according to the standard of care.

25 (b) Except in a medical emergency or in the case of a severe fetal abnormality, a licensed
26 medical professional may not intentionally or knowingly perform, induce, or attempt to perform or
27 induce an abortion of a fetus if the probable gestational age of the fetus being has been
28 determined to be greater than 15 weeks.

29 (c) In every case in which a licensed medical professional performs or induces an abortion
30 on a fetus whose gestational age is greater than 15 weeks, the physician shall within 15 days of
31 the abortion cause to be filed with the bureau, on a form supplied by the bureau, a report
32 containing the following information:

33 (1) Date the abortion was performed;

34 (2) Specific method of abortion used;

35 (3) The probable gestational age of the fetus being and the method used to calculate
36 gestational age;

37 (4) A statement declaring that the abortion was necessary to preserve the life or physical
38 health of the maternal patient;

39 (5) Specific medical indications supporting the abortion; and

40 (6) Probable health consequences of the abortion and specific abortion method used.

41 The physician shall sign the form as his or her attestation under oath that the information
42 stated thereon is true and correct to the best of his or her knowledge.

43 (d) Reports required and submitted may not contain the name of the patient upon whom
44 the abortion was performed or any other information or identifiers that would make it possible to
45 identify the patient.

46 (e) A licensed medical professional who intentionally or recklessly performs or induces an
47 abortion in violation of this section is considered to have acted outside the scope of practice
48 permitted by law or otherwise in breach of the standard of care owed to a patient, and is subject
49 to discipline from the applicable licensure board for that conduct, including, but not limited to, loss
50 of professional license to practice.

51 (f) A person, not subject to subsection (e) of this section, who intentionally or recklessly
52 performs or induces an abortion in violation of this article is considered to have engaged in the
53 unauthorized practice of medicine in violation of §30-3-13 of this code, and upon conviction,
54 subject to the penalties contained in that section.

55 (g) In addition to the penalties set forth in this section, a patient may seek any remedy
56 otherwise available to such patient by applicable law.

57 (h) A penalty may not be assessed against any patient upon whom an abortion is
58 performed or induced or attempted to be performed or induced.

NOTE: The purpose of this bill is to prohibit an abortion after 15 weeks' gestation.

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