

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2352

By Delegates Burkhammer, Masters, and Pinson

[Introduced February 13, 2025; referred
to the Committee on Health and Resources then the
Judiciary]

1 A BILL to amend and reenact §16-2R-3 of the Code of West Virginia, 1931, as amended, relating
2 to modifying the Unborn Child Protection Act; requiring patient voluntary and informed
3 consent; clarifying voluntary and informed consent; and providing certain information be
4 included on advertising and certain printed materials.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2R. UNBORN CHILD PROTECTION ACT.

§16-2R-3. Prohibition to perform an abortion.

1 (a) An abortion may not be performed or induced or be attempted to be performed or
2 induced unless in the reasonable medical judgment of a licensed medical professional:

3 (1) The embryo or fetus is nonviable;

4 (2) The pregnancy is ectopic; or

5 (3) A medical emergency exists.

6 (b) The prohibition set forth in subsection (a) of this section shall not apply to an adult within
7 the first 8 weeks of pregnancy if the pregnancy is the result of sexual assault, as defined in §61-8B-
8 1 *et seq.* of this code, or incest, as defined in §61-8-12 of this code, and at least 48 hours prior to
9 the abortion the patient has reported the sexual assault or incest to a law enforcement agency
10 having jurisdiction to investigate the complaint and provided the report to the licensed medical
11 professional performing the abortion.

12 (c) The prohibition set forth in subsection (a) of this section shall not apply to a minor or an
13 incompetent or incapacitated adult within the first 14 weeks of pregnancy if the pregnancy is the
14 result of sexual assault, as defined in §61-8B-1 *et seq.* of this code, or incest, as defined in §61-8-
15 12 of this code, and at least 48 hours prior to the abortion the patient has:

16 (1) A report of the sexual assault or incest has been made to law enforcement having
17 jurisdiction to investigate the complaint; or

18 (2) The patient has obtained medical treatment for the sexual assault or incest or any injury
19 related to the sexual assault or incest from a licensed medical professional or in a hospital, as

defined in §16-5B-1 of this code, which is licensed by the Office of Health Facility Licensure and Certification of the West Virginia Department of Health and Human Resources: *Provided*, That the licensed medical professional or hospital, as defined in §16-5B-1 of this code, which is licensed by the Office of Health Facility Licensure and Certification of the West Virginia Department of Health and Human Resources, and which performed or provided such medical treatment may not perform or provide the abortion arising from such sexual assault or incest.

(d) In all cases where a report of sexual assault or incest against a minor is made pursuant to this subsection (c), the agency or person to whom the report is made shall report the sexual assault or incest to the Child Abuse and Neglect Investigations Unit of the West Virginia State Police within 48 hours.

(e) An abortion performed pursuant to this section may not use the partial birth abortion procedure.

(f) A surgical abortion performed or induced or attempted to be performed or induced pursuant to this section shall be in a hospital, as defined in §16-5B-1 of this code, which is licensed by the Office of Health Facility Licensure and Certification of the West Virginia Department of Health and Human Resources.

(g) An abortion performed or induced or attempted to be performed or induced shall be performed by a licensed medical professional who has West Virginia hospital privileges.

(h) An abortion performed or induced, or attempted to be performed or induced pursuant to this section, except in the case of a medical emergency, requires the voluntary and informed consent of the patient. Consent to an abortion is voluntary and informed, when the licensed medical professional, at least the day prior to the performance or induction of an abortion, which may be included within the 48 hour requirements pursuant to subsection (b) or subsection (c), which:

44 (1) Informs the patient of the medical risks associated with the particular abortion
45 procedure to be employed, including, the risks of infection, hemorrhage, danger to subsequent
46 pregnancies and infertility;

47 (2) In the case of a chemical abortion, informs the patient of the risks associated with any
48 abortion medication prescribed to the patient and also information on reversal;

49 (3) Informs the patient of the medical risks associated with carrying her child to term;

50 (4) Informs the patient of the opportunity to view an ultrasound;

51 (5) Informs the patient of the developmental stage of the embryo or fetus; and

52 (6) Informs the patient through printed material relevant to the case and provides
53 information directing the patient to the Department of Health's website which contains the
54 following information:

55 (A) Geographically indexed mental health resources such as grief counseling; 988 crisis
56 line; and rape information and services contacts;

57 (B) Information regarding perinatal hospice and palliative care including a directory of
58 perinatal hospice and palliative care providers;

59 (C) Educational material on embryonic and fetal development, including probable
60 anatomical and physiological characteristics of the embryo or fetus at gestational increments from
61 the time when a female can be known to be pregnant to full term, including any relevant
62 information on the possibility of the embryo or fetus's survival and pictures or drawings
63 representing the development of an embryo or fetus. The materials shall be objective,
64 nonjudgmental, and designed to convey only accurate scientific information about the embryo or
65 fetus at the various stages of development. Hyperlinks to websites where information on fetal
66 anomalies and care of disabled children shall be obtained;

67 (D) Geographically indexed pregnancy help organizations eligible to receive funds
68 pursuant to §16-66-1 *et seq.*; and adoption agencies; and

69 (E) A directory of abortion pill reversal providers with a hyperlink and telephone number for
70 credible national, state, or local organizations engaged in providing abortion pill reversal and/or
71 referring for abortion pill reversal.

72 (i) Any printed materials or public advertising for an abortion must include information
73 directing individuals to the Department of Health's website as outlined in (h)(6). Provided; such
74 information must be legible and equivalent in size to other such wording on the printed materials or
75 public advertising.

NOTE: The purpose of this bill is to have patients provide voluntary and informed consent; clarify what is needed for voluntary and informed consent; and provide certain information be included in advertising and certain printed materials.

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