

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2871

By Delegates Funkhouser, Hornby, Holstein, Masters,
W. Clark, Chiarelli, Hillenbrand, Mallow, Horst, Roop,
and Kump

[Introduced February 24, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §17C-5-1 and §61-2-30 of the Code of West Virginia, 1931, as
2 amended, relating to serious traffic offenses and crimes against the person; renaming the
3 crime of negligent homicide; creating new crimes; clarifying a victim includes an embryo or
4 fetus; and creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

**§17C-5-1. ~~Negligent homicide~~ Vehicular homicide; aggravated vehicular homicide;
penalties.**

1 (a) Vehicular homicide. When the death of any person, including an embryo or fetus as
2 defined in §61-2-30 of this code, ensues within one year as a proximate result of injury received by
3 the driving of any vehicle anywhere in this state in reckless disregard of the safety of others, the
4 person so operating such vehicle shall be guilty of ~~negligent~~ vehicular homicide.

5 (b)(1) Any person convicted of ~~negligent~~ vehicular homicide shall be punished by
6 imprisonment for not more than one year or by fine of not less than \$100 nor more than \$1,000, or
7 by both such fine and imprisonment.

8 (c)(2) The commissioner shall revoke the license or permit to drive and any nonresident
9 operating privilege of any person convicted of ~~negligent~~ vehicular homicide.

10 (b) Aggravated vehicular homicide.

11 (1) Notwithstanding the provisions of subsection (a) of this section, when the death of a
12 person, including an embryo or fetus as defined in §61-2-30 of this code, other than the person
13 operating the motor vehicle, occurs within one year as a proximate result of injury caused by the
14 operation of any motor vehicle in this state in deliberate disregard for the safety of others, the
15 person so operating such motor vehicle is guilty of the offense of aggravated vehicular homicide
16 and upon conviction, he or she shall be fined not more than \$20,000 or imprisoned in a state

correctional facility for a definite term of years of not less than one nor more than five years, or both
fined and imprisoned.

(2) For the purposes of this section, a person acts with deliberate disregard for the safety of
others if he or she has knowledge of facts or intentionally disregards facts that create a high
probability of injury to others and:

(A) Deliberately proceeds to act in conscious or intentional disregard of the high degree of
probability of injury to others; or

(B) Deliberately proceeds to act with indifference to the high probability of injury to others.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

(a) This section may be known and cited as the Unborn Victims of Violence Act.

(b) For the purposes of this article, the following definitions shall apply: *Provided*, That these definitions only apply for purposes of prosecution of unlawful acts under this section and may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for purposes of argument in a civil cause of action, unless there has been a criminal conviction under this section.

(1) "Embryo" means the developing human in its early stages. The embryonic period commences at fertilization and continues to the end of the embryonic period and the beginning of the fetal period, which occurs eight weeks after fertilization or ten weeks after the onset of the last menstrual period.

(2) "Fetus" means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.

(c) For purposes of enforcing the provisions of §61-2-1, §61-2-4, §61-2-7, §61-2-9(a), §61-

2-9(c), §61-2-10, §61-2-10b, 61-2-28(a), §17C-5-1, and §17C-5-2(b) or §17C-5-2(c) of this code, a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims.

(d) Exceptions. — The provisions of this section do not apply to:

(1) Acts committed during a legal abortion to which the pregnant woman, or a person authorized by law to act on her behalf, consented or for which the consent is implied by law;

(2) Acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services, including, but not limited to, medical care, abortion, diagnostic testing or fertility treatment;

(3) Acts or omissions by medical or health care personnel or scientific research personnel in performing lawful procedures involving embryos that are not in a stage of gestation in utero;

(4) Acts involving the use of force in lawful defense of self or another, but not an embryo or fetus; and

(5) Acts or omissions of a pregnant woman with respect to the embryo or fetus she is carrying.

(e) For purposes of the enforcement of the provisions of this section, a violation of the provisions of article two-i, chapter sixteen of this code shall not serve as a waiver of the protection afforded by the provisions of subdivision (1), subsection (d) of this section.

(f) Other convictions not barred. — A prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant arising from the same incident.

NOTE: The purpose of this bill is to rename the crime of negligent homicide; create new crimes; clarify a victim includes an embryo or fetus; and create criminal penalties.

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