

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 599**

**FISCAL  
NOTE**

By Senator Rucker

[Introduced January 23, 2026; referred  
to the Committee on Health and Human Resources;  
and then to the Committee on the Judiciary]

A BILL to amend and reenact §16-2R-2 of the Code of West Virginia, 1931, as amended; and to amend the code by adding two new sections, designated §16-2R-10 and §16-2R-11, relating to the prohibiting of abortifacients; defining terms; creating criminal penalties; providing for revocation of medical license in certain circumstances; creating civil cause of action; providing exceptions to applicability; creating severability; requiring informed consent in instances when an exception to the prohibition against abortion exists; setting forth requirements for informed consent; requiring the Department of Health to publish information in paper form on its webpage; and requiring the Department of Health to staff a hotline.

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

**ARTICLE            2R.            UNBORN            CHILD            PROTECTION            ACT.**

**§16-2R-2. Definitions.**

The definitions set forth in this section are controlling for purposes of this article and of this code, irrespective of terms used in medical coding, notations, or billing documents. For purposes of this article:

"Abortifacient" means any chemical or drug prescribed or dispensed with the intent of  
causing an abortion.

"Abortion" means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a patient known to be pregnant and with intent to cause the death and expulsion or removal of an embryo or a fetus. This term does not include the terms "intrauterine fetal demise" or "stillbirth" or "miscarriage" as defined in this section.

"Attempt to perform or induce an abortion" means an act or the omission of an act that, under the circumstances as the person so acting or omitting to act believes them to be, constitutes a substantial step in a course of conduct intended to culminate in an abortion.

"Born alive" means the complete expulsion or extraction of the fetus, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of

the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

~~"Commissioner" means the Commissioner of the Bureau for Public Health of the West Virginia Department of Health and Human Resources~~

"Cabinet Secretary" means the Secretary of the West Virginia Department of Health.

"Contraception" or "contraceptive" means the prevention of pregnancy by interfering with the process of ovulation, fertilization, or implantation.

"Ectopic" means a fertilized egg which is developing outside the uterus, or a fertilized egg is developing within parts of the uterus where it cannot be viable, including a cervical, cornual, or cesarean section scar implantations.

"Embryo" means the developing human from the time of fertilization until the end of the eighth week of gestation.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

"Fetal tissue research" means tissue or cells obtained from a dead embryo or fetus after a miscarriage, abortion, or intrauterine fetal demise.

"Fetus" means the developing human in the postembryonic period from nine weeks after fertilization until birth.

"Licensed medical professional" means a person licensed under §30-3-1 *et seq.*, or §30-14-1 *et seq.*, of this code.

"Implantation" means when a fertilized egg has attached to the lining of the wall of the uterus.

"Intrauterine fetal demise" or "stillbirth" means the unintended or spontaneous loss of a fetus after the 19th week of pregnancy.

"In vitro fertilization" means a procedure or procedures intended to improve fertility or prevent genetic problems and assist with conception.

"Medical emergency" means a condition or circumstance that so complicates the medical condition of a patient as to necessitate an abortion to avert serious risk of the patient's death or serious risk of substantial life-threatening physical impairment of a major bodily function, not including psychological or emotional conditions. This term includes a circumstance in which it is necessary to terminate a pregnancy of one or more fetuses to preserve the life of another fetus or fetuses. A condition is not deemed a medical emergency if based on a claim or diagnosis that the patient intends or may engage in conduct which results in the patient's death or in substantial and irreversible physical impairment of a major bodily function.

"Miscarriage" means the unintended or spontaneous loss of an embryo or a fetus before the 20th week of pregnancy. This term includes the medical terms "spontaneous abortion", "missed abortion", and "incomplete abortion".

"Nonviable" means an embryo or a fetus has a lethal anomaly which renders it incompatible with life outside of the uterus.

"Partial-birth abortion" means an abortion performed on a live fetus after partial vaginal delivery.

"Pregnancy" means the period of gestation after which a fertilized egg has implanted in the wall of a uterus.

"Reasonable medical judgment" means a medical judgment that would be made by a licensed medical professional who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

"Unemancipated minor" means a person younger than 18 years of age who is not, or has not been, married or judicially emancipated.

**§16-2R-10.**

**Abortifacients.**

(a) Unless otherwise permitted under §16-2R-3 of this code, a person or entity is guilty of performing or attempting to perform an abortion with an abortifacient if a person or entity knowingly and willfully:

4           (1) Sends by courier, delivery, or mail service an abortifacient to a person in the state of  
5 West Virginia;

6           (2) Places an abortifacient into the stream of commerce when the person or entity knows  
7 that the abortifacient is to be used in this state or mailed or sent by courier, delivery, or mail service  
8 to a person in the state of West Virginia;

9           (3) Prescribes an abortifacient to a person in the state of West Virginia, regardless of  
10 whether the prescriber was in the state of West Virginia; or

11           (4) Disseminates an abortifacient in the state of West Virginia without a lawfully valid  
12 prescription.

13           (b)(1) Any person other than a licensed medical professional, as defined in §16-2R-2 of  
14 this code, who knowingly and willfully violates subsection (a) of this section is guilty of a felony,  
15 and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate  
16 sentence of not less than three nor more than 10 years.

17           (2) Where a licensed medical professional, as defined in §16-2R-2 of this code, knowingly  
18 and willfully violates subsection (a) of this section, he or she is subject to disciplinary action by his  
19 or her applicable licensing board. If the licensing board finds that the licensed medical professional  
20 has knowingly and willfully violated subsection (a) of this section, the licensing board shall revoke  
21 the medical professional's license.

22           (3) This section does not authorize a woman to be charged with or convicted of a criminal  
23 offense in the death of her own unborn child.

24           (c) A pregnant woman who unlawfully receives an abortifacient or any family member of  
25 the pregnant woman who unlawfully received an abortifacient as defined in §48-27-204(7)(A)-(P)  
26 may bring a civil action, which is not subject to any of the provisions of §55-7B-1 et seq., against a  
27 person or entity that knowingly and willfully violates subsection (a) of this section.

(1) If a claimant prevails in a civil action alleging a violation of subsection (a) of this section, and in addition to any permissive relief the circuit court may award in law or equity, the circuit court shall award:

(A) Injunctive relief directing the person or entity to refrain from engaging in the prohibited conduct set forth in subsection (a) of this section; and

(B) Damages of \$10,000 for each abortion that the person or entity knowingly and willfully performed or attempted to perform.

(2) Neither an indictment nor a conviction is required for establishing liability against a person or entity in a civil action alleging a violation of subsection (a) of this section.

(d) This section shall not apply to:

(1) A pharmacy fulfilling a lawfully valid prescription issued by a licensed medical professional in this state; or

(2) A physician providing a medical procedure or service for a legitimate medical reason to a pregnant woman that results in the accidental or unintentional physical injury to or death of the unborn child.

(e) If any provision of this section or its application to any particular person or circumstance is found to be invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.

**§16-2R-11. Informed consent.**

An abortion performed subject to §16-2R-3 of this code shall further comply with the informed consent provisions of this article. The licensed medical professional shall obtain the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if, and only if:

(a) The female is told the following, by telephone or in person, by the licensed medical professional who is to perform the abortion at least 24 hours before the abortion:

(1) The particular medical risks associated with the particular abortion procedure to be

employed, including, among other things pertinent to informed consent, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;

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

(3) If a chemical abortion involving the two-drug process of mifepristone is initiated and then a prostaglandin such as misoprostol is planned to be used at a later time, the female shall be informed that:

(A) Studies suggest that it may be possible to counteract the intended effects of a mifepristone chemical abortion by taking progesterone if the female changes her mind, before taking the second drug.

(B) After the first drug involved in the two-drug process is dispensed in a mifepristone chemical abortion, the licensed medical professional or agent of the licensed medical professional shall provide written medical discharge instructions to the pregnant female which shall include the statement:

"If you change your mind and decide to try to counteract the intended effects of a mifepristone chemical abortion, if the second pill has not been taken, please consult with a licensed medical professional knowledgeable about discontinuing a medical abortion or you can get immediate help by calling the Abortion Pill Reversal 24-hour Hotline at 877-558-0333 or going to website <https://www.abortionpillreversal.com>.

(i) You might experience a complete abortion without ever taking misoprostol;

(ii) You might experience a missed abortion, which means the fetus is no longer viable, but the fetus did not leave your body; or

(iii) It is possible that your pregnancy may continue; and

(iv) You should consult with your licensed medical professional."

(C) The female shall certify, as part of the informed consent process for any medical procedure, that she has been informed about the above possibilities regarding a chemical

34 abortion.

35 (1) That perinatal hospital services are available;

36 (2) This service is an alternative to abortion;

37 (3) That she has the right to review the printed materials described in §16-2R-11 of this  
38 code;

39 (4) That these materials are available on a state sponsored website, and

40 (5) What the website address is where she can access this information.

41 The information required by this subsection may be provided by telephone without  
42 conducting a physical examination or tests of the patient, in which case the information required to  
43 be provided may be based on facts supplied by the female to the licensed medical professional  
44 and whatever other relevant information is reasonably available to the licensed medical  
45 professional. It may not be provided by a tape recording, but must be provided during a  
46 consultation in which the licensed medical professional is able to ask questions of the female and  
47 the female is able to ask questions of the licensed medical professional.

48 If a physical examination, tests or the availability of other information to the licensed  
49 medical professional subsequently indicate, in the medical judgment of the licensed medical  
50 professional, a revision of the information previously supplied to the patient, that revised  
51 information may be communicated to the patient at any time before the performance of the  
52 abortion procedure.

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

55 (b) The female is informed, by telephone or in person, by the licensed medical professional  
56 who is to perform the abortion at least 24 hours before the abortion procedure:

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

59 (2) That the father, if his identity can be determined, is liable to assist in the support of her



child based upon his ability to pay even in instances in which the father has offered to pay for the abortion;

(3) That she has the right to review the printed materials described in §16-2R-11 of this code, that these materials are available on a state-sponsored website and the website address; and

(4) That the female will be presented with a form which she will be required to execute prior to the abortion procedure that is available pursuant to §16-2R-11 of this code.

The licensed medical professional shall orally inform the female that the materials have been provided by the State of West Virginia and that they describe the embryo or fetus and list agencies and entities which offer alternatives to abortion.

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

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

(c) The form required pursuant to subdivision (b)(4) of this section shall include the following information:

(1) It is a female's decision whether or not to undergo any ultrasound imaging procedure in consultation with her health care provider;

(2) If an ultrasound is performed in conjunction with the performance of an abortion procedure, the female has the right to view or to decline to view the image; and

(3) That the female has been previously informed of her opportunity to view the ultrasound image and her right to view or decline to view the ultrasound image. The female shall certify her choice on this form prior to the abortion procedure being performed.

The female shall certify in writing, before the abortion, that the information described in

subsections (a) and (b) of this section has been provided to her and that she has been informed of her opportunity to review the information referred to in subdivision (b)(3) of this section.

Before performing the abortion procedure, the licensed medical professional who is to perform the abortion shall obtain a copy of the executed certification required by the provisions of subsections (b) and (c) of this section.

(d) Within 90 days of the effective date of this article, upon its reenactment during the 2026 Regular Session, the Secretary of the Department of Health shall cause to be published, in English and in each language which is the primary language of two percent or more of the state's population, as determined by the most recent decennial census performed by the U.S. census bureau, and shall cause to be available on the website provided in §16-2R-11 of this code the following printed materials in such a way as to ensure that the information is easily comprehensible:

(1) Geographically indexed materials designed to inform the reader of public and private agencies and services available to assist a female through pregnancy, upon childbirth and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer and a description of the manner, including telephone numbers. A 24-hour-a-day telephone number shall be established with the number being published in such a way as to maximize public awareness of its existence which may be called to obtain a list and description of agencies in the locality of the caller and of the services they offer;

(2) Materials designed to inform the female of the probable anatomical and physiological characteristics of the embryo or fetus at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the embryo or fetus's survival and pictures or drawings representing the development of an embryo or fetus at two-week gestational increments: *Provided*, That any such pictures or drawings must contain the dimensions of the embryo or fetus and must be realistic and

appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the embryo or fetus at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, and the possible detrimental psychological effects of abortion;

(3) Materials designed to inform the female of the range of possibilities regarding the effects and risks of a mifepristone chemical abortion or an attempt to counteract it and information on and assistance with the resources that may be available.

(e) The materials referred to in subsection (d) of this section shall be printed in a typeface large enough to be clearly legible. The website provided for in section four of this article shall be maintained at a minimum resolution of seventy dots per inch. All pictures appearing on the website shall be a minimum of 200 x 300 pixels. All letters on the website shall be a minimum of 11-point font. All information and pictures shall be accessible with an industry standard browser requiring no additional plug-ins.

(f) The materials required under this section shall be available at no cost from the Department of Health upon request and in appropriate numbers to any person, facility, or hospital.

(g) Within 90 days of the effective date of this article upon the reenactment of this article during the 2026 Regular Session, the secretary of the Department of Health shall develop and maintain a stable Internet website to provide the information required to be provided pursuant to the provisions of §16-2R-11 of this code. No information regarding persons visiting the website may be collected or maintained. The secretary of the Department of Health shall monitor the website on a daily basis to prevent and correct tampering.

(b) The Bureau for Public Health shall make the following available through the bureau's publicly accessible internet website:

(1) Up-to-date evidence-based information about any in-utero disability or diagnosis that has been peer reviewed by medical experts and any national disability rights organizations. The

information provided shall include the following:

(A) Physical, developmental, educational, and psychological outcomes;

(B) Life expectancy;

(C) Clinical course;

(D) Intellectual and functional development;

(E) Treatment options; and

(F) Any other information the bureau deems necessary.

(G) Contact information regarding first call programs and support services, including the following:

(i) Information hotlines specific to any in-utero fetal disabilities or conditions;

(ii) Relevant resources centers or clearinghouses;

(iii) Information about adoption specific to disabilities;

(iv) National and local disability rights organizations; and

(v) Education and support programs.

(H) Information regarding perinatal hospice and palliative care as provided in section §16-2R-11(a)(C)(1).

(c) The information provided in accordance with this section shall conform to the applicable standard or standards provided in the Enhanced National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care as adopted by the United States Department of Health and Human Resources and published in the Federal Register on September 24, 2013.

(d) The website:

(1) Must use enhanced, user-friendly search capabilities to ensure that the information described in §16-2R-11(g) of this code is easily accessible, and must use searchable by keywords and phrases, specifically to ensure that entering the terms "abortion" and "abortion pill reversal" and "disability" and "fetal abnormality" and "non -medically viable fetus" yields the §16-2R-11(g) of

- 13 this code materials, regardless of §16-2R-11(g) of this code materials are labeled.
- 14 (2) Must ensure that the §16-2R-11(g) of this code material is printable.
- 15 (3) Must give clear prominent instructions on how to receive the information in printed form;
- 16 and
- 17 (4) Must be accessible to the public without requiring registration or use of a username, a
- 18 password, or another user identification.

NOTE: The purpose of this bill is to prohibit the abortifacients and to enact criminal penalties and permit private causes of action for supplying abortifacients and also requiring informed consent.

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