1 **H. B. 2090**

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3   (By Delegate Cowles)

4   [Introduced January 12, 2011; referred to the

5   Committee on Health and Human Resources then the

6   Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by

11   adding thereto two new sections, designated §33-42-9 and §33-

12   42-10, all relating to the care of aborted fetuses; requiring

13   medical facilities that provide abortions to administer

14   anesthesia to an unborn fetus when aborted if it is older than

15   seven weeks; requiring all available medical means to be used

16   to preserve the life of a fetus if it is alive when aborted;

17   and providing criminal penalties for violations.

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

19   That the Code of West Virginia, 1931, as amended, be amended

20 by adding thereto two new sections, designated §33-42-9 and §33-42-

21 10, all to read as follows:

22 **ARTICLE 42. WOMEN'S ACCESS TO HEALTH CARE ACT.**

23 **§33-42-9. Requirement that certain medical facilities provide**

1   **anesthesia to unborn babies who are aborted, when**

2   **older than seven weeks.**

3   (a) When a facility provides abortions, it is responsible for

4 ensuring that anesthesia is administered to an unborn fetus who is

5 aborted if it is older than seven weeks. The kind of anesthesia

6 used, and the method of administering the anesthesia, shall conform

7 to medical standards used in fetal surgery.

8   (b) Any facility or person violating the requirements of this

9 section is guilty of a misdemeanor and, upon conviction thereof,

10 shall be fined not less than $1,000 nor more than $5,000 and, if an

11 individual, confined in jail no less than six months nor more than

12 one year, or both fined and confined.

13   (c) Nothing contained in this section endorses, allows,

14 permits or approves of any abortion.

15 **§33-42-10. Requirement to preserve life when fetus aborted alive.**

16   (a) In cases in which, during the course of an abortion

17 procedure, a fetus is aborted alive, the facility in which the

18 abortion is performed and all individuals directly involved in

19 performing the abortion shall use all available medical means to

20 preserve, promote and maintain the life of the fetus.

21   (b) Any person who violates the provisions of this section is

22 guilty of a felony and, upon conviction thereof, shall be fined not

23 less than $1,000 nor more than $5,000 or imprisoned in a state

24 correctional facility for not less than one nor more than three

1 <u>years, or both fined and imprisoned.</u>

2 <u>(c) Nothing in this section endorses, allows, permits or</u>

3 <u>approves of any abortion.</u>

NOTE: The purpose of this bill is to require medical facilities that provide abortions to administer anesthesia to an unborn fetus when aborted, if it is older than seven weeks. It also provides that when, during the course of an abortion procedure, a fetus is aborted alive, all available medical means must be used to preserve its life. The bill provides criminal penalties for violations.

These sections are new; therefore, they have been completely underscored.