

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 91**

BY SENATOR KARNES

[Introduced January 10, 2018; Referred  
to the Committee on Health and Human Resources; and  
then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new  
 2 sections, designated §33-42-9 and §33-42-10, all relating to the care of aborted fetuses;  
 3 requiring medical facilities that provide abortions to administer anesthesia to an unborn  
 4 fetus when aborted if it is older than seven weeks; requiring all available medical means  
 5 to be used to preserve the life of a fetus if it is alive when aborted; and providing criminal  
 6 penalties.

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

**ARTICLE 42. WOMEN’S ACCESS TO HEALTH CARE ACT.**

**§33-42-9. Requirement that certain medical facilities provide anesthesia to unborn babies who are aborted, when older than seven weeks.**

1 (a) A facility that provides abortions is responsible for ensuring that anesthesia is  
 2 administered to an unborn fetus who is aborted if it is older than seven weeks. The kind of  
 3 anesthesia used and the method of administering the anesthesia shall conform to medical  
 4 standards used in fetal surgery.

5 (b) A facility or person violating this section is guilty of a misdemeanor and, upon conviction  
 6 thereof, shall be fined not less than \$1,000 nor more than \$5,000 and, if an individual, confined  
 7 in jail not less than six months nor more than one year, or both fined and confined.

8 (c) Nothing contained in this section endorses, allows, permits or approves of any abortion.

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

1 (a) If, during the course of an abortion procedure, a fetus is aborted alive, the facility in  
 2 which the abortion is performed and all individuals directly involved in performing the abortion  
 3 shall use all available medical means to preserve, promote and maintain the life of the fetus.

4 (b) A person who violates the provisions of this section is guilty of a felony and, upon  
 5 conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state  
 6 correctional facility for not less than one nor more than three years, or both fined and confined.

7 (c) Nothing in this section endorses, allows, permits or approves of any abortion.

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. The bill 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.

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