

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### House Bill 2710

FISCAL  
NOTE

BY DELEGATES HILL, KESSINGER, MARTIN, DEAN,

WILSON, SOBONYA, BLAIR AND MILLER, C.

[Introduced February 27, 2017; Referred

to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-8D-4a of the Code of West Virginia, 1931, as amended, relating  
 2 to including unborn child or fetus in statute setting criminal penalties for child neglect  
 3 resulting in death.

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

1 That §61-8D-4a of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 8D. CHILD ABUSE.**

**§61-8D-4a. Child, unborn child or fetus neglect resulting in death; criminal penalties.**

1 (a) If any parent, guardian or custodian shall neglect a child, unborn child or fetus who has  
 2 reached twenty four weeks gestation under his or her care, custody or control and by such neglect  
 3 cause the death of ~~said~~ the child, unborn child or fetus, then ~~such~~ the parent, guardian or  
 4 custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than  
 5 \$1,000 nor more than \$5,000 or committed to the custody of the Division of Corrections for not  
 6 less than three nor more than fifteen years, or both ~~such fine and imprisonment~~ fined and  
 7 imprisoned.

8 (b) No child, who in lieu of medical treatment was under treatment solely by spiritual means  
 9 through prayer in accordance with a recognized method of religious healing with a reasonable  
 10 proven record of success shall, for that reason alone, be considered to have been neglected  
 11 within the provisions of this section. A method of religious healing shall be presumed to be a  
 12 recognized method of religious healing if fees and expenses incurred in connection with ~~such~~ the  
 13 treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to  
 14 regulations or rules promulgated by the United States Internal Revenue Service.

15 (c) A child whose parent, guardian or legal custodian has inhibited or interfered with the  
 16 provision of medical treatment in accordance with a court order may be considered to have been  
 17 neglected for the purposes of this section.

NOTE: The purpose of this bill is to include unborn child and fetus in statute setting criminal penalties for child neglect resulting in death.

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