WEST virginia legislature

2021 regular session

Introduced

Senate Bill 251

By Senators Rucker, Woodrum, and Grady

[Introduced February 12, 2021; referred
to the Committee on Health and Human Resources; and then to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-63-1 and §16-63-2, all relating to creating the Living Infants Fairness and Equality Act; legislative findings; definitions; and recognizing unborn children as natural persons entitled to all safeguards granted to all living persons in West Virginia under the Bill of Rights of the Constitution of the United States and the West Virginia Constitution.

Be it enacted by the Legislature of West Virginia:

ARTICLE 63. Living Infants Fairness and Equality Act.

§16-63-1. Legislative findings.

The Legislature makes the following findings:

(1) In the founding of the United States of America, several states affirmed that: ”We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness–that to secure these Rights, Governments are instituted among men;”

(2) To protect the fundamental rights of all persons, and specifically to protect the fundamental rights of particular classes of persons who had not previously been recognized under law, the 14th Amendment to the Constitution of United States was ratified, providing that, “nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws”;

(3) Modern medical science, not available decades ago, demonstrates that unborn children are a class of living, distinct persons, and more expansive state recognition of unborn children as persons did not exist when Planned Parenthood v. Casey (1992) and Roe v. Wade (1973) established abortion related precedents;

(4) The State of West Virginia, applying reasoned judgment to the full body of modern medical science, recognizes the benefits of providing full legal recognition to an unborn child above the minimum requirements of federal law;

(5) Article III, Section 1 of the West Virginia Constitution states that “All men are, by nature, equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely The enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety”. And, Article III, Section 1 of the West Virginia Constitution states that “No person shall be deprived of life, liberty, or property, without due process of law, and the judgment of his peers”; and

(6) It shall be the policy of the State of West Virginia to recognize unborn children as natural persons.

(7) The provisions of this article are to be considered together with and in addition to the provisions of §16-2I-1 *et seq.* of this code (Unborn Child Protection from Dismemberment Abortion Act.),§16-2M-1*et seq.* of this code (The Pain-Capable Unborn Child Protection Act), and §16-2O-1 *et seq.* of this code (Unborn Child Protection from Dismemberment Abortion Act)***.***

§16-63-2. Definitions.

(a) There are two classes of persons: natural and artificial.

(1) “Natural person” means any human being including an unborn child.

(2) Corporations are artificial persons. They are creatures of the law and, except insofar as the law forbids it, they are subject to be changed, modified, or destroyed at the will of their creator.

(b) Unless otherwise provided by law, any natural person, including an unborn child with a detectable human heartbeat, shall be included in population based determinations.

(c) As used in this article, the term:

(1) “Detectable human heartbeat” means embryonic or fetal cardiac activity or the steady and repetitive rhythmic contraction of the heart within the gestational sac.

(2) “Unborn child” means a member of the species Homo sapiens at any stage of development who is carried in the womb.

NOTE: The purpose of this bill is to create the Living Infants Fairness and Equality Act, recognizing unborn children as natural persons entitled to all safeguards granted to all living persons in West Virginia under the Bill of Rights under the Constitution of the United States and the West Virginia Constitution.

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