

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]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §16-63-1 and §16-63-2, all relating to creating the Living Infants Fairness and
 3 Equality Act; legislative findings; definitions; and recognizing unborn children as natural
 4 persons entitled to all safeguards granted to all living persons in West Virginia under the
 5 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.

1 The Legislature makes the following findings:

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

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

11 (3) Modern medical science, not available decades ago, demonstrates that unborn
 12 children are a class of living, distinct persons, and more expansive state recognition of unborn
 13 children as persons did not exist when Planned Parenthood v. Casey (1992) and Roe v. Wade
 14 (1973) established abortion related precedents;

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

18 (5) Article III, Section 1 of the West Virginia Constitution states that "All men are, by

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

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

27 (7) The provisions of this article are to be considered together with and in addition to the
 28 provisions of §16-2I-1 et seq. of this code (Unborn Child Protection from Dismemberment Abortion
 29 Act.), §16-2M-1 et seq. of this code (The Pain-Capable Unborn Child Protection Act), and §16-
 30 2O-1 et seq. of this code (Unborn Child Protection from Dismemberment Abortion Act).

§16-63-2. Definitions.

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

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

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

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

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

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

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

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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.