

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 246**

By Senators Taylor, Karnes, and Rucker

[Introduced January 11, 2024; referred

to the Committee on Health and Human Resources;

and then to the Committee on the Judiciary]

1 A BILL to amend and reenact §16-2R-3 of the Code of West Virginia, 1931, as amended, relating  
2 to removing the rape and incest exception to obtain an abortion in West Virginia.

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

**ARTICLE 2R. UNBORN CHILD PROTECTION ACT.**

**§16-2R-3. Prohibition to perform an abortion.**

1 (a) An abortion may not be performed or induced or be attempted to be performed or  
2 induced unless in the reasonable medical judgment of a licensed medical professional:

3 (1) The embryo or fetus is nonviable;

4 (2) The pregnancy is ectopic; or

5 (3) A medical emergency exists.

6 ~~(b) The prohibition set forth in subsection (a) of this section shall not apply to an adult within~~  
7 ~~the first 8 weeks of pregnancy if the pregnancy is the result of sexual assault, as defined in §61-8B-~~  
8 ~~1 et seq. of this code, or incest, as defined in §61-8-12 of this code, and at least 48 hours prior to~~  
9 ~~the abortion the patient has reported the sexual assault or incest to a law enforcement agency~~  
10 ~~having jurisdiction to investigate the complaint and provided the report to the licensed medical~~  
11 ~~professional performing the abortion.~~

12 ~~(c) The prohibition set forth in subsection (a) of this section shall not apply to a minor or an~~  
13 ~~incompetent or incapacitated adult within the first 14 weeks of pregnancy if the pregnancy is the~~  
14 ~~result of sexual assault, as defined in §61-8B-1 et seq. of this code, or incest, as defined in §61-8-~~  
15 ~~12 of this code, and at least 48 hours prior to the abortion the patient has:~~

16 ~~(1) A report of the sexual assault or incest has been made to law enforcement having~~  
17 ~~jurisdiction to investigate the complaint; or~~

18 ~~(2) The patient has obtained medical treatment for the sexual assault or incest or any injury~~  
19 ~~related to the sexual assault or incest from a licensed medical professional or in a hospital, as~~  
20 ~~defined in §16-5B-1 of this code, which is licensed by the Office of Health Facility Licensure and~~  
21 ~~Certification of the West Virginia Department of Health and Human Resources: *Provided*, That the~~

22 ~~licensed medical professional or hospital, as defined in §16-5B-1 of this code, which is licensed by~~  
23 ~~the Office of Health Facility Licensure and Certification of the West Virginia Department of Health~~  
24 ~~and Human Resources, and which performed or provided such medical treatment may not~~  
25 ~~perform or provide the abortion arising from such sexual assault or incest.~~

26 ~~(d) In all cases where a report of sexual assault or incest against a minor is made pursuant~~  
27 ~~this subsection (c), the agency or person to whom the report is made shall report the sexual~~  
28 ~~assault or incest to the Child Abuse and Neglect Investigations Unit of the West Virginia State~~  
29 ~~Police within 48 hours~~

30 ~~(e) (b) An abortion performed pursuant to this section may not use the partial birth abortion~~  
31 ~~procedure.~~

32 ~~(f) (c) A surgical abortion performed or induced or attempted to be performed or induced~~  
33 ~~pursuant to this section shall be in a hospital, as defined in §16-5B-1 of this code, which is licensed~~  
34 ~~by the Office of Health Facility Licensure and Certification of the West Virginia Department of~~  
35 ~~Health and Human Resources.~~

36 ~~(g) (d) An abortion performed or induced or attempted to be performed or induced shall be~~  
37 ~~performed by a licensed medical professional who has West Virginia hospital privileges.~~

NOTE: The purpose of this bill is to remove exceptions for rape and incest for the current abortion law in West Virginia.

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