

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Introduced**

## **House Bill 2455**

By Delegates Hornby, Crouse, Maynor, and Willis

[Introduced February 17, 2025; referred to the  
Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §16-2S-1, §16-2S-2, §16-2S-3, §16-2S-4, §16-2S-5, and §16-2S-6, relating to  
3 creating the Birth Freedom Act; providing a findings and purpose; clarifying who has the  
4 right to direct maternal healthcare; providing definitions; establishing birth centers are  
5 exempt from certificates of need; providing a scope of practice; clarifying who has  
6 authority to establish new occupational licenses; and providing a standard of review.

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

## **ARTICLE 2S. BIRTH FREEDOM ACT.**

### **§16-2S-1. Findings and purpose.**

1 (a) The legislature finds and declares the following:  
2 (1) Childbirth is a culmination of pregnancy and is a natural process rather than an illness;  
3 (2) The practice of midwifery has been part of the history and tradition of the United States  
4 and this state since before their founding;  
5 (3) Midwives and other trained individuals provide safe, quality care to families;  
6 (4) It is in the public interest to remove impediments to the practice of midwifery;  
7 (5) It is in the public interest to ensure all providers involved in prenatal, labor and delivery,  
8 and postpartum care are able to practice to the full extent allowed by their respective training;  
9 (6) Giving birth at home or in the location of one's choosing is part of the history and  
10 tradition of the United States and this state since before their founding;  
11 (7) Women, together with their families, have the right to choose and direct their maternal  
12 healthcare, including the unqualified right to choose where and how to deliver; and  
13 (8) It is in the public interest to remove obstacles to safe out-of-hospital deliveries.  
14 (b) The purposes of this act are:  
15 (1) To protect the right of women to direct and choose their pre-natal, labor and delivery,  
16 and postpartum care. This includes the right to decline any service, treatment, or type of care and  
17 the right to choose both where to give birth and who may attend the birth;

18       (2) To increase access to pre-natal, labor and delivery, and postpartum care by ensuring  
19 birth centers and other safe locations for labor and delivery can open and operate without  
20 unreasonable burdens;

21       (3) To ensure that providers who provide care to families during pregnancy, labor and  
22 delivery, and postpartum can offer safe, quality care and practice to the full extent allowed by their  
23 training; and

24       (4) To prohibit state agencies from creating future occupational licensure requirements for  
25 providers that offer pre-natal, labor and delivery, or postpartum care and to encourage the  
26 Legislature to make any future occupational licenses voluntary, not mandatory.

**§16-2S-2. Right to direct maternal healthcare.**

1       (a) Nothing in this act abridges, limits, or changes in any way the longstanding rights of  
2 women to deliver their baby where, when, how, and with whom they choose, regardless of  
3 licensure or other status. This right includes the right to give birth at home or any location outside  
4 of a licensed hospital or facility.

5       (b) All women have the right to make their own healthcare choices regarding prenatal,  
6 maternity, labor and delivery, and postpartum care and services. This right includes the unqualified  
7 right to choose who is present during labor and delivery.

8       (c) Women also have the right to name individuals who are authorized to act as their agent  
9 and advocate on their behalf. Agents may, but are not limited to, family members, spouses,  
10 doulas, or other birth workers.

11       (d) Providers must respect a woman's decision about her general health care, her  
12 pregnancy, and her birthing experience.

13       (e) Providers must respect a woman's decision to decline any treatment, procedure,  
14 service, or modality of care.

15       (f) Nothing in this act supersedes any private claim against a provider.

16       (g) Nothing in this act requires health care providers to provide a certain type of care

17 against their will.

**§16-2S-3. Certificate of need repealed.**

1 (a) "Birth center" means a facility or location where mothers receive midwifery care or other  
2 prenatal or maternal healthcare, well-person reproductive healthcare, extended postpartum care,  
3 and newborn care within the scope of practice of a trained provider. Birth centers do not include  
4 hospitals. The existence of birth centers in no way limits a woman's right to choose where and with  
5 whom she receives prenatal, labor and delivery, and postpartum care.

6 (b) Notwithstanding any other provision of law, no facility or provider is required to obtain a  
7 certificate of need to open or operate a birth center.

8 (c) The state shall not require a birth center to obtain a transfer agreement signed by a  
9 hospital, ambulance service, or other provider as a condition to operate or obtain a facility license.  
10 Nothing in this act limits the [state agency] from promulgating reasonable standards for a transfer  
11 plan from a birth center to another facility in an emergency, provided that those standards are  
12 substantially related to real threats to public health and safety.

13 (d) Notwithstanding any other provision of law, no provider is required to obtain a certificate  
14 of need to provide obstetrics, gynecological, or perinatal services.

15 (e) Notwithstanding any other provision of law, no provider is required to obtain a certificate  
16 of need to offer or expand neonatal intensive care.

17 (f) Nothing in this act prohibits the [state agency] from promulgating reasonable standards  
18 for birth centers or neonatal intensive care, provided that all licensure standards are necessary to  
19 address real threats to public health and safety.

20 (g) The state shall not require that birth centers be located within a certain proximity to  
21 hospitals or neo-natal intensive care units.

**§16-2S-4. Provider scope of practice.**

1 (a) All providers attending births, whether in a hospital, birth center, private residence, or  
2 other location, shall only provide care within the generally accepted scope of practice for their

3 profession.

4 (b) Midwives may attend live births and practice to the full extent allowed by their  
5 respective training.

6 (c) Nothing in this act shall be construed as authorizing a midwife to prescribe medication  
7 requiring a prescription.

8 (d) Nothing in this act shall be construed to establish a standard of care or to alter the  
9 scope of practice for licensed physicians, licensed physician assistants, or licensed nurses.

10 (e) Nothing in this act shall prohibit a birth attendant from providing midwifery services  
11 without a license if the birth attendant has cultural or religious traditions that include the  
12 attendance of birth attendants at birth, and the birth attendant serves only women in that distinct  
13 cultural or religious group.

14 (f) A person may use a title that accurately reflects their training and expertise, regardless  
15 of their licensure status in the state, provided however that no person may offer to provide services  
16 they are not legally allowed to provide.

**§16-2S-5. Occupational licenses.**

1 (a) No state agency may promulgate a new occupational license for providers that  
2 participate in and offer prenatal, labor and delivery, or postpartum care. Only the legislature can  
3 establish new occupational licenses.

4 (b) Occupational licensure increases costs to consumers, decreases the availability of  
5 providers, and prevents individuals from pursuing a lawful calling. If the legislature decides to  
6 create a new occupational license for providers that participate in or offer prenatal, labor and  
7 delivery, or postpartum care, it is encouraged to consider voluntary licensure for healthcare  
8 insurance reimbursement purposes only. Under a voluntary licensure scheme no providers may  
9 be prohibited from practicing to the full extent allowed by their training for failure to obtain a  
10 license.

11 (c) To increase access to maternal healthcare, this state recognizes out-of-state licenses

12 for providers that participate in and offer prenatal, labor and delivery, or postpartum care.

**§16-2S-6. Standard of review.**

1 In actions brought by or against state agencies relating to the offering of prenatal, labor and  
2 delivery, or postpartum care by a facility or a provider, after applying all customary tools of  
3 interpretation, the court or hearing officer must exercise any remaining doubt in favor of a  
4 reasonable interpretation which limits agency power and maximizes a mother's right to direct and  
5 choose her maternal care.

NOTE: The purpose of this bill is to create the Birth Freedom Act; clarify who has the right to direct maternal healthcare; provide definitions; establish that birth centers are exempt from certificates of need; provide a scope of practice; clarify who has authority to establish new occupational licenses; and provide a standard of review.

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