

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2662

By Delegates Masters, Hornby, Butler, Horst, Maynor,

Mallow, and Kimble

[Introduced February 20, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §17C-5-1 and §61-2-30 of the Code of West Virginia, as amended;
 2 and to amend the code by adding a new section, designated §17C-5-1a, all relating to
 3 creating the separate and distinct offenses of misdemeanor vehicular homicide and felony
 4 aggravated vehicular homicide; and to recognize and protect unborn victims of these
 5 criminal offenses.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17C. TRAFFIC REGULATIONS AND THE LAWS OF THE ROAD.

ARTICLE	5.	SERIOUS	TRAFFIC	OFFENSES.
§17C-5-1.	Negligent	vehicular	homicide;	penalties.

1 (a) When the death of any person ensues within one year as a proximate result of injury
 2 received by the driving of any vehicle anywhere in this state in ~~reckless~~ disregard of the safety of
 3 others, the person so operating such vehicle shall be guilty of negligent ~~negligent~~ vehicular
 4 homicide.

5 (b) Any person convicted of negligent homicide shall be punished by imprisonment for not
 6 more than one year or by fine of not less than \$100 nor more than \$1,000, or by both such fine and
 7 imprisonment.

8 (c) The commissioner shall revoke the license or permit to drive and any nonresident
 9 operating privilege of any person convicted of negligent homicide.

<u>§17C-5-1a.</u>	<u>Aggravated</u>	<u>vehicular</u>	<u>homicide;</u>	<u>penalties.</u>
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1 (a) When the death of any person ensues within one year as a proximate result of injury
 2 received by the driving of any vehicle anywhere in this state in reckless disregard of human life, the
 3 person so operating such vehicle shall be guilty of the felony offense of aggravated vehicular
 4 homicide.

5 (b) Any person convicted of aggravated vehicular homicide shall be punished by

6 imprisonment for not less than two years nor more than five years in a state correctional facility
7 and shall be fined not more than \$20,000.

8 (c) The commissioner shall revoke the license or permit to drive and any nonresident
9 operating privilege of any person convicted of aggravated vehicular homicide.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

1 (a) This section may be known and cited as the Unborn Victims of Violence Act.

2 (b) For the purposes of this article, the following definitions shall apply: *Provided*, That
3 these definitions only apply for purposes of prosecution of unlawful acts under this section and
4 may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for
5 purposes of argument in a civil cause of action, unless there has been a criminal conviction under
6 this section.

7 (1) "Embryo" means the developing human in its early stages. The embryonic period
8 commences at fertilization and continues to the end of the embryonic period and the beginning of
9 the fetal period, which occurs eight weeks after fertilization or ten weeks after the onset of the last
10 menstrual period.

11 (2) "Fetus" means a developing human that has ended the embryonic period and
12 thereafter continues to develop and mature until termination of the pregnancy or birth.

13 (c) For purposes of enforcing the provisions of §61-2-1, §61-2-4, §61-2-7, §61-2-9(a), §61-
14 2-9(c), §61-2-10, §61-2-10b, 61-2-28(a), §17C-5-1 or §17C-5-1a, and §17C-5-2(b) or §17C-5-2(c)
15 of this code, a pregnant woman and the embryo or fetus she is carrying in the womb constitute
16 separate and distinct victims.

17 (d) Exceptions. — The provisions of this section do not apply to:

18 (1) Acts committed during a legal abortion to which the pregnant woman, or a person
19 authorized by law to act on her behalf, consented or for which the consent is implied by law;

20 (2) Acts or omissions by medical or health care personnel during or as a result of medical
21 or health-related treatment or services, including, but not limited to, medical care, abortion,
22 diagnostic testing or fertility treatment;

23 (3) Acts or omissions by medical or health care personnel or scientific research personnel
24 in performing lawful procedures involving embryos that are not in a stage of gestation in utero;

25 (4) Acts involving the use of force in lawful defense of self or another, but not an embryo or
26 fetus; and

27 (5) Acts or omissions of a pregnant woman with respect to the embryo or fetus she is
28 carrying.

29 (e) For purposes of the enforcement of the provisions of this section, a violation of the
30 provisions of §16-2i-1 *et seq.* of this code shall not serve as a waiver of the protection afforded by
31 the provisions of subdivision (1), subsection (d) of this section.

32 (f) Other convictions not barred. — A prosecution for or conviction under this section is not
33 a bar to conviction of or punishment for any other crime committed by the defendant arising from
34 the same incident.

NOTE: The purpose of this bill is to create the separate and distinct offenses of misdemeanor vehicular homicide and felony aggravated vehicular homicide and to amend W.Va. Code §61-2-30(c) to recognize and protect unborn victims of these criminal offenses.

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