

110.243-De10

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

Committee Substitute for
SENATE BILL NO. 243

(By Mr. *Huffman*)



PASSED *March 12,* 1982

In Effect *ninety days from* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 243

(BY MR. HUFFMAN, *original sponsor*)

[Passed March 12, 1982; in effect ninety days from passage.]

AN ACT to amend article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine, relating to public health; requiring parental notification prior to performing an abortion on an unemancipated minor; and providing for waiver of notification by another physician.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine, to read as follows:

ARTICLE 9. OFFENSES GENERALLY.

§16-9-9. Parental notification required for abortion performed on minors; penalties.

- 1 (a) No physician may perform an abortion upon an
- 2 unemancipated pregnant woman under the age of eighteen
- 3 years without first having given at least twenty-four hours
- 4 actual notice to one of the parents or the legal guardian of the
- 5 minor pregnant woman as to the intention to perform such
- 6 abortion or if such parent or guardian cannot be reached after
- 7 a reasonable effort to find him or her, without first having
- 8 given at least forty-eight hours constructive notice to one of
- 9 the parents or the legal guardian of the minor pregnant
- 10 woman by certified mail to the last known address of one of

11 the parents or guardian, computed from the time of mailing:
12 *Provided*, That the parents may, in a personal interview with
13 the physician, execute a written waiver of the twenty-four
14 hour notice requirement of this section.

15 (b) Notice under this section may be waived by a
16 physician other than the attending physician if such
17 physician finds that the minor is mature enough to make the
18 abortion decision independently or that notification would
19 not be in the minor's best interest. *Provided*, That such
20 physician shall not be associated professionally or financially
21 with the physician proposing to perform the abortion.

22 (c) This section does not apply where there is an
23 emergency need for an abortion to be performed such that
24 continuation of the pregnancy provides an immediate threat
25 and grave risk to the life or health of the pregnant woman and
26 the attending physician so certifies in writing.

27 (d) Any physician performing an abortion upon an
28 unemancipated pregnant woman under the age of eighteen
29 years shall provide the department of health a written report
30 of the procedure within thirty days after having performed
31 the abortion. The report shall be on a form and in the manner
32 prescribed and provided by the director of the department of
33 health. The report shall not contain the name, address or
34 other information by which the woman receiving the abortion
35 may be identified.

36 (e) Anyone who violates this section is guilty of a
37 misdemeanor, and, upon conviction thereof, shall be fined
38 not less than twenty dollars nor more than fifty dollars or
39 imprisoned in the county jail not more than thirty days, or
40 both fined and imprisoned.

41 (f) Any person who, without being first duly licensed as a
42 physician in this state, performs or attempts to perform an
43 abortion upon another person who is an unemancipated
44 pregnant woman under the age of eighteen years, or performs
45 or attempts to perform any medical procedure which may
46 reasonably be foreseen as likely to result in an abortion is
47 guilty of a felony, and, upon conviction thereof, shall be fined
48 ten thousand dollars or imprisoned not less than ten years, or
49 both fined and imprisoned.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Byler
Chairman Senate Committee

Jon E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

David C. Wicks
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Warner R. McAnaw
President of the Senate

Alfred M. Lee, Jr.
Speaker House of Delegates

The within *is disapproved* this the *31*

day of *March*, 1982.

Robert R. Byrd
Governor

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