

STATE LEGAL SNAPSHOT

West Virginia

Abortion law, status, and enforcement — one-page reference

As of Jul 12, 2026

Research completed Jul 12, 2026

Confidence: high



● Abortion is banned at every stage of pregnancy — availability: severely restricted.

GESTATIONAL LIMIT	Total ban	AVAILABLE	Severely restricted	✓ MOTHER EXEMPT	Yes	FETAL HOMICIDE LAW	Yes	PERSONHOOD LANGUAGE	Yes
TELEHEALTH	Not allowed	WAITING PERIOD	24 hours	✓ RAPE / INCEST EXCEPTION	Yes	PARENTAL INVOLVEMENT	Notification only		
SHIELD STATE	No	MEDICAID	Hyde only	CIVIL BOUNTY LAW	No	PENDING CHANGE	See below		

§ Jurisdiction overview

West Virginia enforces a near-total abortion ban with exceptions for life, fatal fetal anomaly, ectopic pregnancy, rape, and incest.

W. Va. Code § 16-2R-3(a) · W. Va. Const. Art. VI, § 57 · GenBioPro, Inc. v. Raynes, No. 23-2194 (4th Cir. July 15, 2025)

☒ Fetal personhood & the internal contradiction

West Virginia's legal treatment of fetal personhood contains significant internal contradictions. The criminal fetal-homicide statute (W. Va. Code § 61-2-30) defines an 'unborn child' as 'an embryo or fetus at any stage of development' and makes killing one a separate homicide offense — yet the same statute expressly excludes 'any lawful abortion, as defined in § 16-2R-2 of this code' and 'any act committed by the mother of the unborn child.' The wrongful-death case law (Farley v. Sartin) treats a nonviable fetus as a 'person' for civil recovery, but the same body of law carves out ectopic embryos (Saleh v.

W. Va. Code § 61-2-30 · W. Va. Code § 16-2R-1

MINORS

A physician must notify one parent, guardian, or conservator of an unemancipated minor at least 48 hours before performing an abortion, with judicial bypass available.

SPOUSAL / PATERNAL RIGHTS

West Virginia has no active statute requiring spousal consent or notice for an abortion; a 2006 bill to require notice to the father died in committee.

☒ Penalties in effect

ACTOR	OFFENSE	PENALTY
Non-licensed person who performs an unlawful abortion	Performing or inducing an unlawful abortion	Felony; determinate sentence of 3-10 years in a state correctional facility
Formerly licensed medical professional whose license was revoked who performs a subsequent unlawful abortion	Performing an unlawful abortion after license revocation	Felony; determinate sentence of 3-10 years in a state correctional facility
Currently licensed medical professional who violates the UCPA	Unlawfully performing or inducing an abortion	License suspension or revocation by the applicable licensing board
Any person who violates the born-alive protection requirements	Failure to provide medical care to a child born alive after an abortion	For non-licensed persons: unauthorized practice of medicine (misdemeanor under § 30-3-13); for licensed professionals: license discipline including possible revocation
Person who performs D&E dismemberment abortion (second or subsequent offense)	Dismemberment abortion	Felony; imprisonment for 1-5 years

☒ Recent changes

- Feb 2026 SB 173, further criminalizing abortifacient trafficking and requiring state contract bans with abortifacient manufacturers/distributors, passes the West Virginia Senate and moves to the House.

- Jul 2025

Fourth Circuit Court of Appeals affirms the district court in *GenBioPro v. Raynes* (2-1 decision), holding that FDA regulation of mifepristone does not preempt West Virginia's abortion ban.
- Apr 2025

SB 85, creating specific felony penalties and civil causes of action for mailing or distributing abortifacients, passes the West Virginia Senate and is referred to the House Health and Human Resources Committee.
- Aug 2023

U.S. District Court for the Southern District of West Virginia rules in favor of the state in *GenBioPro v.*
- Apr 2023

Plaintiffs in *Women's Health Center v. Sheth* voluntarily dismiss the federal challenge to HB 302 without prejudice.
- Feb 2023

Abortion providers file *Women's Health Center of West Virginia v. Sheth* in federal district court, challenging HB 302 on substantive due process, equal protection, and vagueness grounds.
- Jan 2023

GenBioPro, a generic mifepristone manufacturer, files suit in federal district court, arguing that FDA regulation of mifepristone preempts West Virginia's abortion ban.

🔍 Pending changes to watch

SB 85 (2025 Regular Session)
Legislation · Passed Senate April 1, 2025; referred to House Health and Human Resources. Not yet enacted.

Would create specific felony penalties (3-10 years for non-medical professionals) for sending, mailing, or placing abortifacients into commerce directed at West Virginia; would create a private civil cause of action for pregnant women who receive abortifacients unlawfully; would impose mandatory license revocation for medical professionals.

SB 173 (2026 Regular Session)
Legislation · Passed Senate February 13, 2026; pending in House. Not yet enacted.

Would criminalize abortifacient trafficking, impose felony penalties (3-10 years), create civil causes of action, require state contract bans with manufacturers/distributors of abortifacients, and mandate continuing education for medical professionals about chemical abortion risks.

Proposed constitutional amendment for reproductive rights (2025)
Legislation · Introduced by Sen. Joey Garcia and Del. Kayla Young in March 2025. No committee action to date.

Would submit to voters a constitutional amendment recognizing a right to 'make and carry out one's own reproductive decisions,' potentially overriding the current statutory ban and Art. VI, § 57.

🔍 Key authorities

Unborn Child Protection Act W. Va. Code § 16-2R-1 to 16-2R-9

The operative near-total abortion ban enacted by HB 302 (2022), including definitions, exceptions, requirements, reporting, licensure action, and born-alive protections.

Abortion criminal penalty W. Va. Code § 61-2-8

Establishes felony penalties (3-10 years) for non-licensed and formerly-licensed persons who perform unlawful abortions, and the express mother-exemption from criminal liability.

West Virginia Constitution, Amendment 1 W. Va. Const. Art. VI, § 57

Provides that nothing in the state constitution protects a right to abortion or requires abortion funding, ratified by voters in 2018.

Informed consent and waiting period W. Va. Code § 16-2I-1 to 16-2I-3

Mandates 24-hour waiting period, state-scripted counseling, printed materials, ultrasound viewing offer, and 'abortion pill reversal' disclosures.

Parental notification for minors W. Va. Code § 16-2F-3 to 16-2F-4

Requires notice to one parent at least 48 hours before a minor's abortion, with judicial bypass available.

Generated from the structured legal focused deep-research record for WV (research completed 2026-07-12). This snapshot condenses a much larger sourced dataset — full citations, quoted statutory text, and plain-language explanations are in the full West Virginia survey. This document has not been reviewed by a lawyer and should not be used as legal advice.