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HOUSE BILL NO. 1154**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 4, 2002)

(Patron Prior to Substitute— Delegate Marshall, R.G.)

A *BILL* to amend the Code of Virginia by adding a section numbered 18.2-71.1 and to repeal § 18.2-74.2, relating to infanticide; penalty.

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-71.1 as follows:**

§ 18.2-71.1. *Medically induced infanticide; penalty.*

A. "Medically induced infanticide" shall mean, in the absence of a related life-threatening physical health condition of the mother, causing the death of a living fetus by deliberately and intentionally performing either of the following procedures:

1. A procedure that includes the following steps, in sequence: (i) delivering a living fetus or a substantial portion thereof into the vagina for the purpose of performing a subprocedure intended to kill the fetus, (ii) performing such subprocedure, and (iii) completing the delivery of the fetus from the woman, regardless of whether the death of the fetus occurs before or after the completion of such delivery.

2. A procedure that includes the following steps, in sequence: (i) surgically accessing a living fetus while in utero by Caesarian section for the purpose of performing a subprocedure intended to kill the fetus, (ii) performing such subprocedure, and (iii) delivering the fetus from the woman, regardless of whether the death of the fetus occurs before or after the completion of such delivery.

The term "medically induced infanticide" shall not include any of the following abortion procedures: the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure or the suction aspiration procedure.

B. A substantial portion of a living fetus shall not be deemed to have been delivered into the vagina unless the portion of the fetus so delivered includes some portion of the fetal neck or head or the part of the fetal abdomen where the umbilical cord is attached to the fetus.

C. A woman upon whom a procedure described in subsection A is performed may not be prosecuted under this section for a conspiracy to violate this section or for any other offense arising out of the performance of such procedure.

D. Any person who commits medically induced infanticide in violation of this section shall be guilty of a Class 4 felony.

E. If any one or more subsections, provisions, clauses, phrases or words of this section, or the application thereof to any person or circumstances, is found to be unconstitutional, the same is hereby declared to be severable and the balance of this section shall remain effective.

2. That § 18.2-74.2 of the Code of Virginia is repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

HOUSE SUBSTITUTE

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