

Department of Planning and Budget

2003 Fiscal Impact Statement

1. Bill Number: HB1541

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|-----------------|---------------------------------------|-------------------------------------|--|
| House of Origin | <input type="checkbox"/> Introduced | <input type="checkbox"/> Substitute | <input type="checkbox"/> Engrossed |
| Second House | <input type="checkbox"/> In Committee | <input type="checkbox"/> Substitute | <input checked="" type="checkbox"/> Enrolled |

2. Patron: Marshall, R.G.

3. Committee: Passed both houses

4. Title: Infanticide

5. Summary/Purpose:

Under current law, a "live birth" is defined as the complete expulsion or extraction of an infant from the body of its mother, after which the infant breathes or shows any other evidence of life such as heart beat, pulsation of the umbilical cord, or voluntary muscle movement. The proposed legislation would expand this definition to include as substantial a expulsion or extraction of the infant to the extent that the infant's entire head or, in the case of a breech birth, the infant's trunk past the navel, is outside the body of the mother.

In addition, the bill would establish the offense of "partial birth infanticide." The offense is defined as a deliberate act that is intended to kill, and does kill, a human infant who has been born alive, but who has not been completely extracted or expelled from its mother. The bill defines a live human infant as one who has been completely or substantially expelled or extracted from its mother and who breathes or shows any other evidence of life. The offense would be a Class 4 felony. The mother would not be subject to prosecution under the proposed statute, nor would anyone performing the procedure when it was necessary to prevent the death of the mother, so long as every reasonable effort was made to preserve the life of the infant.

The bill specifically excludes several methods of abortion from its provisions. Finally, the bill also repeals the existing section which prohibits "partial birth abortion." The U.S. Supreme Court has ruled that such a statute is unconstitutional.

6. Fiscal Impact: Final. See Item No. 8.

7. Budget amendment necessary: None.

8. Fiscal implications:

The Virginia Criminal Sentencing Commission was unable to determine the impact of this proposal on state -responsible (prison) bed space pursuant to § 30 -19.1:4 of the Code of Virginia because the proposal would criminalize behavior that is not currently defined as a criminal act, and data on such activity does not exist. Consequently, the number of individuals who could be affected by the proposal is unknown.

9. **Specific agency or political subdivisions affected:** Department of Corrections

10. **Technical amendment necessary:** None.

11. **Other comments:** Same as SB1205.

Date: 03/11/03/rwh

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cc: Secretary of Public Safety