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HOUSE BILL NO. 1315**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 13, 2004)

(Patron Prior to Substitute—Delegate Black)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-73.1 relating to abortion performed after first trimester.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-73.1, as follows:

§ 18.2-73.1. Anesthesia to prevent fetal pain; penalty.

A. For the purposes of this section, a fetus is any living organism, prior to birth, whose deoxyribonucleic acid (DNA) is that of Homo sapiens.

B. For the purpose of preventing fetal pain, no abortion shall be performed unless actions are taken to anesthetize the fetus in a manner consistent with that commonly provided for a human undergoing amputation, except in the following circumstances: (i) in the reasonable clinical judgment of the physician, such administration of anesthesia to the fetus would cause serious risk to the life of the mother, (ii) in the reasonable clinical judgment of the physician, such administration of anesthesia to the fetus would cause a serious risk of substantial and irreversible impairment of a major bodily function of the mother, (iii) in the reasonable clinical judgment of the physician, the pregnancy has not yet reached the second trimester, or (iv) the mother directs that anesthesia not be administered to the fetus, having been provided oral and written information that there is evidence that by the beginning of the second trimester the fetus may have the physical structures necessary to experience pain, prepared by the Department of Health. Such oral and written information need not be provided to the mother if, in the reasonable clinical judgment of the physician, the delay caused by providing the information would cause a serious risk to the life of the mother or serious risk of substantial and irreversible impairment of a major bodily function of the mother.

C. A violation of this section is a Class 1 misdemeanor.