

Department of Planning and Budget 2004 Fiscal Impact Statement

- 1. Bill Number** HB 1315
- House of Origin** ☐ Introduced ☒ Substitute ☐ Engrossed
- Second House** ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron Black

3. Committee Health, Welfare and Institutions

4. Title Anaesthetization in Abortions; Penalty

5. Summary/Purpose:

The House committee substitute for HB 1315 provides a definition of a fetus as “any living organism, prior to birth, whose deoxyribonucleic acid (DNA) is that of Homo sapiens.” The bill would require that the fetus be “anesthetized in a manner consistent with that commonly provided for a human undergoing amputation,” except in one of the following four circumstances:

- The physician judges that the administration of anesthesia to the fetus would “cause serious risk to the life of the mother”
- The physician judges that the administration of anesthesia to the fetus would “cause a serious risk of substantial and irreversible impairment of a major bodily function of the mother”
- The pregnancy has not reached the second trimester or
- After receiving 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, the mother directs that anesthesia not be administered

The information need not be provided to the mother if the physician judges that the delay would risk the life or substantial and irreversible impairment of a major bodily function of the mother.

The Department of Health would have to provide the written information cited in the bill for the physician’s use.

A physician who performed an abortion without first anesthetizing the unborn child would be guilty of a Class 1 misdemeanor, unless one of the exceptions were met.

The committee substitute omits the original bill’s requirement that the physician submit a notarized report to the Department of Health within 90 days attesting to the estimated age at which the unborn child was aborted and whether the unborn child was first anesthetized.

6. Fiscal Impact Estimates are Indeterminate (see Item 8, below)

7. Budget amendment necessary: No

8. Fiscal implications:

Virginia Department of Health Budget

The Virginia Department of Health (VDH) would probably prepare a one-page brochure describing the medical evidence concerning fetal pain during the second trimester of a pregnancy. Costs incurred by VDH would include staff time to develop the brochure and printing and mailing the brochure to the approximately 14 abortion sites in Virginia. Medical consultation on the accuracy of the brochure would be necessary. The abortion sites would perform copying of the brochure. The cost for VDH should not exceed \$5,000 and can be absorbed in the current budget.

There is no provision for any fee revenue to support VDH expenses.

Fiscal Impact of Criminal Penalty Provisions

Because the incidence of physician failure to comply with the anaesthetization requirement cannot be determined, it is impossible to estimate court costs or imprisonment costs.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, for example, correctional officers. The state's share of these costs, on a per prisoner per day basis, varies from locality to locality. However, according to the Compensation Board, the estimated total state support for local jails averaged \$29.80 per inmate per day in FY 2002.

9. Specific agency or political subdivisions affected:

Virginia Department of Health (VDH)
Local jails
Virginia's court system

10. Technical amendment necessary: None

11. Other comments: None

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c: Secretary of Health and Human Resources