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## HOUSE BILL NO. 2778

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on February 2, 1997)

(Patron Prior to Substitute—Delegates McDonnell and Marshall [HB1629])

A BILL to amend and reenact § 18.2-76 of the Code of Virginia, relating to informed consent for abortion.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-76 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-76. Informed consent required.

A. Before performing any abortion or inducing any miscarriage or terminating a pregnancy as provided for in §§ 18.2-72, 18.2-73 or § 18.2-74, the physician shall obtain the informed written consent of the pregnant woman; ~~provided, however, if such~~ . *However, if the woman shall be is incompetent as adjudicated by any court of competent jurisdiction or if the physician knows or has good reason to believe that such the woman is incompetent as adjudicated by a court of competent jurisdiction, then only after permission is given in writing by a parent, guardian, committee, or other person standing in loco parentis to such incompetent the woman, may the physician perform such an abortion or otherwise terminate the pregnancy.*

The physician shall inform the pregnant woman of the nature of the proposed procedure to be utilized and the risks, if any, in her particular case to her health in terminating or continuing the pregnancy.

B. For purposes of this section

"Informed written consent" means the knowing and voluntary written agreement, without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion, of a person who is capable of exercising free power of choice. The basic information which shall be provided to the woman to effect such consent shall include:

1. A full reasonable and comprehensible medical explanation of the nature, benefits, risks and alternatives to the woman of the proposed procedures or protocols to be followed.

2. An instruction that the woman may withdraw her consent at any time;

3. An offer to answer any inquiries by the woman and to provide further information concerning the procedures and protocols; and

4. A statement of the probable gestational age of the fetus at the time the abortion is to be performed.

C. The physician need not obtain the informed written consent of the woman when the abortion is to be performed pursuant to a medical emergency.

D. Notwithstanding any other provision of law, any physician who fails to follow the provisions of this section shall only be subject to a \$500 civil penalty.