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HOUSE BILL NO. 1378**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice
on March 8, 1998)

(Patron Prior to Substitute—Delegate McDonnell)

A BILL to amend the Code of Virginia by adding in Chapter 4 of Title 18.2 an article numbered 10, consisting of sections numbered 18.2-76.3 and 18.2-76.4, relating to assisted suicide; civil penalty and remedies.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 4 of Title 18.2 an article numbered 10, consisting of sections numbered 18.2-76.3 and 18.2-76.4, as follows:

Article 10.

Suicide.

§ 18.2-76.3. Assisted suicide.

A. Any health care provider who intentionally or knowingly, with the purpose of assisting another person to commit or attempt to commit suicide, (i) provides the physical means by which another person commits or attempts to commit suicide or (ii) participates in a physical act by which another person commits or attempts to commit suicide, shall be subject to a civil penalty not to exceed \$10,000, which shall be paid into the Literary Fund. Upon a second or subsequent violation, the person shall be subject to a civil penalty not to exceed \$100,000, which shall be paid into the Literary Fund.

B. The Commonwealth's attorney may, in his discretion, initiate proceedings in the circuit court against any person who violates the provisions of this section. The burden of proof in such proceedings shall be by clear and convincing evidence. Any person charged under this section is entitled to a trial by jury.

C. A licensed health care provider found liable hereunder shall be considered to have engaged in unprofessional conduct for which his certificate or license to provide health care services in the Commonwealth shall be suspended or revoked by the licensing authority.

D. Nothing in this section shall be construed to limit or conflict with the Health Care Decisions Act (§ 54.1-2981 et seq.) or § 54.1-2971.01. This section shall not apply to a licensed health care provider who (i) administers, prescribes or dispenses medications or procedures to relieve another person's pain or discomfort and without intent to cause death, even if the medication or procedure may hasten or increase the risk of death, or (ii) withholds or withdraws life-prolonging procedures as defined in § 54.1-2982.

E. For purposes of this section:

"Licensed health care provider" means a physician, surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist or pharmacist licensed under the laws of this Commonwealth.

"Suicide" means the act or instance of taking one's own life voluntarily and intentionally.

§ 18.2-76.4. Assisted suicide; injunction; damages.

A cause of action for injunctive relief may be maintained against any person who is reasonably expected to be about to violate or attempt to violate § 18.2-76.3 by any person who is the spouse, parent, child, sibling or guardian of, or a licensed health care provider of, the person who would commit suicide.

A spouse, parent, child or sibling of a person who commits or attempts to commit suicide, may recover compensatory and exemplary damages in a civil action for any losses suffered as a result of a violation or attempted violation of § 18.2-76.3.