

## Department of Planning and Budget

### 2023 Fiscal Impact Statement

1. **Bill Number:** HB1395

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

2. **Patron:** March

3. **Committee:** Committee Referral Pending

4. **Title:** Rights beginning at conception; definitions, etc.

5. **Summary:** Provides that life begins at conception and each person is accorded the same rights and protections guaranteed to all persons by the Constitution of the United States, the Constitution of Virginia, and the laws of the Commonwealth beginning at the moment of conception. The bill also repeals all provisions of the Code of Virginia allowing for the performance of abortions.

6. **Budget Amendment Necessary:** Yes, item 404.

7. **Fiscal Impact Estimates:** Preliminary, see item 8.

8. **Fiscal Implications:** The provisions of the bill prohibit any state agency from entering a contract with or grant any public funds to any organization that provides abortion services. “Abortion services” are defined as performing, assisting with, or directly referring for abortions or encouraging or counseling patients to have abortions. “Public funds” are defined as any state funds from whatever source, including state general funds and nongeneral funds.

The Virginia Department of Health notes that this provision could place VDH’s State Health Services (Office of Family Health Services) and Community Health Services (local health districts) at risk of losing \$3,450,000 in federal Title X family planning funding. This is because nondirective pregnancy options counseling is a Title X grant requirement and funded sites are expected to provide objective information about abortion to patients when they request it. VDH maintains four sub-recipient contracts and 24 agreements with local health districts to offer Title X family planning services. These federal funds support approximately 20,637 patients at approximately 111 clinic locations annually. If VDH is no longer be able to use Title X funding to contract with the local health districts for these services and there is a desire to maintain these services, VDH and the local health districts would require \$3,450,000 annually in general fund resources to continue supporting 16.5 positions that provide family planning services at current levels, minus the restrictions in the provisions of the bill which are a minimal part of services provided.

In addition, VDH currently maintains 90 contracts with healthcare providers that offer or refer for abortion services. None of these contracts are for abortion services specifically. The

total annual value of these contracts is \$20,232,129.94. It is unknown if VDH will find other entities to contract with that meet the provisions of the legislation.

This bill repeals § 32.1-92.2, which authorizes VDH to use state general fund support to fund abortions for patients who are eligible for Medicaid when a physician certifies that the fetus will be born with a gross and totally incapacitating physical deformity or mental deficiency. Total expenditures in FY22 were \$13,358.87. This would represent a savings to the agency.

The Department of Medical Assistance Services (DMAS) and the Department of Social Services are currently evaluating the potential fiscal impact, if any, of this proposal. As such, any potential fiscal implications are indeterminate at this time.

Under this legislation, it would be a Class 4 felony penalty for individuals providing abortions and Class 3 misdemeanors for anyone promoting abortions. For someone convicted of a Class 4 felony, the court must impose either a term of imprisonment of not less than two years nor more than 10 years together with a fine of not more than \$100,000, or imprisonment only. Therefore, this proposal could result in an increase in the number of persons sentenced to prison.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

A Class 3 misdemeanor is punishable by a fine of up to \$500 and a Class 4 felony up to \$100,000. All revenue collected from such fines is deposited into the Literary Fund. However, it is not possible to estimate either the number of convictions that may result or the amount of each fine that may be assessed under this legislation. Therefore, the revenue impact of this bill cannot be determined.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Department of Health, Department of Corrections, Department of Medical Assistance Services, Department of Social Services.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.