

## Department of Planning and Budget

### 2023 Fiscal Impact Statement

**1. Bill Number:** HB1795

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

**2. Patron:** Freitas

**3. Committee:** Committee Referral Pending

**4. Title:** Abortion; born alive infant; treatment and care; penalty.

**5. Summary:** Requires every health care provider licensed by the Board of Medicine who attempts to terminate a pregnancy to (i) exercise the same degree of professional skill, care, and diligence to preserve the life and health of a human infant who has been born alive following such attempt as a reasonably diligent and conscientious health care practitioner would render to any other child born alive at the same gestational age and (ii) take all reasonable steps to ensure the immediate transfer of the infant who has been born alive to a hospital for further medical care. A health care provider who fails to comply with the requirements of the bill is guilty of a Class 4 felony and may be subject to disciplinary action by the Board of Medicine. The bill also requires every hospital licensed by the Department of Health to establish a protocol for the treatment and care of a human infant who has been born alive following an attempt to terminate a pregnancy and for the immediate reporting to law enforcement of any failure to provide such required treatment and care.

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

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

**8. Fiscal Implications:** 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.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. 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's most recent Jail Cost Report

(November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

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.

The total fiscal impact the provisions of this bill would have on the Department of Health Professions cannot be determined. The provisions of the bill could generate a number of complaints to the Board of Medicine that would need to be investigated and adjudicated. These cases are complex and have long disciplinary proceedings. While it is unknown the number of complaints that would be generated due to the provisions of the bill, if there are a significant number of complaints, DHP would need an adjudication specialist (\$136,600) or a disciplinary case manager (\$108,500). The adjudication specialist would be prosecuting disciplinary cases that stem from additional complaints. A discipline case manager would be managing the investigative cases received from the investigators in the Enforcement Division. This consists of preparing the cases for board member review at the probable cause stage, preparing the case to be heard at an informal and/or formal hearing if the hearing reaches that stage. Preparing the case can mean assisting in coordinating witness appearances, booking rooms and space for hearings, witnesses, and board members, and ultimately collating the evidence following the hearing in preparation for storage or appeal.

While VDH indicated that the cost of amending its hospital regulations will be less than \$5,000 and can be absorbed by existing agency staffing and resources, VDH further indicated that the remaining cost of the bill is indeterminate. VDH previously licensed and regulated first trimester abortion facilities from 2011 to 2020; due to the controversial nature of abortion, the complaints VDH received for these facilities were disproportionately high compared to the other medical care facilities and agencies that VDH regulates and licenses. Complaints are investigated through onsite inspections of the medical care facility, which necessitate travel, lodging, and per diem; depending on how much complaint volume may increase, VDH may need to hire one or more Health Care Compliance Specialist II (\$132,694) to meet the anticipated increase in complaints.

**9. Specific Agency or Political Subdivisions Affected:** Local and Regional Jails, the Department of Health Professions, and the Virginia Department of Health.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.