

Department of Planning and Budget 2022 Fiscal Impact Statement

1. **Bill Number:** HB304

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** Freitas

3. **Committee:** Courts of Justice

4. **Title:** Abortion; born alive human 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 human 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 this act 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 performance of an abortion and for the immediate reporting to law enforcement of any failure to provide such required treatment and care.

6. **Budget Amendment Necessary:** Yes.

7. **Fiscal Impact Estimates:** Yes, item 404.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2023	\$50,000		01000

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.

Due to the lack of data, the Virginia Criminal Sentencing Commission (VCSC) 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.

According to the VCSC, the proposal could also increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined. 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 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.

The provisions of the bill would not have a fiscal impact on the Virginia Department of Health or the Department of Health Professions.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections.

10. Technical Amendment Necessary: No.

11. Other Comments: None.