

**Department of Planning and Budget
2024 Session Fiscal Impact Statement**

1. **Bill Number:** HB664

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Freitas

3. **Committee:** Health and Human Services

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 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 the bill is guilty of a Class 4 felony and may be subject to disciplinary action by the Board. 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 390.

7. **Fiscal Impact Estimates:**

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2024			
2025	\$50,000		01000
2026			
2027			
2028			
2029			
2030			

8. **Fiscal Implications:** For someone convicted of a Class 4 felony, a judge has the option of sentencing the offender a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g) of § 18.2-10 a fine of not more than \$100,000. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or 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 \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$15.00 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

The Virginia Department of Health can amend regulations within existing resources. However, the additional costs to enact the provisions of the bill cannot be determined. VDH had 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 higher 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 additional positions to supplement its existing team. VDH assumes the provisions of the legislation would cause a similar sustained increase in complaints against hospitals for alleged noncompliance with the proposed. VDH does not have readily available data to estimate the potential volume of complaints that maybe generated from this legislative change and cannot estimate whether it can be absorbed with existing resources. As such, the fiscal impact is indeterminate.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.