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SENATE BILL NO. 315

Offered January 11, 2006

Prefiled January 10, 2006

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-74.3, relating to abortion performed upon child under 15 years of age; preservation of fetal tissue; penalty.*

Patron—Cuccinelli

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-74.3 as follows:**

§ 18.2-74.3. Abortion performed upon child under 15 years of age; preservation of fetal tissue; penalty.

A. Any physician who lawfully terminates a pregnancy, through abortion or causing a miscarriage, for a child who was under 15 years of age at the estimated time of conception shall preserve fetal tissue extracted during such procedure for the purpose of identifying the father of the fetus and determining if a crime was committed. The physician shall submit such tissue to the Department of Forensic Science which shall preserve or arrange for the preservation of such sample. The Department of Forensic Science shall test or arrange for the testing of such sample upon request of an attorney for the Commonwealth.

B. The Department of Forensic Science, in consultation with the Department of Health and Department of State Police, shall promulgate regulations prescribing:

1. The amount and type of fetal tissue to be preserved and submitted by the physician;

2. The procedures for the proper preservation of such tissue for the purpose of DNA testing and examination;

3. Procedures for documenting the chain of custody for such tissue for use as evidence in a criminal proceeding;

4. Procedures for proper disposal of fetal tissue preserved pursuant to this section;

5. A uniform reporting instrument to be utilized by physicians when submitting fetal tissue under this section that shall include (i) the name of the physician, (ii) the name and address of the child upon whom the abortion was performed and (iii) the name and address of her parent or legal guardian;

6. Procedures for communication with attorneys for the Commonwealth and law-enforcement officers regarding evidence and information obtained pursuant to this section; and

7. Any other matters necessary to implement the provisions of this section.

C. Failure of a physician to comply with the provisions of this section constitutes unprofessional conduct for the purposes of § 54.1-2915 and is a Class 4 misdemeanor.

INTRODUCED

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