

# Virginia Reproductive Healthcare Law

Legislators of Tomorrow (LoT)

# Legislators of Tomorrow (LoT)

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- LotT is a **bipartisan** political organization that focuses on fostering civic engagement through participation in the legislative process by drafting and lobbying for Virginia bills

# Virginia Laws

# Abortion

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## § 18.2-72. When abortion lawful during first trimester of pregnancy.

Notwithstanding any of the provisions of § 18.2-71, it shall be lawful for any physician licensed by the Board of Medicine to practice medicine and surgery, to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman during the first

## § 18.2-73. When abortion lawful during second trimester of pregnancy.

Notwithstanding any of the provisions of § 18.2-71 and in addition to the provisions of § 18.2-72, it shall be lawful for any physician licensed by the Board of Medicine to practice medicine and surgery, to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman during the second trimester of pregnancy and prior to the third trimester of pregnancy provided such procedure is performed in a hospital licensed by the State Department of Health or operated by the Department of Behavioral Health and Developmental Services.

# Abortion

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## § 18.2-74. When abortion or termination of pregnancy lawful after second trimester of pregnancy.

Notwithstanding any of the provisions of § 18.2-71 and in addition to the provisions of §§ 18.2-72 and 18.2-73, it shall be lawful for any physician licensed by the Board of Medicine to practice medicine and surgery to terminate or attempt to terminate a human pregnancy or aid or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman in a stage of pregnancy subsequent to the second trimester provided the following conditions are met:

- (a) Said operation is performed in a hospital licensed by the Virginia State Department of Health or operated by the Department of Behavioral Health and Developmental Services.
- (b) The physician and two consulting physicians certify and so enter in the hospital record of the woman, that in their medical opinion, based upon their best clinical judgment, the continuation of the pregnancy is likely to result in the death of the woman or substantially and irretrievably impair the mental or physical health of the woman.
- (c) Measures for life support for the product of such abortion or miscarriage must be available and utilized if there is any clearly visible evidence of viability.

# Abortion

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## § 18.2-74.1. Abortion, etc., when necessary to save life of woman.

In the event it is necessary for a licensed physician to terminate a human pregnancy or assist in the termination of a human pregnancy by performing an abortion or causing a miscarriage on any woman in order to save her life, in the opinion of the physician so performing the abortion or causing the miscarriage, §§ 18.2-71, 18.2-73 and 18.2-74 shall not be applicable.

# Abortion

## § 18.2-75. Conscience clause.

Nothing in §§ 18.2-72, 18.2-73 or § 18.2-74 shall require a hospital or other medical facility or physician to admit any patient under the provisions hereof for the purpose of performing an abortion. In addition, any person who shall state in writing an objection to any abortion or all abortions on personal, ethical, moral or religious grounds shall not be required to participate in procedures which will result in such abortion, and the refusal of such person, hospital or other medical facility to participate therein shall not form the basis of any claim for damages on account of such refusal or for any disciplinary or recriminatory action against such person, nor shall any such person be denied employment because of such objection or refusal. The written objection shall remain in effect until such person shall revoke it in writing or terminate his association with the facility with which it is filed.

## § 18.2-76. Informed written consent required; civil penalty.

- Written voluntary and informed consent for abortion must be obtained from a woman
- At least 24 hours before an abortion a transabdominal ultrasound must be performed to determine gestational age of fetus
- If woman lives 100 miles away from abortion facility, ultrasound must be performed 2 hours before the abortion
- Above provisions do not apply if a woman is seeking an abortion because of rape or incest
- Informed consent not required if abortion procedure is performed pursuant to medical emergency or spontaneous miscarriage
- Failure to comply with provisions will result in \$2,500 civil penalty

# Written Consent Rules § 18.2-76.

1. A full, reasonable and comprehensible medical explanation of the nature, benefits, and risks of and alternatives to the proposed procedures or protocols to be followed in her particular case;
2. An instruction that the woman may withdraw her consent at any time prior to the performance of the procedure;
3. An offer for the woman to speak with the physician who is to perform the abortion so that he may answer any questions that the woman may have and provide further information concerning the procedures and protocols;
4. A statement of the probable gestational age of the fetus at the time the abortion is to be performed and that fetal ultrasound imaging shall be performed prior to the abortion to confirm the gestational age; and
5. **An offer to review the printed materials described in subsection F.** If the woman chooses to review such materials, they shall be provided to her in a respectful and understandable manner, without prejudice and intended to give the woman the opportunity to make an informed choice and shall be provided to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by first-class mail or, if the woman requests, by certified mail, restricted delivery. This offer for the woman to review the material shall advise her of the following: (i) the Department of Health publishes printed materials that describe the unborn child and list agencies that offer alternatives to abortion; (ii) medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the Department; (iii) the father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion, that assistance in the collection of such support is available, and that more detailed information on the availability of such assistance is contained in the printed materials published by the Department; (iv) she has the right to review the materials printed by the Department and that copies will be provided to her free of charge if she chooses to review them; and (v) a statewide list of public and private agencies and services that provide ultrasound imaging and auscultation of fetal heart tone services free of charge. Where the woman has advised that the pregnancy is the result of a rape, the information in clause (iii) may be omitted.

The information required by this subsection may be provided by telephone or in person.



# Information Concerning Abortion Discussed in § 18.2-76.

**Section F:** On or before October 1, 2001, the Department of Health shall publish, in English and in each language which is the primary language of two percent or more of the population of the Commonwealth, the following printed materials in such a way as to ensure that the information is easily comprehensible:

1. Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while the child is dependent, including, but not limited to, information on services relating to (i) adoption as a positive alternative, (ii) information relative to counseling services, benefits, financial assistance, medical care and contact persons or groups, (iii) paternity establishment and child support enforcement, (iv) child development, (v) child rearing and stress management, (vi) pediatric and maternal health care, and (vii) public and private agencies and services that provide ultrasound imaging and auscultation of fetal heart tone services free of charge. The materials shall include a comprehensive list of the names and telephone numbers of the agencies, or, at the option of the Department of Health, printed materials including a toll-free, 24-hour-a-day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer;
2. Materials designed to inform the woman of the probable anatomical and physiological characteristics of the human fetus at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the fetus's survival and pictures or drawings representing the development of the human fetus at two-week gestational increments. Such pictures or drawings shall contain the dimensions of the fetus and shall be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the human fetus at the various gestational ages; and
3. Materials containing objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, the possible detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a child to term.

The Department of Health shall make these materials available at each local health department and, upon request, to any person or entity, in reasonable numbers and without cost to the requesting party.

# Promoting Abortion

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## § 18.2-76.1. Encouraging or promoting abortion.

If any person, by publication, lecture, advertisement, or by the sale or circulation of any publication, or through the use of a referral agency for profit, or in any other manner, encourage or promote the performing of an abortion or the inducing of a miscarriage in this Commonwealth which is prohibited under this article, he shall be guilty of a Class 3 misdemeanor.

## § 38.2-3407.5:1. Coverage for prescription contraceptives.

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A. Each (i) insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis; (ii) corporation providing individual or group accident and sickness subscription contracts; and (iii) health maintenance organization providing a health care plan for health care services, whose policy, contract or plan, including any certificate or evidence of coverage issued in connection with such policy, contract or plan, includes coverage for prescription drugs on an outpatient basis, **shall offer and make available coverage thereunder for any prescribed drug or device approved by the United States Food and Drug Administration for use as a contraceptive.**

**B. No insurer, corporation or health maintenance organization shall impose upon any person receiving prescription contraceptive benefits pursuant to this section any (i) copayment, coinsurance payment or fee that is not equally imposed upon all individuals in the same benefit category, class, coinsurance level or copayment level receiving benefits for prescription drugs, or (ii) reduction in allowable reimbursement for prescription drug benefits.**

C. The provisions of subsection A shall not be construed to:

1. Require coverage for prescription coverage benefits in any contract, policy or plan that does not otherwise provide coverage for prescription drugs;

**2. Preclude the use of closed formularies, provided, however, that such formularies shall include oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods; or**

**3. Require coverage for experimental contraceptive drugs not approved by the United States Food and Drug Administration.**

D. The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies, or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans, or to short-term nonrenewable policies of not more than six months' duration.

E. The provisions of this section shall be applicable to contracts, policies or plans delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 1997.

# VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

## CHAPTER 716

*An Act to amend and reenact § 2.2-2818.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.5:2 relating to health benefit plans; coverage for hormonal contraceptives.*

[H 2267]

Approved March 24, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2818.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.5:2 as follows:

§ 2.2-2818.2. Application of mandates to the state employee health insurance plan.

A. As used in this section, "insurance mandate" means a mandatory obligation with respect to coverage, benefits, or the number or types of providers imposed on policies of accident and health insurance under Title 38.2. "Insurance mandate" does not include (i) an administrative rule or regulation imposing a mandatory obligation with respect to coverage, benefits, or providers unless that mandatory obligation was specifically imposed on policies of accident and health insurance by statute or (ii) any obligation imposed on a health carrier by § 38.2-3407.5:2.

B. Notwithstanding the provisions of § 2.2-2818, any law imposed under Title 38.2 that becomes effective on or after July 1, 2009, that provides for an insurance mandate for policies of accident and health insurance shall also apply to health coverage offered to state employees pursuant to § 2.2-2818.

C. If health coverage offered to state employees under § 2.2-2818 offers coverage in the same manner and to the same extent as the coverage required by an insurance mandate imposed under Title 38.2 or coverage that is greater than an insurance mandate imposed under Title 38.2, the coverage offered to state employees under § 2.2-2818 shall be considered in compliance with the insurance mandate.

§ 38.2-3407.5:2. Reimbursements for dispensing hormonal contraceptives.

A. As used in this section:

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement (MEWA), or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; short-term limited duration coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide a health benefit plan.

"Hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose.

"Provider" means a facility, physician or other type of health care practitioner licensed, accredited, certified or authorized by statute to deliver or furnish health care items or services.

B. Any health benefit plan that is amended, renewed, or delivered on or after January 1, 2018, that provides coverage for hormonal contraceptives shall cover up to a 12-month supply of hormonal contraceptives when dispensed or furnished at one time for a covered person by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies.

C. Nothing in this section shall be construed to require a provider to prescribe, furnish, or dispense 12 months of self-administered hormonal contraceptives at one time.

D. A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, shall not impose utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount

# § 38.2-3407.5:2. Reimbursements for dispensing hormonal contraceptives.

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A. Provides definitions used in law

**B. Any health benefit plan that is amended, renewed, or delivered on or after January 1, 2018, that provides coverage for hormonal contraceptives shall cover up to a 12-month supply of hormonal contraceptives when dispensed or furnished at one time for a covered person by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies.**

C. Nothing in this section shall be construed to require a provider to prescribe, furnish, or dispense 12 months of self-administered hormonal contraceptives at one time.

D. A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, shall not impose utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply.

E. This section shall not be construed to exclude coverage for hormonal contraceptives as prescribed by a provider, acting within his scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

F. Nothing in this section shall be construed to require a health carrier to cover hormonal contraceptives provided by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies, that does not participate in the health carrier's provider network, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.

# Emergency Contraception

Where is Virginia?

EMERGENCY CONTRACEPTION POLICIES											
STATE	EXPANDING ACCESS						RESTRICTING ACCESS				
	EMERGENCY ROOMS REQUIRED TO:		PHARMACIST MAY DISPENSE EC WITHOUT PRESCRIPTION UNDER:		MUST FILL VALID PRESCRIPTIONS		STATE LAW EXCLUDES EC FROM:		STATE LAW ALLOWS REFUSAL TO DISPENSE EC BY:		REQUIRES PRESCRIPTION
	Provide Information About EC	Dispense EC upon Request	Collaborative Practice Agreement	State-Approved Protocol	Pharmacy	Pharmacist	State Family Planning Program	Contraceptive Coverage Mandate	Pharmacist	Pharmacy	16 and Younger
Arizona									X	X	
Arkansas	X							X	X	†	
California	X	X	X	X		X					
Colorado	X								†	†	
Connecticut	X <sup>‡</sup>	X <sup>‡</sup>									
District of Columbia	X	X									
Florida									†		
Georgia									X		
Hawaii	X	X	X								
Idaho									X		
Illinois	X	X							†	X	
Maine				X					†	†	
Massachusetts	X	X	X								
Minnesota	X	X									
Mississippi									X	X	
New Hampshire			X								
New Jersey	X	X			X						
New Mexico	X	X		X							
New York	X	X									
North Carolina								X			
Ohio	Ω	Ω									
Oklahoma											▼
Oregon	X	X									
Pennsylvania	X	ψ									
South Carolina		X									
South Dakota									X		
Tennessee									†	†	
Texas	X						X				
Utah	X	X									
Washington	X	X	X		X						
Wisconsin	X	X			X						
TOTAL	17+DC	14+DC	5	3	3	1	1	2	6	3	

## § 54.1-2974. Sterilization operations for persons 18 years or older capable of informed consent.

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It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical sexual sterilization procedure on any person 18 years of age or older who has the capacity to give informed consent, when so requested in writing by such person. Prior to or at the time of such request, a full, reasonable, and comprehensible medical explanation as to the meaning and consequences of such an operation and as to alternative methods of contraception shall be given by the physician to the person requesting the operation.

# 54.1-2976. Sterilization operations for certain adults incapable of informed consent.

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It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical sexual sterilization procedure on a person eighteen years of age or older, who does not have the capacity to give informed consent to such an operation, when:

1. A petition has been filed in the circuit court of the county or city wherein the person resides by the person's parent or parents, guardian, spouse, or next friend requesting that the operation be performed;
2. The court has made the person a party defendant, served the person, the person's guardian, if any, the person's spouse, if any, and if there is no spouse, the person's parent with notice of the proceedings and appointed for the person an attorney-at-law to represent and protect the person's interests;
3. The court has determined that a full, reasonable, and comprehensible medical explanation as to the meaning, consequences, and risks of the sterilization operation to be performed and as to alternative methods of contraception has been given by the physician to the person upon whom the operation is to be performed, to the person's guardian, if any, to the person's spouse, if any, and, if there is no spouse, to the parent;
4. The court has determined (i) that the person has been legally adjudged to be incapacitated in accordance with Chapter 20 (§ [64.2-2000](#) et seq.) of Title 64.2 and (ii) that the person is unlikely to develop mentally to a sufficient degree to make an informed judgment about sterilization in the foreseeable future;
5. The court, to the greatest extent possible, has elicited and taken into account the views of the person concerning the sterilization, giving the views of the person such weight in its decision as the court deems appropriate;
6. The court has complied with the requirements of § [54.1-2977](#); and
7. The court has entered an order authorizing a qualified physician to perform the operation not earlier than thirty days after the date of the entry of the order, and thirty days have elapsed. The court order shall state the date on and after which the sterilization operation may be performed.



# § 54.1-2975. Sterilization operations for certain children incapable of informed consent.

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It shall be lawful for any physician licensed by the Board of Medicine to perform a vasectomy, salpingectomy, or other surgical sexual sterilization procedure on a person fourteen years of age or older and less than eighteen years of age when:

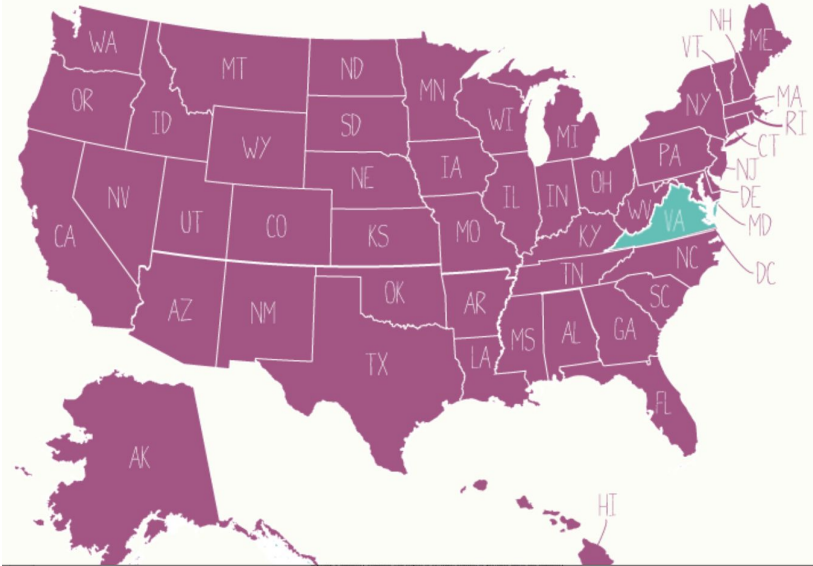
1. A petition has been filed in the circuit court of the county or city wherein the child resides by the parent or parents having custody of the child or by the child's guardian, spouse, or next friend requesting that the operation be performed;
2. The court has made the child a party defendant, served the child, the child's guardian, if any, the child's spouse, if any, and the child's parent who has custody of the child with notice of the proceedings and appointed for the child an attorney-at-law to represent and protect the child's interests;
3. The court has determined that a full, reasonable, and comprehensible medical explanation as to the meaning, consequences, and risks of the sterilization operation to be performed and as to alternative methods of contraception has been given by the physician to the child upon whom the operation is to be performed, to the child's guardian, if any, to the child's spouse, if any, and, if there is no spouse, to the parent who has custody of the child;
4. The court has determined by clear and convincing evidence that the child's mental abilities are so impaired that the child is incapable of making his or her own decision about sterilization and is unlikely to develop mentally to a sufficient degree to make an informed judgment about sterilization in the foreseeable future;
5. The court, to the greatest extent possible, has elicited and taken into account the views of the child concerning the sterilization, giving the views of the child such weight in its decision as the court deems appropriate;
6. The court has complied with the requirements of § [54.1-2977](#); and
7. The court has entered an order authorizing a qualified physician to perform the operation not earlier than thirty days after the date of the entry of the order, and thirty days have elapsed. The court order shall state the date on and after which the sterilization operation may be performed.

# Information for Teens About Virginia Consent, LGBTQIA+ Rights, and Reproductive Law

- Age of Minority
- Sex Ed
- Age of Consent
- LGBTQIA+ Rights
- Contraceptive Access
- Abortion
- Pregnancy
- Emergency Contraception
- STI Testing
- Sexting

<https://sexetc.org/states/virginia/>

Sex in the States



# 2020 Bills

# 2020 General Assembly Bills Associated with Reproductive Healthcare

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- [HB 227](#) Abortion; born alive human infant, treatment and care, penalty.
- [HB 552](#) Birth control; definition.
- [HB 526](#) Reproductive health services; health benefit plans to cover the costs of specified services, etc.
- [HB 980](#) Abortion; expands who can perform in first trimester, informed consent required.
- [SB 21](#) Abortion; parental consent requirement, ultrasound requirement, hospital regulations.
- [SB 68](#) Provision of abortion; ultrasound requirement.
- [SB 733](#) Abortion; informed consent, regulations.
- [SB 917](#) Reproductive health services; health benefit plans to cover costs of specified health care services.

# Getting Involved

# What Can You Do?

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- Keep Track of legislation dealing with Reproductive Healthcare
- Contact representatives to vote or propose certain legislation
- Write policy in an organization

# Practice Tracking

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- [HB 526](#) Reproductive health services; health benefit plans to cover the costs of specified services, etc.
- Bill Information
- Watching Committee Videos

# Delegates Involved with Expanding Reproductive Healthcare

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# Senators Involved with Expanding Reproductive Healthcare



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**Senator Jennifer L. McClellan**

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# LOT Family Life Education Bill

- Mandate Family Life Education in Virginia is medically accurate, discusses consent and healthy relationships, and includes definitions for abstinence education, medically accurate education, consent, and sex trafficking

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend and reenact § 22.1-207.1 of the Code of Virginia, relating to family life education;  
2 medical accuracy of instruction.

3 Be it enacted by the General Assembly of Virginia:

4 1. That § 22.1-207.1 of the Code of Virginia is amended and reenacted as follows:

5 § 22.1-207.1. Family life education.

6 A. As used in this section, "~~abstinence~~;  
7 "Abstinence" education" means an educational or motivational component that has as its  
8 exclusive purpose teaching the social, psychological, and health gains to be realized by teenagers'  
9 abstaining from sexual activity before marriage.

10 "Medically accurate" means verified or supported by research conducted in compliance with  
11 accepted scientific methods and published in peer-reviewed journals, where appropriate, and recognized  
12 as accurate and objective by professional organizations and agencies with expertise in the relevant field,  
13 such as the federal Centers for Disease Control and Prevention.

14 B. The Board of Education shall develop Standards of Learning and curriculum guidelines for a  
15 comprehensive, sequential family life education curriculum in grades kindergarten through 12. Such  
16 curriculum guidelines shall include instruction as appropriate for the age of the student in family living  
17 and community relationships; the benefits, challenges, responsibilities, and value of marriage for men,  
18 women, children, and communities; the value of family relationships; abstinence education; the value of  
19 postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted  
20 pregnancy; human sexuality; human reproduction; dating violence, the characteristics of abusive  
21 relationships, steps to take to deter sexual assault, and the availability of counseling and legal resources,  
22 and, in the event of such sexual assault, the importance of immediate medical attention and advice, as  
23 well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted  
24 diseases; and mental health education and awareness.

# Policy Writing and Lobbying Workshop

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- LoT x Roosevelt Institute
- Monday, February 24th 6:30 pm to 7:30 pm
- Monroe 118