

Virginia

Va. Code § 18.2-71. Producing abortion or miscarriage, etc.; penalty.

Except as provided in other sections of this article, if any person administer to, or cause to be taken by a woman, any drug or other thing, or use means, with intent to destroy her unborn child, or to produce abortion or miscarriage, and thereby destroy such child, or produce such abortion or miscarriage, he shall be guilty of a Class 4 felony.

Va. Code § 18.2-71.1. Partial birth infanticide; penalty.

A. Any person who knowingly performs partial birth infanticide and thereby kills a human infant is guilty of a Class 4 felony.

B. For the purposes of this section, “partial birth infanticide” means any deliberate act that (i) is intended to kill a human infant who has been born alive, but who has not been completely extracted or expelled from its mother, and that (ii) does kill such infant, regardless of whether death occurs before or after extraction or expulsion from its mother has been completed.

The term “partial birth infanticide” shall not under any circumstances be construed to include any of the following procedures: (i) the suction curettage abortion procedure, (ii) the suction aspiration abortion procedure, (iii) the dilation and evacuation abortion procedure involving dismemberment of the fetus prior to removal from the body of the mother, or (iv) completing delivery of a living human infant and severing the umbilical cord of any infant who has been completely delivered.

C. For the purposes of this section, “human infant who has been born alive” means a product of human conception that has been completely or substantially expelled or extracted from its mother, regardless of the duration of pregnancy, which after such expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

D. For purposes of this section, “substantially expelled or extracted from its mother” means, in the case of a headfirst presentation, the infant’s entire head is outside the body of the mother, or, in the case of breech presentation, any part of the infant’s trunk past the navel is outside the body of the mother.

E. This section shall not prohibit the use by a physician of any procedure that, in reasonable medical judgment, is necessary to prevent the death of the mother, so long as the physician takes every medically reasonable step, consistent with such procedure, to preserve the life and health of the infant. A procedure shall not be deemed necessary to prevent the death of the mother if completing the delivery of the living infant would prevent the death of the mother.

F. The mother may not be prosecuted for any criminal offense based on the performance of any act or procedure by a physician in violation of this section.

Va. Code § 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 (i) any physician licensed by the Board of Medicine to practice medicine and surgery or (ii) any person jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner and acting within such person's scope of practice 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 trimester of pregnancy.

Va. Code § 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.

Va. Code § 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 irremediably 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.

Va. Code § 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.

Va. Code § 18.2-76. Informed written consent required.

Before performing any abortion or inducing any miscarriage or terminating a pregnancy as provided in § 18.2-72, 18.2-73, or 18.2-74, the physician or, if such abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the advanced practice registered nurse authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination shall obtain the informed written consent of the pregnant woman. However, if the woman has been adjudicated incapacitated by any court of competent jurisdiction or if the physician or, if the abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the advanced practice registered nurse authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination knows or has good reason to believe that such woman is incapacitated as adjudicated by a court of competent jurisdiction, then only after permission is given in writing by a parent, guardian, committee, or other person standing in loco parentis to the woman, may the physician or, if the abortion, induction, or termination is to be performed pursuant to § 18.2-72, either the physician or the advanced practice registered nurse authorized pursuant to clause (ii) of § 18.2-72 to perform such abortion, induction, or termination perform the abortion or otherwise terminate the pregnancy.

[Va. Code Ann. § 18.2-76](#)

Va. Code § 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.