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HOUSE JOINT RESOLUTION NO. 1
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on Privileges and Elections
 on November 13, 2024)
 (Patron Prior to Substitute—Delegate Herring)

Proposing an amendment to the Constitution of Virginia by adding in Article I a section numbered 11-A, relating to fundamental right to reproductive freedom.

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend the Constitution of Virginia by adding in Article I a section numbered 11-A as follows:

ARTICLE I
BILL OF RIGHTS

Section 11-A. Fundamental right to reproductive freedom.

That every individual has the fundamental right to reproductive freedom, including the ability to make and carry out decisions relating to one's own prenatal care, childbirth, postpartum care, contraception, abortion care, miscarriage management, and fertility care.

An individual's right to reproductive freedom shall not be, directly or indirectly, denied, burdened, or infringed upon unless justified by a compelling state interest achieved by the least restrictive means.

Notwithstanding the above, the Commonwealth may regulate the provision of abortion care in the third trimester, provided that in no circumstance shall the Commonwealth prohibit an abortion (i) that in the professional judgment of a physician is medically indicated to protect the life or physical or mental health of the pregnant individual or (ii) when in the professional judgment of a physician the fetus is not viable.

The Commonwealth shall not discriminate in the protection or enforcement of this fundamental right.

The Commonwealth shall not penalize, prosecute, or otherwise take adverse action against an individual based on such individual's own exercise of this fundamental right or such individual's own actual, potential, perceived, or alleged pregnancy outcomes, including miscarriage, stillbirth, or abortion. The Commonwealth shall not penalize, prosecute, or otherwise take adverse action against any individual for aiding or assisting another individual in exercising such other individual's right to reproductive freedom with such other individual's voluntary consent.

For the purposes of this section, a state interest is compelling only if it is for the limited purpose of maintaining or improving the health of an individual seeking care, consistent with accepted clinical standards of care and evidence-based medicine, and does not infringe on that individual's autonomous decision making.

This section shall be self-executing. Any provision of this section held invalid shall be severable from the remaining portions of the section.

HOUSE SUBSTITUTE

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