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SENATE BILL NO. 789

Offered January 8, 2025

Prefiled December 28, 2024

A *BILL to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.15, relating to newborn and stillborn tax credit.*

Patron—Head

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.15 as follows:

§ 58.1-339.15. Newborn and stillborn tax credit.

A. For purposes of this section:

"Eligible birth" means the birth of a child during the taxable year that the taxpayer is claiming as a dependent on such tax return. "Eligible birth" does not include any birth of a child by a surrogate or a stillborn birth.

"Stillborn birth" means the birth of a child during the taxable year that the taxpayer would have been eligible to claim as a dependent but for the child's spontaneous death, provided that (i) the child either reached a gestational period of 20 complete weeks or a weight of at least 350 grams, (ii) a Certificate of Birth Resulting in Stillbirth has been requested for the child and issued pursuant to § 32.1-258.1 or for whom other documentation verifying the loss of such child can be produced, and (iii) the child's death was not the result of an induced termination of the pregnancy.

"Surrogate" means the same as that term is defined in § 20-156.

B. For taxable years beginning on and after January 1, 2025, but before January 1, 2030, married individuals, regardless of filing status, shall be allowed a refundable credit in an amount equal to \$2,000 against the tax levied pursuant to § 58.1-320 per eligible birth. If married individuals file separately for the taxable year in which a credit under this section is claimed, only one individual shall be allowed to claim the credit for any single eligible birth. Only one credit shall be claimed for each eligible birth.

C. For taxable years beginning on and after January 1, 2025, but before January 1, 2030, an individual or married individuals filing jointly shall be allowed a refundable credit in an amount equal to \$2,000 against the tax levied pursuant to § 58.1-320 per stillborn birth so long as such stillborn birth is not also the birth of a child by a surrogate. If two unmarried individuals claim the tax credit pursuant to this subsection for the same stillborn birth, each individual shall only be allowed such refundable credit in an amount equal to \$1,000.

D. If the amount of a credit claimed pursuant to this section exceeds the taxpayer's liability for such taxable year, the excess shall be refunded by the Tax Commissioner. Tax credits shall be refunded by the Tax Commissioner on behalf of the Commonwealth for 100 percent of face value within 90 days after the filing date of the income tax return on which the individual applies for the refund. The Tax Commissioner shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

INTRODUCED

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