



FOR IMMEDIATE RELEASE
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Virginia's House of Delegates Should Reject Pro-Abortion Constitutional Amendment

On Thursday, February 23, it is expected there will be a vote on whether to bring SJ 255, a pro-abortion constitutional amendment, to the Virginia House of Delegates floor for a vote.

The following statement can be attributed to Susan Muskett, J.D., President of Pro-Family Women:

Pro-Family Women strongly opposes this pro-abortion constitutional amendment. It will give abortion rights proponents more than enough ammunition to attack both existing pro-life laws as well as any future protections for the unborn that the Virginia General Assembly enacts.

Proponents of this amendment portray it as being merely a return to the pre-*Dobbs* Constitutional framework on abortion, but it actually provides for a right to abortion much more expansive than the pre-*Dobbs* framework.

The amendment reverts back to the rigorous strict scrutiny standard of review for abortion-related statutes, a standard that was replaced in the *Casey* decision with the undue burden standard of review. As Justice David Souter once wrote: "Strict scrutiny leaves few survivors."

The amendment also adds three new requirements that must be met for an abortion-related statute to be upheld:

First, an abortion limitation cannot "infringe an individual's autonomous decision-making."

Second, a limitation on abortion cannot "discriminate" in the protection or enforcement of the right to an abortion.

Third, the only state interest allowable in enacting an abortion limitation is to protect the health of the woman seeking the abortion. This is not consistent with either *Roe* or *Casey* as both explicitly recognized an important state interest in protecting what the Court termed "potential life." What is missing from this amendment is any recognition of the unborn child involved in an abortion.

The language of SJ 255 follows:

ARTICLE I
BILL OF RIGHTS

Section 11-A. Fundamental right to reproductive freedom.

That every individual has the fundamental right to reproductive freedom. This right to make and effectuate one's own decisions about all matters related to one's pregnancy shall not be denied, burdened, or infringed upon, unless justified by a compelling state interest and achieved by the least restrictive means that do not infringe an individual's autonomous decision-making. A state interest is compelling only when it is to ensure the protection of the health of an individual seeking care, consistent with accepted clinical standards of practice and evidence-based medicine. The Commonwealth shall not discriminate in the protection or enforcement of this fundamental right.

That, except when justified by a compelling state interest, the Commonwealth shall not penalize, prosecute, or otherwise take adverse action against an individual on the basis of an actual, potential, perceived, or alleged outcome of such individual's pregnancy, nor shall the Commonwealth penalize, prosecute, or otherwise take adverse action against an individual who aids or assists another individual, with such individual's voluntary consent, in the exercise of such individual's right to reproductive freedom.

That this section shall be self-executing and that if any provision of this section is held invalid, it shall be severable from the remaining portions of the section.

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