

# The Proposed Amendment to the Virginia Constitution entitled "Fundamental Right to Reproductive Freedom"

On November 3, 2026, Virginia citizens will be asked to vote on an amendment to our state constitution regarding abortion.

- It will supersede all other state laws and regulations, now and in the future.
- The amendment in its entirety will not be on the ballot, just a summary question written by the authors of the amendment.

This document provides more detailed information about both the amendment and the current abortion situation in Virginia, with the goal of helping the reader make a more informed decision on voting day. Sources are cited at the end, along with a list of several Virginia organizations that also address the amendment.

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## TABLE OF CONTENTS

[What is the process to amend the Virginia state constitution?](#) (Page 2)

[Is abortion legal now in Virginia? What are the current state laws?](#) (Page 2)

[What exactly is abortion? How is it performed?](#) (Page 3)

[What is the abortion situation in Virginia and throughout the U.S.?](#) (Page 4)

[What is the full amendment wording?](#) (Page 5)

[What are some implications of this amendment if passed?](#) (Page 6)

[How will the amendment be presented on the ballot and why is this a concern?](#) (Page 7)

[Aren't late term abortions extremely rare and only performed when the mother's life is in danger or for severe fetal abnormality?](#) (Page 8)

[Haven't abortion restrictions in other states led to women dying for lack of prompt and necessary pregnancy care?](#) (Page 8)

[How can we work together to help those facing unplanned pregnancy?](#) (Page 9)

## ADDENDUM

[Detailed breakdown of each section of the amendment](#) (Page 10)

[How a pregnancy timeline is measured](#) (Page 12)

[Sources](#) (Page 13)

[Virginia organizations concerned about the amendment](#) (Page 14)

## What is the process to amend the Virginia Constitution?

The Virginia Constitution is the supreme law of the state, overriding any other state or local laws.

### Amending the constitution is a 2-year, 4-step process:

- #1 – Both the Virginia House & Senate must approve the amendment by a simple majority vote.
- #2 – A state election for a new House must occur.
- #3 – Afterward, both the Virginia House & Senate must, again, approve the amendment by a simple majority vote.
- #4 – The amendment is on the ballot for a citizen vote, requiring a simple majority to pass.

This amendment has reached step #4, the state-wide ballot.

Election day is November 3, 2026. Early voting starts September 19.

## Is abortion legal now in Virginia? What are the current state laws? <sup>1</sup>

### Abortion is lawful in the:

- **first trimester** and may be performed by a physician or nurse practitioner.
- **second trimester** and must be performed by a physician.  
After viability (at approximately 23 weeks) an abortion must be performed in a hospital.
- **third trimester** and must be performed by a physician in a hospital.  
The physician and two consulting physicians must certify that 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.  
Measures for life support for the fetus must be available and utilized if there is any clearly visible evidence of viability.

A licensed physician may terminate a pregnancy at any stage if necessary to save the life of the mother.

### Consent Requirements:

- Abortion requires informed, written consent by the pregnant woman.
- Parental/guardian consent is required for a minor to have an abortion.  
A minor can seek a judicial bypass, allowing a judge to authorize the abortion without parental consent or notification.

**Public funds** may only be used for abortion in Virginia where pregnancy results from rape or incest, or where the fetus is believed to have incapacitating physical deformity or mental deficiency, or where the pregnancy threatens the life or health of the mother.

**Facility inspections:** State mandated biennial inspections of abortion facilities ended in 2018. Virginia health department oversight applies only if complaints arise. No structural requirements (e.g., hallway widths, procedure room sizes) apply specifically to abortion clinics for emergency ambulance equipment.

## What exactly is abortion? How is it performed?

**Elective abortion** is the intentional act of ending the life of an unborn human being while ending a pregnancy.

Note:

**Miscarriage**, also known in medical terms as a “spontaneous abortion,” is an unintended end to pregnancy resulting in the loss and expulsion of an embryo or fetus from the womb before it can survive independently. This is not an elective abortion.

**Ending a pregnancy to protect the life of the mother**, such as treatment for an ectopic pregnancy or pre-term delivery, is also not elective abortion, even though the embryo/fetus may be unable to survive outside the womb.

**Elective abortion methods** vary depending on age of the embryo/fetus:<sup>2</sup>

### 1st Trimester Abortion

(a) Chemical abortion using a 2-pill regimen of mifepristone (also known as RU-486) which separates embryo from nutrition, and misoprostol which causes contractions, bleeding, and delivery; usually performed at home over several hours to several days

(b) Suction dilation (vacuum aspiration) & curettage (scraping) to remove the embryo, usually performed at an abortion clinic

### 2nd Trimester Abortion

Dilation & Evacuation (D&C) - dismemberment of fetus by removal of body parts using sopher (teethed) clamp and crushing of skull, performed at an abortion clinic or hospital

### 3rd Trimester Abortion

Induced Abortion - injection into the fetus of deadly chemicals to ensure delivery of dead baby in a 2-3 day process, usually performed in a hospital (although some abortion clinics in the U.S. will perform this procedure)

## What is the abortion situation in Virginia and throughout the U.S.?

### Northern Virginia

These abortion businesses provide both chemical abortion (through 10 weeks gestation) and surgical abortion (through 15 weeks gestation):

- Whole Women's Health & Family Center – 2839 Duke St., Alexandria, VA
- Alexandria Women's Health Clinic – 216 Sherwood Hall Ln., Suite 307, Alexandria, VA
- Meadow Reproductive Health & Wellness – 1749 Old Meadow Rd, Ste 600, McLean, VA

### Virginia<sup>3</sup>

23,491 - 2024 VA abortions, reported by abortion businesses to the VA Dept of Health

39,890 - 2024 VA abortions, est. by Guttmacher Institute (up from 18,740 in 2020)

23% - 2024 VA abortions performed on out-of-state residents, est. by Guttmacher Institute

30% - 2024 estimate of pregnancies ending in abortion in Virginia

### Nationwide<sup>4</sup>

An estimated 1.12 million abortions occurred in the U.S. in 2025.

Abortion pills now account for at least 65% of all abortions.

Many pills are purchased online and delivered by mail (est. 27% of all abortions), without an in-person medical visit.

Approx. 1 in 4 women will have an abortion by the age of 45.

93% of abortions occur in the 1st Trimester.

Nearly 70% of women with a history of abortion describe their experience as pressured, unwanted, or inconsistent with their values.<sup>5</sup>

Over 95% of abortions are performed for elective reasons, unrelated to women's physical health concerns, rape/incest, or fetal abnormality.<sup>6</sup>

## What is the full amendment wording?

### Article I, BILL OF RIGHTS

#### Section 11-A: Fundamental Right to Reproductive Freedom

- 1) 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.
- 2) 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.
- 3) 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.
- 4) The Commonwealth shall not discriminate in the protection or enforcement of this fundamental right.
- 5) 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.
- 6) 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.

## What are some implications of this amendment if passed?

*(Please see a detailed breakdown of each section of the amendment in the ADDENDUM on Page 10.)*

This amendment will supersede current law and very likely result in an expansion of abortion with less protections for women and minors. (Virginia law currently allows for abortion throughout all nine months of pregnancy with some minimal guardrails.)

Its vague language will likely lead to numerous court challenges, requiring judges to interpret the law.

### **Major concerns are that the amendment as written would result in:**

- abortion up to birth for any reason, needing just the approval of the one abortionist for 3rd term abortions.
- any person, licensed or not, performing 1st and 2nd term abortions, with immunity from state penalties.
- inability of lawmakers to set basic health and safety standards for abortion facilities.
- elimination of parental notification and consent before an abortion is performed on a minor.
- required taxpayer funding for abortion at all stages of pregnancy for any reason.
- removal of conscience protections for healthcare professionals, pregnancy centers, and private insurance companies that do not wish to participate in or refer for abortion.

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There are additional concerns that this amendment could open the door to transgender surgery on minors without parental consent and prevent safety regulations surrounding surrogacy transactions, as both of these areas could be considered reproductive freedom rights.

## How will the amendment be presented on the ballot and why is this a concern?

The November 3, 2026 Virginia ballot will not include the actual amendment.

It will instead present the following question, written by the authors of the amendment:

**Should the Constitution of Virginia be amended to**

**(i) protect the freedom to make personal decisions about prenatal care, childbirth, postpartum care, birth control, abortion, miscarriage management, and fertility care;**

**(ii) protect doctors, nurses, and patients from being punished for these decisions; and**

**(iii) allow for restrictions on access to abortion during the third trimester of pregnancy except when the patient's health is at risk or the pregnancy cannot survive?**

This wording is misleading in several ways:

(i) It creates concern that, unless this amendment is passed, women will lose the freedom to make personal decisions on a wide range of reproductive issues, when in reality the amendment is focused on expanding abortion procedures and removing protections.

(ii) It implies that women's health could be jeopardized by doctors reticent to provide care for difficult pregnancies. Virginia law (and laws in all other states) have always protected the right of doctors to provide care to protect the life and health of the pregnant woman.

The greater concern from this amendment is that women will be injured in an abortion performed with little oversight and provider regulation, and it will be difficult to enforce accountability in cases of medical malpractice.

(iii) Rather than restricting abortion in the third trimester, the amendment actually expands late term abortion by making it legal based on the opinion of just one doctor (the abortionist), potentially in an abortion clinic, rather than the current three doctor requirement in a hospital. A vague "mental health" category would allow for limitless exceptions, essentially abortion for any reason.

## **Aren't late term abortions extremely rare and only performed when the mother's life is in danger or for severe fetal abnormality?**

CDC records indicate that approximately 6% of abortions occur in the second trimester (14-27 weeks gestation) and approx. 1% occur in the 3<sup>rd</sup> trimester (weeks 28-40).<sup>7</sup>

One percent of one million abortions nationwide is 10,000 annually.

One percent of an estimated 40,000 abortions in Virginia would be 400 3<sup>rd</sup> trimester abortions. These are infants capable of surviving outside the womb (currently around 23 weeks gestation).

Although media coverage tends to focus on late-term abortions performed because the unborn baby has a serious health condition or the mother's life is threatened, there is no quantifiable data to support the idea that all or even most later abortions are medically necessary.

Even pro-choice organizations acknowledge that the majority of late term abortions, where legal for any reason, take place primarily for the same reasons as abortions earlier in pregnancy, i.e. stressful circumstances of unprepared pregnancy, single motherhood, financial pressure, and relationship discord.<sup>8</sup>

Gallup Polls show that public support for legal abortion drops to 37% for the second trimester and 22% for the third trimester.<sup>9</sup> Late term abortion on healthy infants is a reality that has led to disturbing outcomes, including here in Washington DC.<sup>10</sup>

## **Haven't abortion restrictions in other states led to women dying for lack of prompt and necessary pregnancy care?**

This claim is not supported by facts. It is important to consider each case, rather than assume that headlines or sound bites are accurate. Medical malpractice and other factors put women's lives at risk, not restrictions on abortion.<sup>11</sup>

Every state with laws limiting abortion also permit doctors to treat women suffering from miscarriages, ectopic pregnancies, and life-threatening pregnancy complications.

The treatment of these conditions is not considered an abortion under any law, even when fetal death is an unavoidable consequence of that treatment.

We need to work together to improve maternal mortality rates, and states need to ensure that medical personnel have a clear and accurate understanding of any laws related to abortion.

A greater risk to women's health is allowing unregulated abortions performed by unlicensed providers (not only at abortion clinics but through mail-order chemical abortion without physician oversight) and opening the door to abuse and trafficking of minors.<sup>12</sup>

## How can we work together to help those facing unplanned pregnancy?

Nearly 70% of women with a history of abortion describe their experience as pressured, unwanted, or inconsistent with their values.

Let's build a culture of life in Virginia, from local networks of support to statewide policies, so that abortion is not the default response or a "solution" to pregnancy.

Thankfully, a strong and growing network of support for pregnant women-in-need already exists.

### In Northern Virginia, medical pregnancy clinics provide immediate, compassionate care at no cost, including:

Pregnancy testing  
STI testing/treatment  
Fatherhood coaching

Ultrasound  
Material Support  
Post abortion support

Options counseling  
Parenting program

Two great examples are:

**Mosaic Virginia** – mosaicvirginia.org  
Locations in Fairfax City, Alexandria, Herndon, Lansdowne  
Also offers a maternity home and transitional housing

**Metro Women's Care** – metrowomensva.com, Annandale

There are many other resources available for those in need. For examples, check out:

**Moms.gov** - The U.S. Department of Health and Human Services new website to provide comprehensive information to expecting women and new mothers. Find local help.

**HerPlan.org** - a network of pregnancy and life assistance organizations which meet complex needs like housing, childcare, transportation and mental health.

#### Support for an adverse fetal diagnosis

- PrenatalDiagnosis.org - connection to immediate and comprehensive support
- BeNotAfraid.net - research and resources
- Tepeyac OBGYN in Fairfax, VA (703-273-9440) - perinatal hospice care

## ADDENDUM

### Detailed Breakdown of Each Section of the Amendment

*1) 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.*

The primary purpose of the amendment is to expand abortion rights. Virginia does not restrict access to prenatal care, childbirth, postpartum care, contraception, miscarriage management, or fertility care. It currently has minimal restrictions on abortion.

Every “individual” means any person, regardless of age. This will probably lead to removal of parental consent laws. A minor could be pressured or trafficked, and no adults other than those pressuring her and the abortionist, who benefits financially, will interact with her before the abortion is performed.

*2) 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.*

This legal wording will make it very difficult for any laws to be passed to protect either the woman or child at any stage of pregnancy.

It could also affect the conscience rights of medical personnel who do not wish to take part in abortion, lead to restrictions on pregnancy centers that provide support yet do not offer or refer for abortion, and prohibit sidewalk counselors from peacefully and legally offering alternatives to women outside abortion clinics.

*3) 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.*

Only one doctor will be needed to approve a third trimester abortion, and this will be the abortionist, who profits financially.

A “mental health” indication for abortion would allow for limitless exceptions, essentially abortion for any reason.

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

If something is considered a fundamental right, then required state funding will probably follow, meaning taxpayers could be paying for abortion at all stages of pregnancy.

Current and future restrictions or guardrails on abortion will likely be struck down as a violation of a fundamental right.

*5) 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.*

Women are exempt from prosecution in states where abortion is restricted.<sup>13</sup>

*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.*

No state prosecutes medical providers for providing pregnancy care of both mother and child, or for providing miscarriage management.

Instead, this wording could deter investigation into abuse, trafficking, and even medical malpractice. "Voluntary consent" could be under duress. It could become difficult for injured patients to get justice from the abortion provider and could encourage pharmaceutical companies and the abortion industry to exploit women for profit.

*6) 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.*

There is already minimal inspection and oversight of abortion in Virginia. Who will determine what are "accepted clinical standards of care and evidence-based medicine"? Also, a compelling state interest can still be overridden by the individual's (including minor's) decision.

## How a pregnancy timeline is measured

A pregnancy is often divided into three trimesters, measured two different ways:

**Gestational age** is the measure of how far along a pregnancy is from the first day of the woman's last menstrual period (LMP). Total average length of pregnancy = 40 weeks

**Fetal age** measures the actual weeks and days the embryo or fetus has been developing since fertilization, which occurs approx. two weeks after the first day of the LMP. Total average length of pregnancy = 38 weeks

This chart shows some key dates in pregnancy:

Trimester	Gestational Age	Fetal Age
<b>1</b>	<b>Weeks 1-13</b>	<b>Weeks 1-11</b>
	Day 1 - first day of last menstrual period	
		Day 1 - fertilization, new human life
		by end of Wk1 - implantation
		by Wk4 - heartbeat detected
	thru Wk10 - FDA approves abortion pill	by end of Wk8 - embryo called fetus
<b>2</b>	<b>Weeks 14-27</b>	<b>Weeks 12-25</b>
	by Wk23 - fetal viability outside womb	
<b>3</b>	<b>Weeks 28-40</b>	<b>Weeks 26-38</b>

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## Sources

### <sup>1</sup> Virginia current abortion law

1st trimester - <https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-72/>

2nd trimester\* - <https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-73/>

3rd trimester - <https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-74/>

Life of mother - <https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-74.1/>

\* The 2nd trimester hospital requirement was enjoined in a 2019 court ruling. Abortion clinics can now offer 2nd trimester abortions up to viability.

Court: U.S. District Court for the Eastern District of Virginia (Chandler J.).

Citation: Falls Church Med. Ctr., LLC v. Oliver, 412 F. Supp. 3d 668 (E.D. Va. 2019).

informed consent - <https://law.lis.virginia.gov/vacode/title18.2/chapter4/section18.2-76>

judicial bypass - <https://law.lis.virginia.gov/vacode/title16.1/chapter11/section16.1-241/>

state funding of abortion - <https://www.vdh.virginia.gov/pregnancy/state-funding-of-certain-abortion/>

<sup>2</sup> <https://www.liveaction.org/what-is-abortion>

<sup>3</sup> [https://abort73.com/abortion\\_facts/states/virginia/](https://abort73.com/abortion_facts/states/virginia/)

<sup>4</sup> <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>  
<https://lozierinstitute.org/getthefacts/abortion/>

<sup>5</sup> <https://lozierinstitute.org/hidden-epidemic-nearly-70-of-abortion-are-coerced-unwanted-or-inconsistent-with-womens-preferences/>

<sup>6</sup> <https://lozierinstitute.org/fact-sheet-reasons-for-abortion/>

<sup>7</sup> <https://www.cdc.gov/mmwr/volumes/73/ss/ss7307a1.htm>

<sup>8</sup> <https://lozierinstitute.org/questions-and-answers-on-late-term-abortion/>  
<https://secularprolife.org/laterabortion/>  
<https://whonotwhen.com/>

<sup>9</sup> <https://news.gallup.com/poll/321143/americans-stand-abortion.aspx>

<sup>10</sup> <https://paaunow.org/justiceforthefive/laterabortion>

<sup>11</sup> <https://lozierinstitute.org/fact-sheet-are-pro-life-state-laws-preventing-pregnant-women-from-receiving-emergency-care/>

<sup>12</sup> <https://virginiamedicalprofessionals.com/>

<sup>13</sup> <https://lozierinstitute.org/pro-life-laws-exempt-women-from-prosecution-an-analysis-of-abortion-statutes-in-27-states/>

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## Virginia organizations concerned about the amendment

**Coalition of Virginia Medical Professionals for Women's Safety -**

<https://viriniamedicalprofessionals.com/>

**Virginia for Preborn Justice -** <https://viriniaforprebornjustice.com/>

**The Family Foundation -** <https://www.familyfoundation.org/stopunlimitedabortion>

**Virginia Catholic Conference -** <https://vacatholic.org/amendment/>