

HOUSE BILL 978

J1

9lr2655
CF 9lr3173

By: **Delegates Grammer, Adams, Arentz, Arian, Boteler, Chisholm, Clark, Cox, Ghrist, Hornberger, Howard, Impallaria, Jacobs, Krebs, Malone, Mangione, Mautz, McComas, Metzgar, Miller, Otto, Parrott, Reilly, Rose, Saab, and Shoemaker**

Introduced and read first time: February 8, 2019
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Abortions – Detection of Fetal Heartbeat**
3 **(Keep Our Hearts Beating Act)**

4 FOR the purpose of repealing certain provisions of law that prohibit the State from
5 interfering with the decision of a woman to terminate a pregnancy under certain
6 circumstances, authorize the Maryland Department of Health to adopt certain
7 regulations, and limit the liability for civil damages or criminal penalties for
8 physicians under certain circumstances; prohibiting a physician, except under
9 certain circumstances, from performing or inducing an abortion on a pregnant
10 woman under certain circumstances; requiring a physician to use a certain method
11 for detecting a fetal heartbeat under certain circumstances; requiring a physician to
12 include certain information in a woman's medical record under certain
13 circumstances; establishing certain penalties for a certain violation of this Act;
14 authorizing an individual to recover civil damages from a certain person under
15 certain circumstances; and generally relating to abortions.

16 BY repealing

17 Article – Health – General
18 Section 20–209
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2018 Supplement)

21 BY adding to

22 Article – Health – General
23 Section 20–209
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **[20–209.**

5 (a) In this section, “viable” means that stage when, in the best medical judgment
6 of the attending physician based on the particular facts of the case before the physician,
7 there is a reasonable likelihood of the fetus’s sustained survival outside the womb.

8 (b) Except as otherwise provided in this subtitle, the State may not interfere with
9 the decision of a woman to terminate a pregnancy:

10 (1) Before the fetus is viable; or

11 (2) At any time during the woman’s pregnancy, if:

12 (i) The termination procedure is necessary to protect the life or
13 health of the woman; or

14 (ii) The fetus is affected by genetic defect or serious deformity or
15 abnormality.

16 (c) The Department may adopt regulations that:

17 (1) Are both necessary and the least intrusive method to protect the life or
18 health of the woman; and

19 (2) Are not inconsistent with established medical practice.

20 (d) The physician is not liable for civil damages or subject to a criminal penalty
21 for a decision to perform an abortion under this section made in good faith and in the
22 physician’s best medical judgment in accordance with accepted standards of medical
23 practice.]

24 **20–209.**

25 **(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
26 **PHYSICIAN MAY NOT PERFORM OR INDUCE AN ABORTION ON A PREGNANT WOMAN:**

27 **(1) BEFORE DETERMINING WHETHER THE FETUS HAS A DETECTABLE**
28 **HEARTBEAT; AND**

29 **(2) IF THE PHYSICIAN DETERMINES THAT THE FETUS HAS A**
30 **DETECTABLE HEARTBEAT.**

1 **(B) (1) A PHYSICIAN WHO ATTEMPTS TO DETECT A FETAL HEARTBEAT**
2 **BEFORE PERFORMING AN ABORTION UNDER SUBSECTION (A) OF THIS SECTION**
3 **SHALL USE A METHOD CONSISTENT WITH THE STANDARD OF CARE.**

4 **(2) A PHYSICIAN WHO ATTEMPTS TO DETECT A FETAL HEARTBEAT**
5 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE IN THE WOMAN'S**
6 **MEDICAL RECORD:**

7 **(I) THE METHOD USED TO DETECT THE HEARTBEAT;**

8 **(II) THE APPROXIMATE GESTATIONAL AGE OF THE FETUS; AND**

9 **(III) WHETHER A FETAL HEARTBEAT WAS DETECTED.**

10 **(C) A PHYSICIAN MAY PERFORM OR INDUCE AN ABORTION WITHOUT**
11 **ATTEMPTING TO DETECT A FETAL HEARTBEAT IF THE PHYSICIAN BELIEVES THAT A**
12 **MEDICAL EMERGENCY EXISTS.**

13 **(D) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION:**

14 **(I) IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
15 **IMPRISONMENT NOT EXCEEDING 12 MONTHS OR A FINE NOT EXCEEDING \$2,500 OR**
16 **BOTH; AND**

17 **(II) MAY BE SUBJECT TO DISCIPLINARY ACTION BY THE**
18 **APPROPRIATE LICENSING BOARD.**

19 **(2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION:**

20 **(I) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS**
21 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING**
22 **\$1,000 OR BOTH; AND**

23 **(II) MAY BE SUBJECT TO DISCIPLINARY ACTION BY THE**
24 **APPROPRIATE LICENSING BOARD.**

25 **(3) IN ADDITION TO THE PENALTIES ESTABLISHED UNDER**
26 **PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, AN INDIVIDUAL WHO RECEIVED AN**
27 **ABORTION IN VIOLATION OF THIS SECTION MAY RECOVER CIVIL DAMAGES FROM**
28 **THE PHYSICIAN WHO PERFORMED THE ABORTION.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2019.