

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1321 (Delegate Ciliberti, *et al.*)  
Health and Government Operations

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Health - Abortion - Ultrasound and Waiting Period

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This bill generally prohibits a physician from performing or inducing an abortion on a pregnant woman (1) within 24 hours after the woman receives specified transabdominal ultrasound imaging or (2), if the woman resides at least 100 miles from the facility, within two hours after the woman receives specified transabdominal ultrasound imaging. Violators are subject to a penalty of up to \$2,500.

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Fiscal Summary

**State Effect:** General fund revenues may increase to the extent fines are imposed in the District Court due to the bill's penalty provision. Expenditures are not materially affected.

**Local Effect:** The bill is not anticipated to materially affect local government finances or operations.

**Small Business Effect:** Meaningful.

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Analysis

**Bill Summary:** The medical professional performing the transabdominal ultrasound imaging must (1) be trained in sonography and working under the supervision of a licensed physician; (2) if possible, determine the gestational age of the fetus; (3) if gestational age cannot be determined, verbally offer to the woman other ultrasound imaging to determine the gestational age of the fetus; (4) if present and viewable, include in the ultrasound image the dimensions of the fetus and an accurate portrayal of the presence of external members and internal organs of the fetus (5) make a print of the ultrasound image to document any measurements taken to determine the gestational age of the fetus; (6) verbally offer to the

woman during the abdominal ultrasound imaging the option to view the ultrasound image, receive a printed copy of the ultrasound image, and hear the fetal heartbeat; and (7) obtain from the woman specified written certification.

A woman is not required to accept anything offered during the transabdominal ultrasound imaging performed.

The facility in which an abortion is performed must maintain a printed copy of the ultrasound image for the greater of seven years or an amount of time as required by federal or State law.

These requirements do not apply to a woman seeking an abortion if (1) the woman is the victim of an alleged rape or of incest and (2) the incident of rape or incest is reported to law enforcement.

**Current Law:** The State may not interfere with a woman's decision to end a pregnancy before the fetus is viable, or at any time during a woman's pregnancy, if the procedure is necessary to protect the life or health of the woman, or if the fetus is affected by a genetic defect or serious deformity or abnormality. This is consistent with the U.S. Supreme Court's holding in *Roe v. Wade*, 410 U.S. 113 (1973). A viable fetus is one that has a reasonable likelihood of surviving outside of the womb. The Maryland Department of Health may adopt regulations consistent with established medical practice if they are necessary and the least intrusive method to protect the life and health of the woman.

If an abortion is provided, it must be performed by a licensed physician. A physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion made in good faith and in the physician's best medical judgment using accepted standards of medical practice.

**Background:** According to the Guttmacher Institute, three states (Louisiana, Texas, and Wisconsin) mandate that an abortion provider perform an ultrasound on each woman seeking an abortion and requires the provider to show and describe the image. All three states also allow for a woman to look away from the image. Louisiana and Texas further allow a woman to decline to listen to the description provided, under certain circumstances. In Texas, an ultrasound must take place at least 24 hours in advance of the abortion.

Three other states have enacted similar legislation, however, enforcement is permanently enjoined by a court order in those states (Kentucky, North Carolina, and Oklahoma).

**Small Business Effect:** Meaningful for physicians whose practices currently encompass performing abortions to comply with the bill.

## **Additional Information**

**Prior Introductions:** HB 1075 of 2019, a similar bill, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Health; Guttmacher Institute; Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2020  
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