

HOUSE BILL 1161

J1
HB 1109/21 – HGO

2lr2986

By: **Delegates Ciliberti, McKay, and Wivell**
Introduced and read first time: February 11, 2022
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Abortion – Ultrasound and Waiting Period**

3 FOR the purpose of prohibiting a physician from performing or inducing an abortion on a
4 pregnant woman within a certain period of time after the woman receives certain
5 ultrasound imaging; establishing certain requirements related to the performance of
6 a certain transabdominal ultrasound; providing that a woman is not required to
7 accept anything offered during certain transabdominal ultrasound imaging; and
8 generally relating to an ultrasound and waiting period before the performance of an
9 abortion.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 20–209
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2021 Supplement)

15 BY adding to
16 Article – Health – General
17 Section 20–210
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2021 Supplement)

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

22 **Article – Health – General**

23 20–209.

24 (a) In this section, “viable” means that stage when, in the best medical judgment
25 of the attending physician based on the particular facts of the case before the physician,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 there is a reasonable likelihood of the fetus's sustained survival outside the womb.

2 (b) Except as **PROVIDED IN § 20–210 OF THIS SUBTITLE OR AS** otherwise
3 provided in this subtitle, the State may not interfere with the decision of a woman to
4 terminate a pregnancy:

5 (1) Before the fetus is viable; or

6 (2) At any time during the woman's pregnancy, if:

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

9 (ii) The fetus is affected by genetic defect or serious deformity or
10 abnormality.

11 (c) The Department may adopt regulations that:

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

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

15 (d) The physician is not liable for civil damages or subject to a criminal penalty
16 for a decision to perform an abortion under this section made in good faith and in the
17 physician's best medical judgment in accordance with accepted standards of medical
18 practice **AND § 20–210 OF THIS SUBTITLE.**

19 **20–210.**

20 **(A) THIS SECTION DOES NOT APPLY TO A WOMAN SEEKING AN ABORTION IF:**

21 **(1) THE WOMAN IS THE VICTIM OF AN ALLEGED RAPE OR OF INCEST,**
22 **AS PROHIBITED UNDER § 3–323 OF THE CRIMINAL LAW ARTICLE; AND**

23 **(2) THE INCIDENT OF RAPE OR INCEST IS REPORTED TO LAW**
24 **ENFORCEMENT.**

25 **(B) A PHYSICIAN MAY NOT PERFORM OR INDUCE AN ABORTION ON A**
26 **PREGNANT WOMAN:**

27 **(1) WITHIN 24 HOURS AFTER THE WOMAN RECEIVES**
28 **TRANSABDOMINAL ULTRASOUND IMAGING IN ACCORDANCE WITH SUBSECTION (C)**
29 **OF THIS SECTION; OR**

1 **(2) IF THE WOMAN RESIDES AT LEAST 100 MILES FROM THE FACILITY**
2 **IN WHICH THE ABORTION WILL BE PERFORMED, WITHIN 2 HOURS AFTER THE**
3 **WOMAN RECEIVES TRANSABDOMINAL ULTRASOUND IMAGING IN ACCORDANCE WITH**
4 **SUBSECTION (C) OF THIS SECTION.**

5 **(C) THE MEDICAL PROFESSIONAL PERFORMING THE TRANSABDOMINAL**
6 **ULTRASOUND IMAGING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MUST:**

7 **(1) BE TRAINED IN SONOGRAPHY AND WORKING UNDER THE**
8 **SUPERVISION OF A LICENSED PHYSICIAN;**

9 **(2) IF POSSIBLE, DETERMINE THE GESTATIONAL AGE OF THE FETUS**
10 **BASED ON:**

11 **(I) MEASUREMENT OF THE FETUS IN A MANNER CONSISTENT**
12 **WITH THE STANDARD OF CARE; OR**

13 **(II) IF ONLY THE GESTATIONAL SAC IS VISIBLE DURING THE**
14 **TRANSABDOMINAL ULTRASOUND IMAGING, MEASUREMENT OF THE GESTATIONAL**
15 **SAC;**

16 **(3) IF GESTATIONAL AGE CANNOT BE DETERMINED UNDER ITEM (2)**
17 **OF THIS SUBSECTION, VERBALLY OFFER TO THE WOMAN OTHER ULTRASOUND**
18 **IMAGING TO DETERMINE GESTATIONAL AGE OF THE FETUS;**

19 **(4) IF PRESENT AND VIEWABLE, INCLUDE IN THE ULTRASOUND**
20 **IMAGE:**

21 **(I) THE DIMENSIONS OF THE FETUS; AND**

22 **(II) AN ACCURATE PORTRAYAL OF THE PRESENCE OF**
23 **EXTERNAL MEMBERS AND INTERNAL ORGANS OF THE FETUS;**

24 **(5) MAKE A PRINT OF THE ULTRASOUND IMAGE TO DOCUMENT ANY**
25 **MEASUREMENTS TAKEN TO DETERMINE THE GESTATIONAL AGE OF THE FETUS;**

26 **(6) VERBALLY OFFER TO THE WOMAN DURING THE**
27 **TRANSABDOMINAL ULTRASOUND IMAGING THE OPTION TO:**

28 **(I) VIEW THE ULTRASOUND IMAGE;**

29 **(II) RECEIVE A PRINTED COPY OF THE ULTRASOUND IMAGE;**

30 **AND**

1 **(III) HEAR THE FETAL HEARTBEAT IN A MANNER CONSISTENT**
2 **WITH THE STANDARD OF CARE; AND**

3 **(7) OBTAIN FROM THE WOMAN WRITTEN CERTIFICATION THAT:**

4 **(I) THE MEDICAL PROFESSIONAL PERFORMING THE**
5 **TRANSABDOMINAL ULTRASOUND IMAGING OFFERED OPTIONS AS REQUIRED UNDER**
6 **ITEM (6) OF THIS SUBSECTION; AND**

7 **(II) IF APPLICABLE, THE WOMAN RESIDES AT LEAST 100 MILES**
8 **FROM THE FACILITY IN WHICH THE ABORTION WILL BE PERFORMED.**

9 **(D) A WOMAN IS NOT REQUIRED TO ACCEPT ANYTHING OFFERED DURING**
10 **TRANSABDOMINAL ULTRASOUND IMAGING PERFORMED IN ACCORDANCE WITH**
11 **SUBSECTION (C) OF THIS SECTION, INCLUDING OFFERS MADE UNDER SUBSECTION**
12 **(C)(3) AND (6) OF THIS SECTION.**

13 **(E) THE FACILITY IN WHICH AN ABORTION IS PERFORMED SHALL MAINTAIN**
14 **A PRINTED COPY OF THE ULTRASOUND IMAGE MADE UNDER SUBSECTION (C)(5) OF**
15 **THIS SECTION FOR THE GREATER OF:**

16 **(1) 7 YEARS; OR**

17 **(2) AN AMOUNT OF TIME AS REQUIRED BY FEDERAL OR STATE LAW.**

18 **(F) A PHYSICIAN WHO VIOLATES THIS SECTION IS SUBJECT TO A PENALTY**
19 **OF UP TO \$2,500.**

20 **(G) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A PHYSICIAN**
21 **FROM USING ULTRASOUND IMAGING THAT THE PHYSICIAN CONSIDERS MEDICALLY**
22 **APPROPRIATE, CONSISTENT WITH THE STANDARD OF CARE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2022.