



## OPPOSITION STATEMENT SB741/HB771

### Public Senior Higher Education Institutions – Pregnant and Parenting Students – Policy Requirements

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### We Oppose Abortion Promotion and Funding in Public Universities and Colleges

Maryland Right to Life (MDRTL) supports any public policy that enables and empowers young women and men to choose life for their preborn children. Maryland Right to Life offers to assist any legislator or institute of higher education in developing policies and programs to exclusively support healthy birth and delivery outcomes. We work with a network of providers who promote life-affirming programs and services for pregnant women and girls at no cost.

We applaud any effort to create an educational environment that supports students in their decisions to provide life to and/or to parent their children. However this bill is not narrowly tailored to ensure equity in providing pregnant students equal access to lifesaving alternatives to abortion. Therefore, we must oppose this bill and any other mandate on public schools and universities that requires referral to, promotion or funding of abortion and abortion providers.

While the bill makes a minor concession to refer students to adoption services, there is no language in the bill that would exclude abortion or abortion providers from the existing statutory mandate under Section 15-136 of the Education Article, or prevent the state-sponsored abortion industry from exploiting the policy as a whole to deliver vulnerable pregnant students and their preborn children into the lethal hands of abortion providers.

### Federal Title IX Requires Abortion Accommodation

MDRTL has been consistent in our position that we cannot support any bill that would expand abortion access and coordination by codifying federal Title IX. MDRTL will not acquiesce to policies that wrongly define abortion as “healthcare”. Regulations attached to Title IX since 1975, corrupted the intent of the federal Higher Education Act of 1965 by requiring that any institution that receives federal funds, must provide equal accommodation for pregnancy **AND termination of pregnancy** by abortion. The 1975 regulations were proposed as part of a three-tiered approach to create a federal right to abortion and were intended to make Title IX act in concert with the Equal Rights Amendment of 1972 and *Roe v. Wade* (1973) Because this bill seeks to codify Title IX in Maryland statute and administrative policy, the bill cannot be cured by any amendment.

## Bill Goes Further than Title IX

While federal Title IX requires any institution that receives federal funds to provide equal accommodation for pregnancy or termination of pregnancy, including things like larger desks and excused absences, the state is under no federal obligation to provide access, coordination or funding for abortion including on college campuses. Unfortunately, that abortion coordination and funding has been effected by state statutes.

**Referrals to Abortion Providers** - This bill requires that pregnant students be referred to state programs that fund abortions including the **Maryland Medical Assistance Program** and the **Maryland Children's Health Program (MCHP)**. These programs require providers to provide either abortion services or referrals in order to participate and do not include or provide funding for pro-life pregnancy resource centers. In 2022, the state reports that 11,567 abortions were committed and abortionists were reimbursed \$7.6 million in taxpayer funds under the Medical Assistance Program. Less than 10 of those taxpayer-funded abortions were for reasons of rape, incest or to save the physical life of the mother. Abortion funding also is authorized under MCHP.

State referral practices are extremely problematic, as the Maryland Department of Health and the Maryland Department of Education routinely coordinate with and refer pregnant women to Planned Parenthood despite the fact that only 14% of their facilities provide even minimal prenatal care, and their advertised adoption counseling services have been proven to be negligible but intended instead to serve as a feeder system for abortion sales. (See <https://www.liveaction.org/news/planned-parenthood-adoption-referrals-question-that/> ). This bill does not disqualify Planned Parenthood as a legitimate provider for prenatal care or adoption services. In fact, Planned Parenthood has resources dedicated to “adoption coercion” and redirects women to an abortion decision. (See <https://www.plannedparenthood.org/learn/pregnancy/considering-adoption/pressure-and-coercion-in-adoption> ).

**Coordination of Abortion Services** - This bill requires that colleges and universities coordinate services through an undefined "referral network of health care providers". But Section 15-136 of the Education Article of the Maryland Code, upon which this bill builds, already requires that colleges and universities develop and implement reproductive health services plans to provide or refer students to a “comprehensive” range of reproductive health services, expressly including abortion (See additional details below.) The bill does not identify any pro-life providers nor provide any assurances that the state would allow pro-life representation.

Because of the state of Maryland's abortion bias, the state systemically discriminates against pro-life organizations and providers and excludes them from participation in any state programs claiming they do not provide “comprehensive” care because they will not commit or refer for abortions. Conversely the state routinely entrusts the profit-minded abortion industry and their network to define and implement state programs to target pregnant women and students, despite the fact that after 45 years of taxpayer subsidization, they have failed to eliminate unplanned pregnancies.

## State is in Violation of Title IX

It is MDRTL's position that the State of Maryland is in direct violation of Title IX by refusing to provide pregnant students in public universities and colleges equal accommodation or access to pro-life providers and lifesaving alternatives to abortion. In 2023, the members of the Maryland General Assembly enacted Chapters 250 and 251 - *Public Senior Higher Education Institutions – Reproductive Health Services Plans – Requirements*, now Section 15-136 of the Education Article of the Maryland Code. The Assembly codified your clear intention to mandate abortion on campuses, by requiring the coordination of abortion services while rejecting amendments to provide students resources or referrals for healthy birth and delivery outcomes.

## State is Engaging in Abortion Coercion

As a result of the state's blatant abortion bias and systemic discrimination against pro-life speech and providers, the state is depriving women real choice and engaging in constructive abortion coercion. Under current Maryland law, there is no explicit measure prohibiting any individual from coercing a woman into abortion.

The *majority* of women who have had abortions (64%) report afterward that they were pressured into the decision. With the documented severity of physical and psychological repercussions of abortion, protection from abortion coercion becomes even more essential in ensuring that the best interests of students are protected. But this bill will require colleges and universities to refer pregnant students to providers who may coerce them into using abortion drugs or procedures for their own financial gain.

Coercion encompasses any situation in which a pregnant mother is made to feel - by any means - that she has *no choice* but an abortion. Coercion sends a mother into the belief that *either the baby dies or I will die or suffer great harm*, which may include losing a scholarship, being displaced from a team or even temporarily delaying education.

The abortion industry self-identifies as *pro-choice*, but in reality, choice has little to do with the abortion transaction. Far from enshrining protections from coercion, the abortion industry operates on omission: they omit important questions about coercion during pre-abortion "counseling" and fail to provide information about the effects of a coerced abortion.

Abortion providers also have demonstrated an unwillingness to protect women and girls against sexual abuse and trafficking by refusing to report suspected abuse to law enforcement or other public authorities while agreeing to commit abortions on suspected victims.

## State Government Obligation to Parents and Students

Parents send their daughters to college for an education, not for an abortion. The State of Maryland has an obligation to provide a safe and healthy environment for all students attending institutes of higher

education within this state. The state cannot reasonably entrust abortion providers and others who stand to gain financially from the sale of abortions, with the education and care of pregnant students.

The bill undermines parental rights to make medical decisions for their children as many young adults remain on their parents' insurance policies until the age of twenty-six. However, parents who do not have the right to consent to abortion procedures for their children, will be financially responsible for any medical or psychological health interventions necessary as a result of abortion injuries or death. By enacting this bill the state will violate the trust of parents and far exceed its limited authority to act in place of the parents on campus, particularly in the matter of student health.

### **MDRTL Opposes Public Funding for Abortion on Campus**

It is MDRTL's position that the state of Maryland is failing in its fiduciary responsibility to state taxpayers and failing to provide for the legitimate healthcare needs of pregnant women and girls in Maryland. By using state resources, existing or otherwise to coordinate reproductive health services on campus, the bill would indirectly enrich the abortion industry that in an entrenched participate in the state network.

The fact that the number of abortions is highest among college-aged students, demonstrates that decades of public funding to abortion activists in Maryland k-12 public education, has failed to prepare our youth with sound family planning practices. Throwing additional public funding toward the multi-billion dollar abortion industry's failed practices, is not sound fiscal policy and harms those most in need of quality maternal health care options.

Maryland taxpayers should not be forced to subsidize abortion indoctrination, promotion and abortion violence. A 2023 Marist poll showed that 60% of people polled oppose the use of tax dollars to pay for abortion and 81% favor laws that protect both the lives of women and unborn children. Public funds instead should be prioritized to fund legitimate health and family planning services which have the objective of saving the lives of both mother and children, including programs for improving maternal health and birth and delivery outcomes, well baby care, parenting classes, foster care reform and affordable adoption programs.

Pregnant women and students have better alternatives for maternal health. There are 14 federally qualifying health centers and 4 pregnancy centers for each Planned Parenthood in Maryland. Planned Parenthood profits from abortion sales and is not a significant provider of prenatal care or adoption referrals.

### **Funding restrictions are constitutional**

The Supreme Court of the United States, in *Dobbs v. Jackson Women's Health* (2022), overturned *Roe v. Wade* (1973) and held that there is no right to abortion found in the Constitution of the United States. As early as 1980 the Supreme Court affirmed in *Harris v. McRae*, that *Roe* had created a limitation on government, not a government funding entitlement. The Court ruled that the government may distinguish between abortion and other procedures in funding decisions -- noting that "*no other procedure involves the purposeful termination of a potential life*", and held that there is "*no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds.*"

## **Abortion is not healthcare**

Abortion is not healthcare. It is violence and brutality that ends the lives of unborn children through suction, dismemberment or chemical poisoning. The fact that 85% of OB-GYNs in a representative national survey do not perform abortions on their patients is glaring evidence that abortion is not an essential part of women's healthcare.

Recent acts of abortion activists occupying the Maryland General Assembly have completely removed abortion from the spectrum of healthcare. As a result of the *Abortion Care Access Act* of 2022, sponsored by Delegate Ariana Kelly (D-Montgomery), a former NARAL employee, poor women will be deprived access to care through a licensed physician. To the detriment of women's reproductive health, the state is now allowing any "certified provider of abortion care" to perform or provide both surgical and chemical abortion through birth.

Combine this with the fact that 54% of abortions are now "Do-It-Yourself" abortions where women are remotely prescribed dangerous abortion pills without a physician's examination and are left to hemorrhage alone until their bodies forcefully expel their babies' bodies, and the argument that abortion is healthcare is completely discredited.

## **Abortion is a Failed Policy**

Nearly fifty years of federal abortion mandates on the state have failed to cure the underlying socio-economic challenges women face in raising their families. The abortion industry has failed to reduce pregnancies, but only reduced the number of *live births*. In fact, the number of abortions has increased proportionately with the increase in public funding for abortion businesses.

Planned Parenthood and their network of organizations are financially invested in unplanned pregnancies that increase abortion profits. They cannot be trusted to instruct children and young adults in human reproduction and sexuality or to promote their abortion business under the guise of student "health".

The fact that the number of abortions is highest among college-aged students, demonstrates that decades of public funding to abortion activists in Maryland k-12 public education, has failed to prepare our youth with sound family planning practices. Throwing additional public funding toward the multi-billion dollar abortion industry's failed practices, is not sound fiscal policy and harms those most in need of quality maternal health care options.

## **Disparate Impact Statement: Abortion is having a genocidal impact on Black Marylanders**

Abortion has a disproportionate impact on Black Americans who have long been targeted by the abortion industry for eugenics purposes. Even today 78% of abortion clinics are located in minority communities. As a result abortion violence has become the leading killer of Black lives, more than gun violence and all other

causes combined. More than half of all pregnancies to Black women in Baltimore City end through abortion violence.

The state fails to measure or report the correlation between the increased use of abortion with increased risk to maternal mortality, infertility, miscarriage, pre-term births for Black mothers. This makes any argument that abortion is healthcare a morally repugnant call for state-sponsored genocide of Black children in Maryland.

**For these reasons we respectfully urge you to issue an unfavorable report on this bill and we encourage the Assembly to introduce a bill that is narrowly tailored to ensure that pregnant students are provided access to lifesaving alternatives to abortion without fear of abortion coercion as Title IX originally intended.**

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This content is from the CFR and is authoritative but unofficial.

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## Title 34—Education

### Subtitle B—Regulations of the Offices of the Department of Education

#### Chapter I—Office for Civil Rights, Department of Education

#### Part 106—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

##### Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

Authority: 20 U.S.C. 1681 *et seq.*, unless otherwise noted.

Source: 45 FR 30955, May 9, 1980, unless otherwise noted.

#### § 106.40 Marital or parental status.

- (a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.
- (b) *Pregnancy and related conditions.*
  - (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.
  - (2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.
  - (3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that this separate portion is comparable to that offered to non-pregnant students.
  - (4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.
  - (5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

[45FR30955, May 9, 1980, as amended at 65FR68056, Nov. 13, 2000; 85FR30579, May 19, 2020]