



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

March 6th, 2024

**Testimony in Support of SB947  
Abortion Care Access Grant Program and Fund - Establishment**

Dear Chair Beidle, Vice Chair Klausmeier, and Members of the Finance Committee:

In Maryland, we are facing a critical juncture to ensure the sustainability of abortion access. We are also facing a state fiscal crisis at the same time. HB 1412/SB 947 offers a solution – our state can tap into a sustainable funding source to support abortion access.

In 2022, I sponsored the *Abortion Care Access Act* with Senator Delores Kelley. This legislation included an important reporting requirement. Every year, the *Maryland Insurance Administration* must report on how many dollars are unspent in premiums collected for abortion coverage by Exchange plans (also known as qualified health plans). According to these reports there is an average of \$3 million in unspent funds every year. SB 947 proposes to use these unspent dollars to fund an annual appropriation for the Abortion Care Access Fund.

***Why Do We Need A Fund To Support Abortion Access?***

**Background**

In the first six months following the *Dobbs* decision, some states made emergency funding available to address the immediate crisis as abortion bans in over a dozen states went into effect. Governors and legislators in Maryland, Massachusetts, New Mexico, New York, and Oregon set aside funding. In Maryland, two local jurisdictions – Baltimore City and Montgomery County – also set aside funding.

Now, we are almost two years past the *Dobbs* decision, and the landscape for abortion access has only become more unpredictable. Every day brings new challenges for abortion providers and people seeking abortion care. Twenty-one states have banned abortion. Some bans have been blocked by state courts for now, but the uncertainty has a profound impact on the availability of services.

There are reports, complaints, and litigation in multiple states – including Florida, Idaho, Tennessee, and Texas – where abortion bans have resulted in women being denied emergency medical care. Recently, a court decision suddenly halted invitro fertilization in Alabama. Just in

the past week, a bill is advancing in Kentucky that would establish a right to child support from conception.

### **Affording Abortion Care**

This environment makes it very difficult for health care practitioners, even in states like Maryland, to provide reproductive health care. Our reproductive healthcare providers are worried about the sustainability of their work.

1. While we have required abortion coverage for state-regulated and Medicaid plans, many people remain without abortion coverage in ERISA-exempt plans.
2. Many people are also afraid to use their insurance, as they will risk an explanation of benefits being mailed home and opened by a family member.

### **Increasing Violence Against Providers**

Abortion providers and their patients have always faced threats and incidents of violence. Unlike any other health care service, people face unique safety risks when providing or obtaining abortion care. Since the *Dobbs* decision overturned *Roe v Wade*, these threats have increased sharply:

#### **In 2022, abortion providers reported<sup>[i]</sup>:**

- 29% increase in assault and batteries
- 100% increase in burglaries
- 913% increase in stalking
- 133% increase in bomb threats.

These incidents most often occur in states that protect abortion access, as dozens of providers have closed in states that restrict abortion. The Department of Justice charged 26 people in 2022 for anti-abortion violence and threats, which was more than the previous three years combined<sup>[ii]</sup>.

### **Role of Nonprofit Abortion Funds**

Maryland does not have any stop-gap programs that support abortion care. *Unlike other types of care – including behavioral health, primary care, and cancer screening and treatment – providers of abortion care have been historically excluded from public health grant programs because of federal rules.* People seeking abortion services often turn to abortion funds, which are nonprofit organizations, for support in covering services and travel costs. Abortion funds experienced a spike in donations following the *Dobbs* decision. However, those contributions have not been sustained at a continuous level – leaving abortion funds running out of resources.

### **Proposed Abortion Care Access Grant Program and Fund**

This bill establishes the *Abortion Care Access Grant Program* under the *Department of Health*. The program would provide for grants and community-based organizations to support

access to abortion care in Maryland. The grants could be used to support abortion providers in ensuring patients and provider staff are secure by funding:

- Physical plant improvements
- Security services
- Costs of coordinating with law enforcement when appropriate
- Costs associated with abortion care and wrap-around services, such as travel, for people who are uninsured
- Resources would also be available to people who have insurance, but cannot use their insurance for fear that a partner or family member would receive an explanation of benefits
- Providing for other programming to support access to abortion care

Under this legislation the Secretary of Health could make the determination about appropriate uses of the funds in consultation with stakeholders to support access to abortion care and ensure care is culturally competent.

### **Where Does the Money in the Fund Come From?**

To understand why insurers have so many unspent dollars for abortion coverage, we need to go back to the history of the *Affordable Care Act*. This federal legislation has expanded access to care more so than any other legislation in our lifetime. However, there is one hidden provision that was intended to restrict access to care.

Exchange plans are required to charge at least \$1 per member per month for abortion coverage, even though this premium far exceeds the actuarial value of abortion coverage. The Exchange plans are then required to keep these premium dollars in a separate account to only be used for abortion care. The accounting rules are intended to demonstrate that abortion coverage is not supported by advanced premium tax credits which are funded by the federal government. These requirements were designed to make abortion coverage expensive and difficult for carriers to manage.

**With SB 947, Maryland would be the first state to create a sustainable funding source for abortion care access.** The \$1 monthly premium requirement was intended to discourage abortion coverage and limit access. We cannot change the federal law. However, we can ensure that these funds are used for their intended purpose – supporting abortion care access.

Each year, the Maryland Insurance Commissioner would assess the dollar amount of those unspent funds from the prior year. Insurers would have the opportunity to work with the Insurance Commissioner in verifying the accuracy of the numbers. Then the Insurance Commission would order the transfer of 90% of the balance to the *Abortion Care Access Fund* under the Department of Health. We think the value of the unspent funds is approximately \$3 million a year.

### **Conclusion**

We need a sustainable funding source to support access to abortion care in Maryland. While we have protected abortion access in our law and fully expect that Marylanders will approve reproductive freedom as a state constitutional right in November, we know that a legal right does not equate to access to care. ***SB 947 – Abortion Care Access Grant Program and Fund*** provides Maryland with the opportunity to create sustainable funding for abortion care access.

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[i] <https://prochoice.org/our-work/provider-security/2022-naf-violence-disruption/>

[ii] <https://www.justice.gov/crt/recent-cases-violence-against-reproductive-health-care-providers>