

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 276 (Delegate Grammer)
Health and Government Operations

Health - Abortion Data - Submission to the Centers for Disease Control and Prevention

This bill requires the Maryland Department of Health (MDH) to submit any data regarding abortion that is requested by the U.S. Centers for Disease Control and Prevention (CDC). MDH is authorized to refuse to submit the requested data if doing so would be in violation of federal or State law.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect MDH operations or finances, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Status of Federal Abortion Law

In June 2022, the U.S. Supreme Court overturned precedent regarding abortion access in *Dobbs v. Jackson Women's Health Organization*. Before this decision, abortions prior to viability were constitutionally protected based on *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*. The petitioners in *Dobbs* sought to overturn the invalidation of Mississippi's Gestational Age Act, which prohibited abortions after

15 weeks gestation except for medical emergencies or severe fetal abnormalities. The U.S. Supreme Court upheld the Mississippi law by overturning *Roe* and *Casey*, holding that there is no constitutionally protected right to an abortion as it is not a right explicitly granted by the Constitution or a right “deeply rooted” in the country’s history and tradition. The *Dobbs* decision leaves states to decide how to regulate abortion access, resulting in a patchwork of state laws with varying degrees of access to abortion care.

Maryland Abortion Law

The *Dobbs* decision does not impact Maryland law as § 20-209 of the Health-General Article codifies the protections of *Roe* and *Casey* by prohibiting the State from interfering with an abortion conducted (1) before viability or (2) at any point, if the procedure is necessary to protect the health or life of the woman and in cases of fetal defect, deformity, or abnormality.

Pursuant to Chapter 56 of 2022, if an abortion is provided, it must be performed by a “qualified provider,” which includes a physician, nurse practitioner, nurse-midwife, licensed certified midwife, physician assistant, or any other individual who is licensed, certified, or otherwise authorized by law to practice in the State and for whom the performance of an abortion is within the scope of the individuals’ license or certification. A qualified provider 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 qualified provider’s best clinical judgment using accepted standards of clinical practice.

MDH may adopt regulations consistent with established clinical practice if they are necessary and the least intrusive method to protect the life and health of the woman.

Chapter 56 also established the Abortion Care Clinical Training Program to ensure there are a sufficient number of health care professionals to provide abortion services in the State and requires health insurers and Maryland Medicaid to cover abortion services without a deductible, coinsurance, copayment, or other cost-sharing requirement.

Reproductive Health Protection Act

Chapters 246 and 247 of 2023 establish additional protections for information related to “legally protected health care” when that information is sought by another state. The Acts also prohibit (1) a health occupations board from taking specified disciplinary actions related to the provision of legally protected health care; (2) a medical professional liability insurer from taking specified adverse actions against a practitioner related to the practice of legally protected health care; and (3) specified State entities, agents, and employees from participating in any interstate investigation seeking to impose specified liabilities or

sanctions against a person for activity related to legally protected health care (with limited exception).

Under § 2-312 of the State Personnel and Pensions Article, “legally protected health care” means all reproductive health services, medications, and supplies related to the direct provision or support of the provision of care related to pregnancy, contraception, assisted reproduction, and abortion that is lawful in the State.

State Expenditures: MDH advises that, while the bill requires it to *submit* any data regarding abortion that the CDC requests, MDH does not currently collect any information on abortions in the State. Therefore, MDH advises that the bill will not have a fiscal or operational impact.

Additional Comments: Each year, the CDC requests abortion data from the central health agencies for the 50 states, the District of Columbia, and New York City that it summarizes and publishes. In 2021, the most recent [report](#) available, 48 of the specified jurisdictions provided aggregate abortion data to CDC (excluding California, Maryland, New Hampshire, and New Jersey). CDC has conducted abortion surveillance since 1969 to document the number and characteristics of women obtaining legal induced abortions in the United States. In most jurisdictions, the collection of abortion data is facilitated by a legal requirement for hospitals, facilities, or physicians to report abortions to a central health agency. Reporting of abortion data to CDC is voluntary.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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km/jc

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