

HOUSE BILL 746

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By: **Delegates Burns, Alston, Boteler, McMillan, and Stocksdale**

Introduced and read first time: February 10, 2011

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Abortion – Third Trimester Procedures**

3 FOR the purpose of requiring an abortion performed during the third trimester of
4 pregnancy to be performed in a hospital; requiring a certain abortion to be
5 certified by certain physicians to be necessary to preserve the life or health of
6 the woman; requiring certain hospitals to arrange for the availability of a
7 certain physician to provide a certain consultation; defining a certain term; and
8 generally relating to abortion procedures.

9 BY repealing and reenacting, without amendments,
10 Article – Health – General
11 Section 20–207 and 20–209
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 20–208
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2010 Supplement)

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

21 **Article – Health – General**

22 20–207.

23 In Part II of this subtitle, the word “physician” means any person, including a
24 doctor of osteopathy, licensed to practice medicine in the State of Maryland in
25 compliance with the provisions of Title 14 of the Health Occupations Article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 20–208.

2 (A) An abortion must be performed by a licensed physician.

3 (B) (1) IN THIS SUBSECTION, “THIRD TRIMESTER OF PREGNANCY”
4 MEANS THAT PORTION OF A PREGNANCY BEGINNING WITH THE 25TH WEEK OF
5 PREGNANCY.

6 (2) IN ADDITION TO THE REQUIREMENT OF SUBSECTION (A) OF
7 THIS SECTION, AN ABORTION PERFORMED DURING THE THIRD TRIMESTER OF
8 PREGNANCY SHALL BE:

9 (I) PERFORMED IN A HOSPITAL; AND

10 (II) CERTIFIED IN WRITING BY THE PHYSICIAN
11 PERFORMING THE ABORTION AND ONE ADDITIONAL CONSULTING PHYSICIAN TO
12 THE HOSPITAL IN WHICH THE ABORTION IS TO BE PERFORMED, TO BE
13 NECESSARY, BASED ON THE BEST MEDICAL JUDGMENT OF THE PHYSICIANS, TO
14 PRESERVE THE LIFE OR HEALTH OF THE WOMAN.

15 (3) EACH HOSPITAL IN WHICH AN ABORTION IS PERFORMED
16 SHALL ARRANGE FOR AT LEAST ONE PHYSICIAN TO BE AVAILABLE AS A STAFF
17 MEMBER OR AS A CONSULTANT FOR THE PURPOSE OF PROVIDING THE
18 CONSULTATION REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

19 20–209.

20 (a) In this section, “viable” means that stage when, in the best medical
21 judgment of the attending physician based on the particular facts of the case before
22 the physician, there is a reasonable likelihood of the fetus’s sustained survival outside
23 the womb.

24 (b) Except as otherwise provided in this subtitle, the State may not interfere
25 with the decision of a woman to terminate a pregnancy:

26 (1) Before the fetus is viable; or

27 (2) At any time during the woman’s pregnancy, if:

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

30 (ii) The fetus is affected by genetic defect or serious deformity or
31 abnormality.

1 (c) The Department may adopt regulations that:

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

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

5 (d) The physician is not liable for civil damages or subject to a criminal
6 penalty for a decision to perform an abortion under this section made in good faith and
7 in the physician's best medical judgment in accordance with accepted standards of
8 medical practice.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2011.