

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1040 (Delegate Dwyer, *et al.*)
Health and Government Operations

Maryland Personhood Amendment

This bill proposes an amendment to the Declaration of Rights within the Maryland Constitution to establish that the right to life includes all human beings – irrespective of age, health, function, physical dependency, or method of reproduction – from the beginning of their biological development.

Fiscal Summary

State Effect: None.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2012 general election. It is not expected to materially affect the finances of local election boards.

Small Business Effect: None.

Analysis

Current Law: Article 24 of the Declaration of Rights states that no man should be taken; imprisoned; disseized of his freehold, liberties, or privileges; outlawed; exiled; destroyed; or deprived in any manner of his life, liberty, or property without the judgment of his peers, or by the law of the land.

The State may not interfere with a woman's decision to end a pregnancy before the fetus is viable or at any time during a woman's pregnancy if the procedure is necessary to protect the life or health of the woman or the fetus is affected by a genetic defect or serious deformity or abnormality. A viable fetus is one that has a reasonable likelihood of surviving outside of the womb.

If an abortion is provided, it must be performed by a licensed physician. A physician 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 physician's best medical judgment following accepted standards of medical practice.

Background: At least 14 states (Alabama, Colorado, Florida, Georgia, Iowa, Maryland, Michigan, Mississippi, Montana, North Dakota, Oklahoma, South Carolina, Texas, and Virginia) have considered either constitutional or statutory measures that specify that a person's rights begin at conception. In 2008 and 2010, Colorado voters rejected ballot initiatives intended to amend the state constitution to specify that personhood begins at the moment of fertilization.

At least 36 states, including Maryland, have fetal homicide laws that extend criminal justice laws to viable fetuses. Maryland's law allows for the prosecution of murder or manslaughter of a viable fetus, but it does not apply to a woman's right to terminate a pregnancy.

Local Fiscal Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2012 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: HB 1078 of 2010 received an unfavorable report from the House Health and Government Operations Committee. HB 925 of 2009 received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: None.

Information Source(s): National Conference of State Legislatures, Guttmacher Institute, Office of the Attorney General, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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