

Department of Legislative Services  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 746 (Delegate Burns, *et al.*)  
Health and Government Operations

---

**Public Health - Abortion - Third Trimester Procedures**

---

This bill requires that an abortion performed in the third trimester of pregnancy be (1) performed in a hospital; and (2) certified in writing by both the physician performing the abortion and one additional consulting physician that the abortion is necessary, to preserve the life or health of the woman, based on the physicians' best medical judgment. The bill further specifies that each hospital in which an abortion is performed must arrange for at least one physician to be available to provide the required consultation.

---

**Fiscal Summary**

**State Effect:** Any additional complaints received by the Maryland Board of Physicians can be handled with existing resources.

**Local Effect:** None.

**Small Business Effect:** Minimal.

---

**Analysis**

**Current Law:** 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.

Maryland does not require abortions to be performed in a hospital.

**Background:** Currently, 19 states require an abortion to be performed in a hospital after a specified point in the pregnancy, and 19 states require the involvement of a second physician after a specified point, as shown in **Exhibit 1**.

In 2008, 1.2 million American women obtained abortions, producing a rate of 19.6 abortions per 1,000 women of reproductive age. (This represents a 1% increase since 2005, when the abortion rate was 19.4 abortions per 1,000 women.) In Maryland in 2008, 34,290 women obtained abortions at a rate of 29 abortions per 1,000 women of reproductive age. (This represents an 8% decrease in abortions performed in Maryland since 2000, when the rate was 31.5 abortions per 1,000 women.) However, 87% of U.S. counties had no abortion provider in 2008 and one-third of American women lived in these counties. Therefore, it is likely that some women who received abortions in Maryland were from other states, while some Maryland residents received abortions in other states. For this reason, the Maryland rate may not accurately reflect the abortion rate of State residents. Approximately 4% of abortions performed in Maryland are provided at hospitals.

Nationally, 88% of all abortions performed occur in the first 12 weeks of pregnancy and 98.5% occur in the first 20 weeks of pregnancy.

---

**Exhibit 1**  
**Overview of State Abortion Laws**

<b>State</b>	<b>Must be Performed in a Hospital at:</b>	<b>Second Physician must Participate at:</b>
Alabama	Viability	Viability
Arizona		Viability
Arkansas		Viability
Connecticut	Viability	
Florida		24 weeks
Georgia		Third trimester
Idaho	Viability	Third trimester
Illinois		Viability
Indiana	Second trimester	Viability
Kansas		Viability
Kentucky	Second trimester	
Louisiana		Viability
Massachusetts	12 weeks	
Minnesota	20 weeks	24 weeks
Missouri	Viability	Viability
Montana		Viability
Nevada	24 weeks	
New Jersey	14 weeks	
New York		24 weeks
North Carolina	20 weeks	
North Dakota	12 weeks	12 weeks
Oklahoma	Second trimester	Viability
Pennsylvania	Viability	Viability
South Carolina	Third trimester	Third trimester
South Dakota	24 weeks	
Utah	90 days	
Virginia	Second trimester	Viability
Wisconsin	12 weeks	

Source: Guttmacher Institute

---

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Guttmacher Institute, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2011  
ncs/mwc

---

Analysis by: Jennifer A. Ellick

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510