

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 187 (Delegates Kach and Olszewski)
Health and Government Operations

Abortion - Department of Health and Mental Hygiene - Regulations

This bill requires the Department of Health and Mental Hygiene (DHMH) to, by January 1, 2012, adopt abortion-related regulations that are (1) both necessary and the least intrusive method to protect the life or health of the woman; and (2) not inconsistent with established medical practice.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: The bill's requirement that DHMH draft certain regulations can be handled with existing resources. Any potential fiscal impact would result from the regulations themselves, not from the bill's requirement that regulations be adopted.

Local Effect: None.

Small Business Effect: None. Any potential fiscal impact would result from the regulations themselves, not from the bill's requirement that regulations be adopted.

Analysis

Current Law: DHMH is authorized to adopt abortion-related regulations that are (1) both necessary and the least intrusive method to protect the life or health of the woman; and (2) not inconsistent with established medical practice. DHMH is not, however, *required* to adopt regulations related to abortion. In addition, not all facilities that provide abortion services are required to be licensed or regulated by DHMH.

If an abortion is provided, it must be performed by a licensed physician. 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.) 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: 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. Nationally, fewer than 0.3% of abortion patients experience a complication that requires hospitalization.

In December 2010, the Maryland Board of Physicians permanently revoked the license of a physician who worked for an abortion clinic that allegedly started abortion procedures in Voorhees, New Jersey before transporting patients to Elkton, Maryland, where the procedures were completed. In summer 2010, one of these procedures – which could not be completed in New Jersey because the physician's clinic did not meet safety requirements mandated by New Jersey law – resulted in a teenaged patient's need for emergency surgery at Johns Hopkins.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mc/mwc

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