

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Joint Resolution 7 (Delegate McComas, *et al.*)  
Rules and Executive Nominations

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**Commencement of Life of the Human Person at Conception**

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This joint resolution finds that the life of the human person commences at conception, also known as fertilization, and that the U.S. Supreme Court's decisions in *Roe v. Wade*, 410 U.S. 113 (1973) and *Doe v. Bolton*, 410 U.S. 179 (1973) that struck down state laws that protected preborn children by criminalizing abortion are based on false science.

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**Fiscal Summary**

**State Effect:** The joint resolution does not directly affect State finances or operations.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law/Background:** Under State 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 if the fetus is affected by a genetic defect or serious deformity or abnormality. This is consistent with the U.S. Supreme Court's holding in *Roe v. Wade*. A viable fetus is one that has a reasonable likelihood of surviving outside of the womb. The Department of Health and Mental Hygiene may adopt regulations consistent with established medical practice if they are necessary and the least intrusive method to protect the life and health of the woman. 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 using accepted standards of medical practice.

In *Roe v. Wade*, the U.S. Supreme Court struck down a Texas abortion law as unconstitutional, holding that state laws that criminalize abortion without regard to the stage of the pregnancy and other interests involved violate the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution, which protects the right to privacy against state action – including a woman's qualified right to terminate her pregnancy. However, the Court also held that, while the state cannot override this right, it has legitimate interests in protecting both the pregnant woman's health and the potential of human life, which grows and reaches a compelling point at various stages of the woman's approach to term, and that as a result, states could regulate abortion to a certain extent. In *Doe v. Bolton*, a companion case to *Roe v. Wade*, the Court struck down a Georgia abortion law as too restrictive, specifically the law's procedural conditions and residency requirement.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Legislative Services

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