

# HOUSE BILL 757

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9lr1838  
CF SB 561

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By: **Delegates Kittleman, Arian, Bartlett, Boyce, Krebs, McComas, and Rose**  
Introduced and read first time: February 8, 2019  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Homicide – Fetus**

3 FOR the purpose of expanding the application of certain provisions relating to a prosecution  
4 for murder or manslaughter of a certain viable fetus to a prosecution for murder or  
5 manslaughter of a certain fetus; requiring knowledge that a certain mother was  
6 pregnant for a certain murder or manslaughter prosecution; providing for the  
7 construction of a certain provision of law; defining a certain term; and generally  
8 relating to homicide.

9 BY repealing and reenacting, with amendments,  
10 Article – Criminal Law  
11 Section 2–103  
12 Annotated Code of Maryland  
13 (2012 Replacement Volume and 2018 Supplement)

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

16 **Article – Criminal Law**

17 2–103.

18 (a) For purposes of a prosecution under this title, [“viable” has the meaning stated  
19 in § 20–209 of the Health – General Article] **“FETUS” MEANS AN UNBORN OFFSPRING**  
20 **OF THE SPECIES HOMO SAPIENS FROM THE END OF THE EIGHTH WEEK AFTER**  
21 **FERTILIZATION UNTIL BIRTH.**

22 (b) **(1)** Except as provided in subsections (d) through (f) of this section, a  
23 prosecution may be instituted for murder or manslaughter of a [viable] fetus.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1           **(2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO:**

2                   **(I) PROHIBIT THE PROSECUTION OF ANY PERSON UNDER ANY**  
3 **OTHER PROVISION OF LAW; OR**

4                   **(II) PRECLUDE ANY CIVIL CAUSE OF ACTION.**

5           (c) A person prosecuted for murder or manslaughter as provided in subsection (b)  
6 of this section must have:

7                   (1) intended to cause the death of the [viable] fetus;

8                   (2) intended to cause serious physical injury to the [viable] fetus; or

9                   (3) **(I)** wantonly or recklessly disregarded the likelihood that the  
10 person's actions would cause the death of or serious physical injury to the [viable] fetus;  
11 **AND**

12                   **(II) KNOWN OR REASONABLY SHOULD HAVE KNOWN THAT THE**  
13 **MOTHER OF THE FETUS WAS PREGNANT AT THE TIME OF THE OFFENSE.**

14           (d) Nothing in this section applies to or infringes on a woman's right to terminate  
15 a pregnancy as stated in § 20–209 of the Health – General Article.

16           (e) Nothing in this section subjects a physician or other licensed medical  
17 professional to liability for fetal death that occurs in the course of administering lawful  
18 medical care.

19           (f) Nothing in this section applies to an act or failure to act of a pregnant woman  
20 with regard to her own fetus.

21           (g) Nothing in this section shall be construed to confer personhood or any rights  
22 on the fetus.

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2019.