

# HOUSE BILL 933

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By: **Delegates Metzgar, Arentz, Arikan, Beitzel, Boteler, Clark, Cox, Grammer, Impallaria, Jacobs, Mangione, Mautz, McKay, Miller, Morgan, Reilly, Rose, Shoemaker, and Szeliga**

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 **Abortion – Detection of Fetal Heartbeat**

3 FOR the purpose of repealing certain provisions of law related to prohibiting the State from  
4 interfering with the decision of a woman to terminate a pregnancy under certain  
5 circumstances, authorizing the Maryland Department of Health to adopt certain  
6 regulations, and limiting the liability for civil damages or criminal penalties for  
7 physicians under certain circumstances; prohibiting a physician, except under  
8 certain circumstances, from performing or inducing an abortion on a pregnant  
9 woman under certain circumstances; requiring a physician to use a certain method  
10 for detecting a fetal heartbeat under certain circumstances; authorizing the  
11 Department to adopt certain regulations; requiring a physician, under certain  
12 circumstances, to inform a certain woman of her right to hear the fetal heartbeat and  
13 allow the woman to hear the fetal heartbeat; requiring a physician to include certain  
14 information in a patient's medical record under certain circumstances; requiring a  
15 physician to maintain certain records for a certain time period; establishing certain  
16 penalties for a certain violation of this Act; authorizing certain individuals to recover  
17 civil damages from a certain individual under certain circumstances; and generally  
18 relating to fetal heartbeats and performing or inducing an abortion.

19 BY repealing

20 Article – Health – General

21 Section 20–209

22 Annotated Code of Maryland

23 (2015 Replacement Volume and 2018 Supplement)

24 BY adding to

25 Article – Health – General

26 Section 20–209

27 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2015 Replacement Volume and 2018 Supplement)

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

**Article – Health – General**

[20–209.

(a) In this section, “viable” means that stage when, in the best medical judgment of the attending physician based on the particular facts of the case before the physician, there is a reasonable likelihood of the fetus’s sustained survival outside the womb.

(b) Except as otherwise provided in this subtitle, the State may not interfere with the decision of a woman to terminate a pregnancy:

(1) Before the fetus is viable; or

(2) At any time during the woman’s pregnancy, if:

(i) The termination procedure is necessary to protect the life or health of the woman; or

(ii) The fetus is affected by genetic defect or serious deformity or abnormality.

(c) The Department may adopt regulations that:

(1) Are both necessary and the least intrusive method to protect the life or health of the woman; and

(2) Are not inconsistent with established medical practice.

(d) The physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion under this section made in good faith and in the physician’s best medical judgment in accordance with accepted standards of medical practice.]

**20–209.**

**(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PHYSICIAN MAY NOT PERFORM OR INDUCE AN ABORTION ON A PREGNANT WOMAN:**

**(1) BEFORE DETERMINING WHETHER THE FETUS HAS A DETECTABLE HEARTBEAT; OR**

1           **(2) IF THE PHYSICIAN DETERMINES THAT THE FETUS HAS A**  
2 **DETECTABLE HEARTBEAT.**

3           **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**  
4 **PHYSICIAN WHO ATTEMPTS TO DETECT A FETAL HEARTBEAT BEFORE PERFORMING**  
5 **AN ABORTION AS REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL USE A**  
6 **METHOD TO DETECT THE HEARTBEAT THAT IS CONSISTENT WITH THE STANDARD OF**  
7 **CARE.**

8           **(2) (I) THE DEPARTMENT MAY ADOPT REGULATIONS FOR THE**  
9 **METHOD TO BE USED BY A PHYSICIAN TO DETECT A FETAL HEARTBEAT.**

10           **(II) IF THE DEPARTMENT ADOPTS REGULATIONS UNDER**  
11 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, A PHYSICIAN SHALL USE THE METHOD**  
12 **FOR DETECTING A FETAL HEARTBEAT THAT IS REQUIRED BY THE REGULATIONS.**

13           **(3) IF A PHYSICIAN DETECTS A FETAL HEARTBEAT UNDER**  
14 **PARAGRAPH (1) OF THIS SUBSECTION, THE PHYSICIAN SHALL:**

15           **(I) INFORM THE WOMAN OF HER RIGHT TO HEAR THE**  
16 **HEARTBEAT; AND**

17           **(II) IF THE WOMAN REQUESTS, ALLOW HER TO HEAR THE**  
18 **HEARTBEAT.**

19           **(C) (1) A PHYSICIAN MAY PERFORM OR INDUCE AN ABORTION IF THE**  
20 **PHYSICIAN:**

21           **(I) BELIEVES THAT A MEDICAL EMERGENCY EXISTS; OR**

22           **(II) DETERMINES THAT THERE IS NO DETECTABLE FETAL**  
23 **HEARTBEAT.**

24           **(2) IF A PHYSICIAN PERFORMS AN ABORTION BECAUSE OF A MEDICAL**  
25 **EMERGENCY UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PHYSICIAN SHALL**  
26 **INCLUDE IN THE PATIENT'S MEDICAL RECORD:**

27           **(I) THE PHYSICIAN'S BELIEF THAT A MEDICAL EMERGENCY**  
28 **EXISTED AND THE REASONS FOR THAT BELIEF; AND**

29           **(II) THE MEDICAL CONDITION THAT CAUSED THE EMERGENCY.**

30           **(3) IF A PHYSICIAN PERFORMS AN ABORTION UNDER PARAGRAPH (1)**

1 OF THIS SUBSECTION BECAUSE THE PHYSICIAN DETERMINED THAT A FETAL  
2 HEARTBEAT WAS NOT DETECTED, THE PHYSICIAN SHALL INCLUDE THAT  
3 DETERMINATION IN THE PATIENT'S MEDICAL RECORD.

4 (4) A PHYSICIAN SHALL MAINTAIN A COPY OF THE MEDICAL RECORDS  
5 CREATED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION FOR AT LEAST 7  
6 YEARS.

7 (D) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION:

8 (I) IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO  
9 IMPRISONMENT OF UP TO 12 MONTHS AND A FINE OF UP TO \$2,500; AND

10 (II) MAY BE SUBJECT TO DISCIPLINARY ACTION.

11 (2) IN ADDITION TO THE PENALTY ESTABLISHED UNDER PARAGRAPH  
12 (1) OF THIS SUBSECTION, AN INDIVIDUAL WHO RECEIVED AN ABORTION IN  
13 VIOLATION OF THIS SECTION MAY RECOVER CIVIL DAMAGES FROM THE PHYSICIAN  
14 WHO PERFORMED THE ABORTION.

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