

HOUSE BILL 1075

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By: **Delegates Rose, Boteler, Chisholm, Ciliberti, Hornberger, Long, Morgan, Parrott, Reilly, Saab, Shoemaker, and Szeliga**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Informed Consent**
3 **(Woman’s Right to Know Act)**

4 FOR the purpose of prohibiting a physician from performing an abortion unless the woman
5 on whom the abortion will be performed voluntarily provides her informed consent;
6 providing that consent to an abortion is voluntary and informed if certain
7 requirements are met except under certain circumstances; requiring a certain
8 physician to provide a woman on whom an abortion may be performed certain
9 information at least a certain amount of time before the abortion and in a certain
10 manner; requiring a physician to obtain a certain written certification from a certain
11 woman; requiring certain physicians or qualified technicians to take certain actions
12 and provide certain information prior to a woman giving certain informed consent or
13 taking certain actions to prepare for an abortion; providing that certain individuals
14 are not in violation of this Act or subject to certain penalties under certain
15 circumstances; authorizing a physician to perform an abortion without meeting
16 certain requirements under certain circumstances; requiring the Maryland
17 Department of Health to develop and maintain a certain website that meets certain
18 requirements; prohibiting the Department from collecting or maintaining certain
19 information; requiring the Department to monitor the website on a certain basis for
20 a certain purpose and to notify certain physicians of certain information; requiring
21 the Department to publish and post on a certain website certain information in a
22 certain manner; requiring certain physicians to include on a certain website home
23 page a certain link; requiring the Department to prepare a certain form on or before
24 a certain date; requiring the Department to ensure that copies of a certain form and
25 this Act are provided to certain individuals; requiring certain physicians to report
26 certain information on or before a certain date; establishing certain penalties;
27 requiring the Department to issue a report on or before a certain date; authorizing
28 the Department to adopt certain regulations; requiring a court to make a certain
29 ruling or issue a certain order under certain circumstances; requiring a certain
30 individual who brings a certain action to use a pseudonym under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 circumstances; providing for the application of this Act; making conforming changes;
2 defining certain terms; making the provisions of this Act severable; and generally
3 relating to requirements for abortions.

4 BY repealing and reenacting, with amendments,
5 Article – Health – General
6 Section 20–207 and 20–209
7 Annotated Code of Maryland
8 (2015 Replacement Volume and 2018 Supplement)

9 BY adding to
10 Article – Health – General
11 Section 20–217 through 20–224 to be under the new part “Part V. Procedures and
12 Information Before Abortion”
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2018 Supplement)

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

17 **Article – Health – General**

18 20–207.

19 (A) In [Part II of] this subtitle[, the word “physician”] **THE FOLLOWING WORDS**
20 **HAVE THE MEANINGS INDICATED.**

21 (B) **“ABORTION” MEANS THE USE OR PRESCRIPTION OF ANY INSTRUMENT,**
22 **MEDICINE, DRUG, OR ANY OTHER SUBSTANCE OR DEVICE USED TO:**

23 (1) **INTENTIONALLY KILL THE UNBORN CHILD OF A WOMAN KNOWN**
24 **TO BE PREGNANT; OR**

25 (2) **INTENTIONALLY TERMINATE THE PREGNANCY OF A WOMAN**
26 **KNOWN TO BE PREGNANT, WITH AN INTENTION OTHER THAN:**

27 (I) **AFTER VIABILITY TO PRODUCE A LIVE BIRTH AND**
28 **PRESERVE THE LIFE AND HEALTH OF THE CHILD BORN ALIVE; OR**

29 (II) **TO REMOVE A DEAD UNBORN CHILD.**

30 (C) **“ATTEMPT TO PERFORM AN ABORTION” MEANS AN ACT THAT**
31 **CONSTITUTES A SUBSTANTIAL STEP IN A COURSE OF CONDUCT PLANNED TO**
32 **CULMINATE IN THE PERFORMANCE OF AN ABORTION IN THE STATE.**

1 **(D) “CERTIFIED TECHNICIAN” MEANS:**

2 **(1) A REGISTERED DIAGNOSTIC MEDICAL SONOGRAPHER WHO IS**
3 **CERTIFIED IN OBSTETRICS GYNECOLOGY BY THE AMERICAN REGISTRY FOR**
4 **DIAGNOSTIC MEDICAL SONOGRAPHY;**

5 **(2) A NURSE LICENSED BY THE STATE BOARD OF NURSING AND**
6 **CERTIFIED AS A NURSE MIDWIFE; OR**

7 **(3) AN ADVANCED PRACTICE NURSE IN OBSTETRICS LICENSED BY**
8 **THE STATE BOARD OF NURSING WITH CERTIFICATION IN OBSTETRICAL**
9 **ULTRASONOGRAPHY.**

10 **(E) “EMBRYONIC OR FETAL HEARTBEAT” MEANS EMBRYONIC OR FETAL**
11 **CARDIAC ACTIVITY OR THE STEADY AND REPETITIVE RHYTHMIC CONTRACTION OF**
12 **THE EMBRYONIC OR FETAL HEART.**

13 **(F) “PHYSICIAN”** means any person, including a doctor of osteopathy, licensed to
14 practice medicine in the State of Maryland in compliance with the provisions of Title 14 of
15 the Health Occupations Article.

16 20–209.

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

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

22 (1) Before the fetus is viable; or

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

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

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

28 (c) The Department may adopt regulations that:

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

1 (2) Are not inconsistent with **THIS SUBTITLE AND** established medical
2 practice.

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

7 **20-215. RESERVED.**

8 **20-216. RESERVED.**

9 **PART V. PROCEDURES AND INFORMATION BEFORE ABORTION.**

10 **20-217.**

11 (A) **A PHYSICIAN MAY NOT PERFORM AN ABORTION UNLESS THE WOMAN ON**
12 **WHOM THE ABORTION MAY BE PERFORMED VOLUNTARILY PROVIDES HER**
13 **INFORMED CONSENT.**

14 (B) (1) **EXCEPT AS PROVIDED IN § 20-219 OF THIS SUBTITLE, CONSENT**
15 **TO AN ABORTION IS VOLUNTARY AND INFORMED IF THE REQUIREMENTS OF THIS**
16 **SUBSECTION ARE MET.**

17 (2) (I) **AT LEAST 24 HOURS BEFORE AN ABORTION IS PERFORMED,**
18 **THE PHYSICIAN WHO WOULD PERFORM THE ABORTION OR THE PHYSICIAN WHO**
19 **REFERS A WOMAN TO ANOTHER PHYSICIAN WHO WOULD PERFORM THE ABORTION**
20 **SHALL INFORM THE WOMAN ON WHOM THE ABORTION MAY BE PERFORMED BY**
21 **TELEPHONE OR IN PERSON OF:**

22 1. **THE NAME OF THE PHYSICIAN PERFORMING THE**
23 **ABORTION;**

24 2. **THE MEDICAL RISKS ASSOCIATED WITH THE**
25 **PROCEDURE THAT WILL BE USED TO PERFORM THE ABORTION INCLUDING, WHEN**
26 **APPROPRIATE, THE RISKS OF INFECTION, HEMORRHAGE, BREAST CANCER, DANGER**
27 **TO SUBSEQUENT PREGNANCIES, AND INFERTILITY;**

28 3. **IN THE JUDGMENT OF THE PHYSICIAN, THE**
29 **PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME THE ABORTION**
30 **IS TO BE PERFORMED; AND**

31 4. **THE MEDICAL RISKS ASSOCIATED WITH CARRYING**
32 **THE CHILD TO TERM.**

1 **(II) IF THE INFORMATION REQUIRED TO BE PROVIDED UNDER**
2 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IS PROVIDED BY TELEPHONE WITHOUT**
3 **CONDUCTING A PHYSICAL EXAMINATION OF OR TEST ON THE PATIENT, THE**
4 **INFORMATION MAY BE BASED ON FACTS SUPPLIED TO THE PHYSICIAN BY THE**
5 **WOMAN AND ANY OTHER RELEVANT INFORMATION THAT IS REASONABLY**
6 **AVAILABLE TO THE PHYSICIAN.**

7 **(III) THE INFORMATION REQUIRED TO BE PROVIDED UNDER**
8 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE PROVIDED IN A MANNER IN**
9 **WHICH THE PHYSICIAN IS ABLE TO ASK QUESTIONS OF THE WOMAN AND THE WOMAN**
10 **IS ABLE TO ASK QUESTIONS OF THE PHYSICIAN.**

11 **(IV) IF THE PHYSICIAN DETERMINES BASED ON INFORMATION**
12 **AVAILABLE TO THE PHYSICIAN AFTER THE PHYSICIAN PROVIDED THE INFORMATION**
13 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT, IN THE MEDICAL JUDGMENT**
14 **OF THE PHYSICIAN, THE INFORMATION PROVIDED SHOULD BE REVISED, THE**
15 **REVISED INFORMATION MAY BE COMMUNICATED TO THE PATIENT AT ANY TIME**
16 **BEFORE THE PERFORMANCE OF THE ABORTION.**

17 **(V) THIS PARAGRAPH MAY NOT BE CONSTRUED TO PRECLUDE**
18 **PROVIDING ANY REQUIRED INFORMATION IN A LANGUAGE UNDERSTOOD BY THE**
19 **PATIENT THROUGH A TRANSLATOR.**

20 **(3) (I) AT LEAST 24 HOURS BEFORE AN ABORTION IS TO BE**
21 **PERFORMED, THE PHYSICIAN PERFORMING AN ABORTION, THE REFERRING**
22 **PHYSICIAN, OR AN AGENT OF EITHER PHYSICIAN SHALL INFORM THE WOMAN ON**
23 **WHOM THE ABORTION MAY BE PERFORMED BY TELEPHONE OR IN PERSON:**

24 **1. THAT MEDICAL ASSISTANCE BENEFITS MAY BE**
25 **AVAILABLE FOR PRENATAL CARE, CHILDBIRTH, AND NEONATAL CARE;**

26 **2. THAT THE FATHER IS LIABLE TO ASSIST IN THE**
27 **SUPPORT OF THE WOMAN'S CHILD, EVEN IF THE FATHER OFFERED TO PAY FOR THE**
28 **ABORTION; AND**

29 **3. A. THAT THE WOMAN HAS THE RIGHT TO REVIEW**
30 **THE MATERIALS PUBLISHED UNDER § 20–221 OF THIS SUBTITLE;**

31 **B. THAT THE MATERIALS ARE AVAILABLE ON A**
32 **STATE–SPONSORED WEBSITE; AND**

33 **C. OF THE ADDRESS FOR THE STATE–SPONSORED**

1 WEBSITE.

2 (II) THE PHYSICIAN OR THE PHYSICIAN'S AGENT SHALL ORALLY
3 INFORM THE WOMAN THAT THE MATERIALS PUBLISHED UNDER § 20-221 OF THIS
4 SUBTITLE DESCRIBE THE UNBORN CHILD AND LIST AGENCIES THAT OFFER
5 ALTERNATIVES TO ABORTION.

6 (III) IF THE WOMAN CHOOSES TO VIEW THE MATERIALS OTHER
7 THAN ON THE WEBSITE, THE PHYSICIAN SHALL:

8 1. PROVIDE THE MATERIALS TO THE WOMAN AT LEAST
9 24 HOURS BEFORE THE ABORTION IS TO BE PERFORMED; OR

10 2. MAIL THE MATERIALS TO THE WOMAN AT LEAST 72
11 HOURS BEFORE THE ABORTION IS TO BE PERFORMED BY CERTIFIED MAIL AND IN A
12 MANNER IN WHICH THE POSTAL SERVICE CAN ONLY DELIVER THE MAIL TO THE
13 WOMAN.

14 (IV) THE INFORMATION REQUIRED UNDER THIS PARAGRAPH
15 MAY BE PROVIDED BY A TAPE RECORDING IF THE METHOD FOR DELIVERING THE
16 TAPE RECORDING IS CAPABLE OF REGISTERING WHETHER THE WOMAN DOES OR
17 DOES NOT CHOOSE TO HAVE THE PRINTED MATERIALS PROVIDED OR MAILED TO
18 HER.

19 (4) BEFORE PERFORMING AN ABORTION, THE PHYSICIAN
20 PERFORMING THE ABORTION OR THE PHYSICIAN'S AGENT SHALL OBTAIN A WRITTEN
21 CERTIFICATION FROM THE WOMAN ON WHOM THE ABORTION MAY BE PERFORMED
22 THAT:

23 (I) THE INFORMATION DESCRIBED IN PARAGRAPHS (2) AND (3)
24 OF THIS SUBSECTION HAS BEEN PROVIDED TO HER; AND

25 (II) THE WOMAN HAS BEEN INFORMED OF HER OPPORTUNITY
26 TO REVIEW THE MATERIALS PUBLISHED UNDER § 20-221 OF THIS SUBTITLE.

27 20-218.

28 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND §
29 20-219 OF THIS SUBTITLE, BEFORE A WOMAN PROVIDES INFORMED CONSENT TO
30 HAVING ANY PART OF AN ABORTION PERFORMED OR INDUCED UNDER § 20-217 OF
31 THIS SUBTITLE, AND BEFORE THE ADMINISTRATION OF ANY ANESTHESIA OR
32 MEDICATION IN PREPARATION FOR THE ABORTION, THE PHYSICIAN PERFORMING
33 THE ABORTION OR A QUALIFIED TECHNICIAN SHALL:

1 **(I) PERFORM AN OBSTETRIC ULTRASOUND ON THE PREGNANT**
2 **WOMAN, USING THE METHOD THAT THE PHYSICIAN AND WOMAN AGREE IS BEST**
3 **UNDER THE CIRCUMSTANCE;**

4 **(II) DURING THE ULTRASOUND, PROVIDE A VERBAL**
5 **EXPLANATION OF WHAT THE ULTRASOUND IS DEPICTING, INCLUDING THE**
6 **PRESENCE AND LOCATION OF THE EMBRYO OR FETUS WITHIN THE UTERUS AND THE**
7 **NUMBER OF EMBRYOS OR FETUSES DEPICTED;**

8 **(III) INFORM THE WOMAN IF THE FETUS IS NOT ALIVE;**

9 **(IV) DISPLAY THE ULTRASOUND IMAGES SO THAT THE**
10 **PREGNANT WOMAN MAY VIEW THEM; AND**

11 **(V) PROVIDE A MEDICAL DESCRIPTION OF THE ULTRASOUND**
12 **IMAGES, INCLUDING THE DIMENSIONS OF THE EMBRYO OR FETUS AND THE**
13 **PRESENCE OF EXTERNAL MEMBERS AND INTERNAL ORGANS, IF PRESENT AND**
14 **VIEWABLE.**

15 **(2) THE PHYSICIAN PERFORMING THE ABORTION SHALL:**

16 **(I) BEFORE THE ABORTION IS PERFORMED, OBTAIN A WRITTEN**
17 **CERTIFICATION FROM THE WOMAN THAT THE REQUIREMENTS OF PARAGRAPH (1)**
18 **HAVE BEEN MET;**

19 **(II) PLACE A COPY OF THE WRITTEN CERTIFICATION REQUIRED**
20 **UNDER ITEM (I) OF THIS PARAGRAPH IN THE WOMAN’S MEDICAL RECORD; AND**

21 **(III) RETAIN THE WRITTEN CERTIFICATION REQUIRED UNDER**
22 **ITEM (I) OF THIS PARAGRAPH:**

23 **1. FOR AT LEAST 7 YEARS; OR**

24 **2. IF THE WOMAN IS A MINOR, FOR AT LEAST 7 YEARS OR**
25 **FOR 5 YEARS AFTER THE MINOR REACHES THE AGE OF MAJORITY, WHICHEVER IS**
26 **GREATER.**

27 **(B) A PHYSICIAN, A CERTIFIED TECHNICIAN, OR ANOTHER AGENT OF THE**
28 **PHYSICIAN IS NOT IN VIOLATION OF SUBSECTION (A) OF THIS SECTION IF:**

29 **(1) THE PHYSICIAN, CERTIFIED TECHNICIAN, OR AGENT HAS**
30 **ATTEMPTED, CONSISTENT WITH STANDARD MEDICAL PRACTICE, TO MAKE THE**

1 EMBRYONIC OR FETAL HEARTBEAT OF THE UNBORN CHILD AUDIBLE FOR THE
2 PREGNANT WOMAN TO HEAR USING A HAND-HELD DOPPLER FETAL MONITOR;

3 (2) THE EMBRYONIC OR FETAL HEARTBEAT IS NOT AUDIBLE; AND

4 (3) THE PHYSICIAN HAS OFFERED TO ATTEMPT TO MAKE THE
5 HEARTBEAT AUDIBLE AT A SUBSEQUENT DATE.

6 (C) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE PREGNANT
7 WOMAN FROM:

8 (1) AVERTING HER EYES FROM ANY ULTRASOUND IMAGES; OR

9 (2) NOT LISTENING TO THE SOUNDS DETECTED BY A HAND-HELD
10 DOPPLER FETAL MONITOR.

11 (D) THE PHYSICIAN AND THE WOMAN ARE NOT SUBJECT TO ANY PENALTY
12 IF THE WOMAN REFUSES TO LOOK AT ANY ULTRASOUND IMAGES OR LISTEN TO ANY
13 SOUNDS DETECTED BY A HAND-HELD DOPPLER FETAL MONITOR.

14 20-219.

15 (A) (1) IN THIS SECTION, "MEDICAL EMERGENCY" MEANS A CONDITION
16 THAT, IN REASONABLE MEDICAL JUDGMENT, COMPLICATES THE MEDICAL
17 CONDITION OF THE PREGNANT WOMAN AND:

18 (I) REQUIRES THE IMMEDIATE ABORTION OF HER PREGNANCY
19 TO PREVENT HER DEATH; OR

20 (II) FOR WHICH A DELAY WILL CREATE SERIOUS RISK OF
21 SUBSTANTIAL AND IRREVERSIBLE PHYSICAL IMPAIRMENT OF A MAJOR BODILY
22 FUNCTION, NOT INCLUDING PSYCHOLOGICAL OR EMOTIONAL DAMAGE.

23 (2) "MEDICAL EMERGENCY" DOES NOT INCLUDE A CONDITION BASED
24 ON A CLAIM OR DIAGNOSIS THAT THE WOMAN WILL ENGAGE IN CONDUCT THAT SHE
25 INTENDS TO RESULT IN HER DEATH OR IN SUBSTANTIAL AND IRREVERSIBLE
26 PHYSICAL IMPAIRMENT OF A MAJOR BODILY FUNCTION.

27 (B) A PHYSICIAN MAY PERFORM AN ABORTION WITHOUT MEETING THE
28 REQUIREMENTS OF §§ 20-217 AND 20-218 OF THIS SUBTITLE IF:

29 (1) A MEDICAL EMERGENCY COMPELS THE PERFORMANCE OF AN
30 ABORTION; AND

1 **(2) THE PHYSICIAN INFORMS THE WOMAN, BEFORE PERFORMING**
2 **THE ABORTION, IF POSSIBLE, OF:**

3 **(I) THE MEDICAL INDICATIONS SUPPORTING THE PHYSICIAN’S**
4 **JUDGMENT THAT AN ABORTION IS NECESSARY TO AVERT HER DEATH; OR**

5 **(II) THAT A 24–HOUR DELAY WILL CREATE SERIOUS RISK OF**
6 **SUBSTANTIAL AND IRREVERSIBLE PHYSICAL IMPAIRMENT OF A MAJOR BODILY**
7 **FUNCTION, NOT INCLUDING PSYCHOLOGICAL OR EMOTIONAL DAMAGE.**

8 **20–220.**

9 **(A) THE DEPARTMENT SHALL DEVELOP AND MAINTAIN A WEBSITE THAT,**
10 **TO THE EXTENT REASONABLY PRACTICABLE, IS SAFEGUARDED FROM HAVING THE**
11 **CONTENT OF THE WEBSITE ALTERED OTHER THAN BY THE DEPARTMENT TO**
12 **PROVIDE THE INFORMATION DESCRIBED UNDER § 20–221 OF THIS SUBTITLE.**

13 **(B) THE WEBSITE SHALL:**

14 **(1) USE USER–FRIENDLY SEARCH CAPABILITIES TO ENSURE THAT**
15 **THE INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE IS EASILY**
16 **ACCESSIBLE;**

17 **(2) BE SEARCHABLE BY KEYWORDS AND PHRASES;**

18 **(3) POPULATE THE MATERIALS PUBLISHED UNDER § 20–221 OF THIS**
19 **SUBTITLE WHEN A USER ENTERS THE TERM “ABORTION”;**

20 **(4) PROVIDE THE MATERIALS PUBLISHED UNDER § 20–221 OF THIS**
21 **SUBTITLE IN A MANNER THAT IS PRINTABLE;**

22 **(5) PROVIDE CLEAR PROMINENT INSTRUCTIONS ON HOW TO RECEIVE**
23 **THE INFORMATION ON THE WEBSITE IN PRINTED FORM;**

24 **(6) BE ACCESSIBLE TO THE PUBLIC WITHOUT REQUIRING**
25 **REGISTRATION OR A USER NAME, PASSWORD, OR ANOTHER USER IDENTIFICATION;**

26 **(7) BE MAINTAINED AT A MINIMUM RESOLUTION OF 70 DOTS PER**
27 **INCH; AND**

28 **(8) MEET THE FOLLOWING TECHNICAL SPECIFICATIONS:**

1 **(I) ALL PICTURES APPEARING ON THE WEBSITE SHALL BE A**
2 **MINIMUM OF 200 X 300 PIXELS;**

3 **(II) ALL LETTERS SHALL BE A MINIMUM OF 11 POINT FONT; AND**

4 **(III) ALL INFORMATION AND PICTURES SHALL BE ACCESSIBLE**
5 **WITH AN INDUSTRY STANDARD BROWSER REQUIRING NO ADDITIONAL DOWNLOADS**
6 **OR PLUG-INS.**

7 **(C) THE DEPARTMENT MAY NOT COLLECT OR MAINTAIN INFORMATION ON**
8 **WHO ACCESSES THE WEBSITE.**

9 **(D) THE DEPARTMENT SHALL MONITOR THE WEBSITE ON A DAILY BASIS TO**
10 **PREVENT AND CORRECT TAMPERING.**

11 **(E) THE DEPARTMENT SHALL IMMEDIATELY NOTIFY PHYSICIANS KNOWN**
12 **TO PROVIDE ABORTIONS OF ANY CHANGE IN THE LOCATION OF THE MATERIAL ON**
13 **THE WEBSITE.**

14 **20-221.**

15 **ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL PUBLISH AND**
16 **POST ON THE WEBSITE ESTABLISHED UNDER § 20-220 OF THIS SUBTITLE IN**
17 **ENGLISH AND IN ANY LANGUAGE THAT IS THE PRIMARY LANGUAGE OF 2% OR MORE**
18 **OF THE STATE'S POPULATION AND IN AN EASILY COMPREHENSIBLE MANNER, THE**
19 **FOLLOWING MATERIALS:**

20 **(1) GEOGRAPHICALLY INDEXED INFORMATION DESIGNED TO**
21 **INFORM A WOMAN OF THE PUBLIC AND PRIVATE AGENCIES AND SERVICES**
22 **AVAILABLE TO ASSIST THE WOMAN THROUGH PREGNANCY, CHILDBIRTH, AND**
23 **DURING THE PERIOD IN WHICH THE CHILD IS DEPENDENT INCLUDING:**

24 **(I) A COMPREHENSIVE LIST OF THE AGENCIES AVAILABLE,**
25 **INCLUDING ADOPTION AGENCIES, WITH A DESCRIPTION OF THE SERVICES OFFERED**
26 **AND OF THE MANNER IN WHICH THE AGENCY MAY BE CONTACTED, INCLUDING**
27 **TELEPHONE NUMBERS; AND**

28 **(II) AT THE OPTION OF THE DEPARTMENT, A TOLL-FREE**
29 **TELEPHONE NUMBER AVAILABLE AT ALL TIMES THAT PROVIDES THE LIST OF**
30 **AGENCIES ESTABLISHED UNDER ITEM (I) OF THIS ITEM AND A DESCRIPTION OF THE**
31 **AGENCIES IN THE CALLER'S AREA AND THE SERVICES THEY OFFER; AND**

32 **(2) MATERIALS DESIGNED TO INFORM THE WOMAN OF THE**

1 PROBABLE ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE EMBRYO
2 OR FETUS AT 2-WEEK GESTATIONAL INCREMENTS FROM THE TIME WHEN A WOMAN
3 BECOMES PREGNANT TO FULL-TERM PREGNANCY, WHICH SHALL:

4 (I) CONTAIN:

5 1. ANY RELEVANT INFORMATION ON THE POSSIBILITY
6 OF THE EMBRYO OR FETUS'S SURVIVAL;

7 2. PICTURES OR REALISTIC DRAWINGS REPRESENTING
8 THE DEVELOPMENT OF AN EMBRYO OR A FETUS AT 2-WEEK GESTATIONAL
9 INCREMENTS INCLUDING THE DIMENSIONS OF THE FETUS AT THE STAGE OF THE
10 PREGNANCY DEPICTED;

11 3. OBJECTIVE INFORMATION DESCRIBING THE
12 METHODS OF ABORTION PROCEDURES COMMONLY EMPLOYED;

13 4. THE MEDICAL RISKS COMMONLY ASSOCIATED WITH
14 EACH COMMON ABORTION PROCEDURE;

15 5. THE POSSIBLE DETRIMENTAL PSYCHOLOGICAL
16 EFFECTS OF ABORTION; AND

17 6. THE MEDICAL RISKS COMMONLY ASSOCIATED WITH
18 CARRYING A CHILD TO TERM;

19 (II) BE OBJECTIVE, NONJUDGMENTAL, AND DESIGNED TO
20 CONVEY ONLY ACCURATE SCIENTIFIC INFORMATION ABOUT THE EMBRYO OR FETUS
21 AT THE VARIOUS GESTATIONAL AGES;

22 (III) BE PRINTED IN A TYPEFACE LARGE ENOUGH TO BE
23 CLEARLY LEGIBLE; AND

24 (IV) BE AVAILABLE AT NO COST FROM THE DEPARTMENT ON
25 REQUEST TO ANY PERSON, HEALTH CARE FACILITY, OR HOSPITAL.

26 20-222.

27 IF A PHYSICIAN WHO PROVIDES ABORTIONS HAS A WEBSITE, THE PHYSICIAN
28 SHALL INCLUDE ON THE WEBSITE HOMEPAGE A LINK TO THE DEPARTMENT'S
29 WEBSITE ESTABLISHED UNDER § 20-220 OF THIS SUBTITLE USING AT LEAST TWO
30 DIRECT LINKS, ONE OF WHICH IS POSTED PROMINENTLY ON THE WEBSITE.

1 **20-223.**

2 (A) ON OR BEFORE JANUARY 1, 2020, THE DEPARTMENT SHALL PREPARE
3 A REPORTING FORM FOR PHYSICIANS TO REPORT:

4 (1) THE NUMBER OF WOMEN TO WHOM THE PHYSICIAN PROVIDED
5 THE INFORMATION DESCRIBED IN § 20-217(B)(2) OF THIS SUBTITLE;

6 (2) OF THE NUMBER OF WOMEN WHO WERE PROVIDED THE
7 INFORMATION DESCRIBED IN § 20-217(B)(2) OF THIS SUBTITLE, THE NUMBER OF
8 WOMEN TO WHOM THE PHYSICIAN PROVIDED THE INFORMATION:

9 (I) BY TELEPHONE;

10 (II) IN PERSON;

11 (III) AS A REFERRING PHYSICIAN; AND

12 (IV) AS A PHYSICIAN PERFORMING THE ABORTION;

13 (3) THE NUMBER OF WOMEN TO WHOM THE PHYSICIAN OR AN AGENT
14 OF THE PHYSICIAN PROVIDED THE INFORMATION DESCRIBED IN § 20-217(B)(3) OF
15 THIS SUBTITLE;

16 (4) OF THE NUMBER OF WOMEN WHO WERE PROVIDED THE
17 INFORMATION DESCRIBED IN § 20-217(B)(3) OF THIS SUBTITLE, THE NUMBER OF
18 WOMEN TO WHOM:

19 (I) THE PHYSICIAN OR THE PHYSICIAN'S AGENT PROVIDED THE
20 INFORMATION BY TELEPHONE;

21 (II) THE PHYSICIAN OR THE PHYSICIAN'S AGENT PROVIDED THE
22 INFORMATION IN PERSON;

23 (III) THE PHYSICIAN OR THE PHYSICIAN'S AGENT PROVIDED THE
24 INFORMATION AS A REFERRING PHYSICIAN;

25 (IV) THE PHYSICIAN OR THE PHYSICIAN'S AGENT PROVIDED THE
26 INFORMATION AS THE PHYSICIAN PERFORMING THE ABORTION;

27 (V) THE PHYSICIAN PROVIDED THE INFORMATION; AND

28 (VI) AN AGENT OF THE PHYSICIAN PROVIDED THE

1 INFORMATION;

2 (5) THE NUMBER OF WOMEN WHO REQUESTED A COPY OF THE
3 PRINTED INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE, OTHER THAN
4 FROM THE DEPARTMENT’S WEBSITE;

5 (6) THE NUMBER OF WOMEN WHO DID NOT REQUEST A COPY OF THE
6 PRINTED INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE;

7 (7) THE NUMBER OF WOMEN WHO, TO THE BEST OF THE REPORTING
8 PHYSICIAN’S INFORMATION, HAD AN ABORTION AFTER OBTAINING A COPY OF THE
9 PRINTED INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE, OTHER THAN
10 FROM THE DEPARTMENT’S WEBSITE;

11 (8) THE NUMBER OF ABORTIONS PERFORMED BY THE PHYSICIAN FOR
12 WHICH THE INFORMATION REQUIRED TO BE PROVIDED AT LEAST 24 HOURS BEFORE
13 THE ABORTION WAS NOT PROVIDED BECAUSE AN IMMEDIATE ABORTION WAS
14 NECESSARY TO AVERT THE WOMAN’S DEATH; AND

15 (9) THE NUMBER OF ABORTIONS FOR WHICH INFORMATION
16 REQUIRED TO BE PROVIDED UNDER THIS SUBTITLE WAS NOT PROVIDED BECAUSE A
17 DELAY WOULD HAVE CREATED SERIOUS RISK OF SUBSTANTIAL AND IRREVERSIBLE
18 IMPAIRMENT OF A MAJOR BODILY FUNCTION.

19 (B) BEGINNING DECEMBER 1, 2020, THE DEPARTMENT SHALL ENSURE
20 THAT COPIES OF THE REPORTING FORMS PREPARED IN ACCORDANCE WITH
21 SUBSECTION (A) OF THIS SECTION AND A COPY OF THIS SUBTITLE ARE PROVIDED
22 TO:

23 (1) ALL PHYSICIANS LICENSED BY THE STATE BOARD OF PHYSICIANS
24 BY DECEMBER 1 EACH YEAR; AND

25 (2) EACH PHYSICIAN WHO OBTAINS A LICENSE FROM THE STATE
26 BOARD OF PHYSICIANS TO PRACTICE IN THE STATE AT THE TIME THE LICENSE IS
27 ISSUED.

28 (C) ON OR BEFORE FEBRUARY 28, 2021, AND EACH FEBRUARY 28
29 THEREAFTER, EACH PHYSICIAN WHO PROVIDED OR WHOSE AGENT PROVIDED
30 INFORMATION TO ONE OR MORE WOMEN IN ACCORDANCE WITH § 20–217 OR §
31 20–220 OF THIS SUBTITLE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR
32 SHALL SUBMIT TO THE DEPARTMENT A COPY OF THE FORM PROVIDED UNDER
33 SUBSECTION (B) OF THIS SECTION, WITH THE REQUIRED DATA ENTERED
34 ACCURATELY AND COMPLETELY TO THE EXTENT ALLOWED BY LAW.

1 **(D) (1) A PHYSICIAN WHO FAILS TO SUBMIT THE REPORT REQUIRED**
2 **UNDER SUBSECTION (C) OF THIS SECTION WITHIN 30 DAYS AFTER FEBRUARY 28**
3 **MAY BE SUBJECT TO A LATE FEE OF \$500 FOR EACH ADDITIONAL 30-DAY PERIOD OR**
4 **PORTION OF A 30-DAY PERIOD IN WHICH THE REPORT IS OVERDUE.**

5 **(2) A PHYSICIAN REQUIRED TO REPORT IN ACCORDANCE WITH**
6 **SUBSECTION (C) OF THIS SECTION WHO HAS NOT SUBMITTED A REPORT, OR HAS**
7 **SUBMITTED ONLY AN INCOMPLETE REPORT MORE THAN 1 YEAR FOLLOWING THE**
8 **DATE THE REPORT IS DUE, MAY, IN AN ACTION BROUGHT BY THE DEPARTMENT, BE**
9 **DIRECTED BY A COURT OF COMPETENT JURISDICTION TO SUBMIT A COMPLETE**
10 **REPORT WITHIN A PERIOD STATED BY COURT ORDER OR BE SUBJECT TO SANCTIONS**
11 **FOR CIVIL CONTEMPT.**

12 **(E) (1) ON OR BEFORE JUNE 30, 2021, AND EACH JUNE 30 THEREAFTER,**
13 **THE DEPARTMENT SHALL ISSUE A REPORT THAT INCLUDES:**

14 **(I) STATISTICS ON EACH OF THE ITEMS LISTED IN THE FORM**
15 **PROVIDED BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION FOR THE**
16 **IMMEDIATELY PRECEDING CALENDAR YEAR COMPILED FROM ALL OF THE REPORTS**
17 **SUBMITTED UNDER SUBSECTION (C) OF THIS SECTION; AND**

18 **(II) STATISTICS ON EACH OF THE ITEMS LISTED IN THE FORM**
19 **PROVIDED BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION FROM**
20 **ALL PRIOR REPORTS SUBMITTED UNDER THIS SUBSECTION ADJUSTED TO REFLECT**
21 **ANY ADDITIONAL INFORMATION FROM LATE OR CORRECTED REPORTS.**

22 **(2) THE DEPARTMENT SHALL ENSURE THAT NONE OF THE**
23 **INFORMATION INCLUDED IN THE REPORT ISSUED UNDER PARAGRAPH (1) OF THIS**
24 **SUBSECTION COULD REASONABLY LEAD TO THE IDENTIFICATION OF ANY**
25 **INDIVIDUAL.**

26 **(F) THE DEPARTMENT MAY ADOPT REGULATIONS THAT:**

27 **(1) ALTER THE DATES BY WHICH INFORMATION OR REPORTS SHALL**
28 **BE SUBMITTED AS REQUIRED IN SUBSECTION (B), (C), OR (E) OF THIS SECTION; OR**

29 **(2) CONSOLIDATE THE FORMS OR REPORTS IN THIS SECTION WITH**
30 **OTHER FORMS OR REPORTS IF:**

31 **(I) THE DEPARTMENT SENDS TO ALL LICENSED PHYSICIANS IN**
32 **THE STATE THE REPORTING FORMS UNDER SUBSECTION (A) OF THIS SECTION AT**
33 **LEAST ONCE EVERY YEAR; AND**

1 (II) THE DEPARTMENT ISSUED THE REPORT REQUIRED IN
2 SUBSECTION (E) OF THIS SECTION AT LEAST ONCE EVERY YEAR.

3 20-224.

4 (A) A PERSON WHO KNOWINGLY OR RECKLESSLY PERFORMS OR ATTEMPTS
5 TO PERFORM AN ABORTION IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A
6 FELONY.

7 (B) A PHYSICIAN WHO KNOWINGLY OR RECKLESSLY SUBMITS A FALSE
8 REPORT UNDER § 20-223 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR.

9 (C) A PENALTY MAY NOT BE ASSESSED AGAINST A WOMAN ON WHOM AN
10 ABORTION IS PERFORMED OR ATTEMPTED TO BE PERFORMED IN VIOLATION OF
11 THIS SUBTITLE.

12 (D) A PENALTY MAY NOT BE ASSESSED AGAINST A PERSON AND THE PERSON
13 HAS NO CIVIL LIABILITY FOR FAILURE TO COMPLY WITH § 20-217(B)(3)(I)3 OR
14 (4) OF THIS SUBTITLE UNLESS THE DEPARTMENT HAS MADE THE PRINTED
15 MATERIALS AVAILABLE AT THE TIME THE PHYSICIAN OR THE PHYSICIAN'S AGENT IS
16 REQUIRED TO INFORM THE WOMAN OF HER RIGHT TO REVIEW THEM.

17 (E) IN ADDITION TO ANY PENALTY ESTABLISHED UNDER THIS SUBTITLE,
18 THE FOLLOWING INDIVIDUALS MAY RECOVER ACTUAL AND PUNITIVE DAMAGES
19 FROM THE PERSON WHO KNOWINGLY OR RECKLESSLY PERFORMED THE ABORTION
20 IN VIOLATION OF THIS SUBTITLE:

21 (1) THE WOMAN ON WHOM AN ABORTION WAS PERFORMED IN
22 VIOLATION OF THIS SUBTITLE;

23 (2) THE FATHER OF THE EMBRYO OR FETUS WHO WAS THE SUBJECT
24 OF AN ABORTION IN VIOLATION OF THIS SUBTITLE; OR

25 (3) THE GRANDPARENT OF THE EMBRYO OR FETUS WHO WAS THE
26 SUBJECT OF AN ABORTION IN VIOLATION OF THIS SUBTITLE.

27 (F) A WOMAN ON WHOM AN ABORTION HAS BEEN ATTEMPTED IN VIOLATION
28 OF THIS SUBTITLE MAY RECOVER ACTUAL AND PUNITIVE DAMAGES FROM A PERSON
29 WHO KNOWINGLY OR RECKLESSLY ATTEMPTED TO PERFORM THE ABORTION IN
30 VIOLATION OF THIS SUBTITLE.

31 (G) (1) IF THE DEPARTMENT FAILS TO ISSUE THE PUBLIC REPORT

1 REQUIRED BY § 20–223 OF THIS SUBTITLE, ANY GROUP OF 10 OR MORE RESIDENTS
2 OF THE STATE MAY SEEK AN INJUNCTION IN A COURT OF COMPETENT JURISDICTION
3 AGAINST THE SECRETARY REQUIRING THAT A COMPLETE REPORT BE ISSUED
4 WITHIN A PERIOD STATED BY COURT ORDER.

5 (2) FAILURE TO ABIDE BY AN INJUNCTION ISSUED UNDER
6 PARAGRAPH (1) OF THIS SUBSECTION SHALL SUBJECT THE SECRETARY TO
7 SANCTIONS FOR CIVIL CONTEMPT.

8 (H) (1) IF JUDGMENT IS RENDERED IN FAVOR OF THE PLAINTIFF IN ANY
9 ACTION UNDER THIS SECTION, THE COURT SHALL AWARD REASONABLE ATTORNEY'S
10 FEES TO THE PLAINTIFF.

11 (2) IF JUDGMENT IS RENDERED IN FAVOR OF THE DEFENDANT IN ANY
12 ACTION UNDER THIS SECTION AND THE COURT FINDS THAT THE PLAINTIFF'S SUIT
13 WAS FRIVOLOUS AND BROUGHT IN BAD FAITH, THE COURT SHALL AWARD
14 REASONABLE ATTORNEY'S FEES TO THE DEFENDANT.

15 (I) (1) IN EACH PROCEEDING OR ACTION BROUGHT UNDER THIS
16 SUBTITLE, THE COURT SHALL, ON MOTION OR SUA SPONTE, RULE ON WHETHER THE
17 WOMAN ON WHOM AN ABORTION WAS ALLEGEDLY PERFORMED OR ATTEMPTED IN
18 VIOLATION OF THE SUBTITLE SHALL REMAIN ANONYMOUS.

19 (2) (I) IF THE COURT DETERMINES THAT THE WOMAN ON WHOM AN
20 ABORTION WAS ALLEGEDLY PERFORMED OR ATTEMPTED IN VIOLATION OF THIS
21 SUBTITLE SHALL REMAIN ANONYMOUS, THE COURT SHALL DIRECT THE SEALING OF
22 THE RECORD, THE EXCLUSION OF INDIVIDUALS FROM COURTROOMS OR HEARING
23 ROOMS TO THE EXTENT NECESSARY, AND ANY OTHER MEASURES TO SAFEGUARD
24 THE WOMAN'S IDENTITY FROM PUBLIC DISCLOSURE.

25 (II) EACH ORDER UNDER SUBPARAGRAPH (I) OF THIS
26 PARAGRAPH SHALL BE ACCOMPANIED BY SPECIFIC WRITTEN FINDINGS
27 EXPLAINING:

28 1. WHY THE WOMAN'S IDENTITY SHOULD BE PRESERVED
29 FROM PUBLIC DISCLOSURE;

30 2. HOW THE ORDER IS NARROWLY TAILORED TO SERVE
31 THE INTEREST OF PRESERVING THE WOMAN'S IDENTITY FROM PUBLIC DISCLOSURE;
32 AND

33 3. WHY NO LESS RESTRICTIVE ALTERNATIVE EXISTS.

1 **(J) AN INDIVIDUAL OTHER THAN A PUBLIC OFFICIAL WHO BRINGS AN**
2 **ACTION UNDER SUBSECTION (A) OF THIS SECTION SHALL BRING THE ACTION UNDER**
3 **A PSEUDONYM UNLESS THE WOMAN ON WHOM AN ABORTION WAS ALLEGEDLY**
4 **PERFORMED OR ATTEMPTED IN VIOLATION OF THE SUBTITLE PROVIDES WRITTEN**
5 **CONSENT FOR THE INDIVIDUAL TO USE HER NAME.**

6 **(K) THIS SECTION MAY NOT BE CONSTRUED TO CONCEAL THE IDENTITY OF**
7 **THE PLAINTIFF OR OF WITNESSES FROM THE DEFENDANT.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before February 1,
9 2020, the Maryland Department of Health shall provide the form established under §
10 20–223(a) of the Health – General Article, as enacted by Section 1 of this Act, to all
11 physicians licensed by Maryland Board of Physicians.

12 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
13 the application thereof to any person or circumstance is held invalid for any reason in a
14 court of competent jurisdiction, the invalidity does not affect other provisions or any other
15 application of this Act that can be given effect without the invalid provision or application,
16 and for this purpose the provisions of this Act are declared severable.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2019.