HOUSE BILL 1369

By: Delegates Cox, Arikan, Boteler, Krebs, McComas, Reilly, Rose, Shoemaker, and Wivell
Introduced and read first time: February 11, 2022
Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Public Health – Abortions – Standards and Reporting

FOR the purpose of altering the criteria related to the State’s authority to interfere with a decision of a woman to terminate a pregnancy; prohibiting a physician from performing an abortion under certain circumstances; requiring a physician to use certain judgement in making certain determinations; establishing certain reporting requirements related to abortions; and generally relating to the performance of abortions.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 20–209
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY adding to
Article – Health – General
Section 20–210
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, Fetal heartbeat has become a key medical predictor that an unborn individual will reach live birth; and

WHEREAS, Cardiac activity begins at a biologically identifiable moment in time, normally when the fetal heart is formed in the gestational sac; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
WHEREAS, In order to make an informed choice about whether to continue the
pregnancy, a pregnant woman has a legitimate interest in knowing the likelihood of the
fetus surviving to full-term birth based on the presence of cardiac activity; now, therefore,

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 GESTATIONAL AGE OF THE fetus is [viable] 24 WEEKS; or

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

(i) The] IF AFTER AN EXAMINATION CONDUCTED UNDER §
20–210 OF THIS SUBTITLE, A PHYSICIAN DOES NOT DETECT A FETAL HEARTBEAT
AND 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)] (B) 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)] (C) 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.

20–210.

(A) A PHYSICIAN MAY NOT PERFORM AN ABORTION:
(1) Before conducting a physical examination of the pregnant woman and her unborn child to determine if there is a fetal heartbeat present;

(2) If a fetal heartbeat is detected after an examination under item (1) of this subsection;

(3) If the gestational age of the unborn child is at least 24 weeks; or

(4) (I) If no fetal heartbeat is detected; and

(II) The physician does not:

1. Determine that, in the physician’s best clinical judgment, the abortion is necessary to save the life of the pregnant woman; or

2. Receive what the physician reasonably believes is a written statement signed by another physician, certifying that in the other physician’s best clinical judgment the abortion is necessary to save the life of the pregnant woman.

(B) A physician shall use the physician’s best clinical judgment to determine whether or not a fetal heartbeat is present and the gestational age of the unborn child.

(C) (1) For the purpose of promotion of maternal health and life by adding medical and public health knowledge through the compilation of relevant data, and to promote the State’s interest in protection of the unborn child, a physician shall report each abortion performed to the Department on a form required by the Department.

(2) The form required under paragraph (1) of this subsection may not identify the individual who received the abortion by name and shall include identification of:

(I) The physician who performed the abortion; and

(II) Any other physician consulted regarding or involved in any of the actions required before performing an abortion or in the performance of an abortion.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.