

# SENATE BILL 891

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By: **Senators Carozza, Ready, and Eckardt**  
Introduced and read first time: February 7, 2022  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Medical Procedures – Parent or Guardian Notice**  
3 **(Maryland Parental Involvement Enhancement Act)**

4 FOR the purpose of altering the women on whom a physician is prohibited from performing  
5 an abortion without first providing notice to a parent or guardian of the woman;  
6 altering the circumstances under which a physician may perform certain medical  
7 procedures without first providing notice to a parent or guardian; establishing a  
8 process for a certain individual to seek a judicial waiver of the requirement that a  
9 parent or guardian be notified of a medical procedure; and generally relating to  
10 notice to a parent or guardian and medical procedures.

11 BY repealing and reenacting, with amendments,  
12 Article – Health – General  
13 Section 20–103  
14 Annotated Code of Maryland  
15 (2019 Replacement Volume and 2021 Supplement)

16 BY adding to  
17 Article – Health – General  
18 Section 20–111  
19 Annotated Code of Maryland  
20 (2019 Replacement Volume and 2021 Supplement)

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

23 **Article – Health – General**

24 20–103.

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



1           **(A) THIS SECTION APPLIES ONLY WITH RESPECT TO A PREGNANT WOMAN**  
2 **WHO IS:**

3                   **(1) A MINOR; OR**

4                   **(2) DISABLED AND HAS HAD A GUARDIAN APPOINTED FOR HER.**

5           **[(a)] (B)** Except as provided in [subsections (b) and (c) of this section] **§ 20-111**  
6 **OF THIS TITLE**, a physician may not perform an abortion on [an unmarried minor] **A**  
7 **PREGNANT WOMAN** unless the physician first gives notice to a parent or guardian of the  
8 **[minor] PREGNANT WOMAN.**

9           **[(b)]** The physician may perform the abortion without notice to a parent or  
10 guardian if:

11                   (1) The minor does not live with a parent or guardian; and

12                   (2) A reasonable effort to give notice to a parent or guardian is  
13 unsuccessful.

14           **(c) (1)** The physician may perform the abortion, without notice to a parent or  
15 guardian of a minor if, in the professional judgment of the physician:

16                           (i) Notice to the parent or guardian may lead to physical or  
17 emotional abuse of the minor;

18                           (ii) The minor is mature and capable of giving informed consent to  
19 an abortion; or

20                           (iii) Notification would not be in the best interest of the minor.

21                   (2) The physician is not liable for civil damages or subject to a criminal  
22 penalty for a decision under this subsection not to give notice.

23           **(d)** The postal receipt that shows an article of mail was sent by certified mail,  
24 return receipt requested, bearing a postmark from the United States Postal Service, to the  
25 last known address of a parent or guardian and that is attached to a copy of the notice letter  
26 that was sent in that article of mail shall be conclusive evidence of notice or a reasonable  
27 effort to give notice, as the case may be.]

28           **[(e)] (C)** A physician may not provide notice to a parent or guardian if the  
29 **[minor] PREGNANT WOMAN** decides not have an abortion.

30 **20-111.**

1           **(A) (1) IF A PHYSICIAN IS REQUIRED TO PROVIDE NOTICE TO A PARENT**  
2 **OR GUARDIAN OF AN INDIVIDUAL BEFORE PERFORMING A MEDICAL PROCEDURE,**  
3 **THE PHYSICIAN MAY PERFORM THE MEDICAL PROCEDURE ON THE INDIVIDUAL**  
4 **WITHOUT NOTICE TO A PARENT OR GUARDIAN IF THE PHYSICIAN OBTAINS:**

5                   **(I) A NOTARIZED WRITTEN STATEMENT FROM A PARENT OR**  
6 **GUARDIAN OF THE INDIVIDUAL WAIVING THE PARENT OR GUARDIAN’S RIGHT TO**  
7 **NOTICE OF THE MEDICAL PROCEDURE OF THE INDIVIDUAL, DATED NO MORE THAN**  
8 **30 DAYS BEFORE THE DATE OF THE MEDICAL PROCEDURE; OR**

9                   **(II) 1. GOVERNMENT–ISSUED PROOF OF IDENTITY OF THE**  
10 **PARENT OR GUARDIAN OF THE INDIVIDUAL;**

11                           **2. WRITTEN DOCUMENTATION STATING THAT THE**  
12 **PARENT OR GUARDIAN IS THE LAWFUL PARENT OR GUARDIAN OF THE INDIVIDUAL;**  
13 **AND**

14                           **3. A SIGNED STATEMENT FROM THE PARENT OR**  
15 **GUARDIAN OF THE INDIVIDUAL STATING THAT THE PARENT OR GUARDIAN IS AWARE**  
16 **THAT THE MEDICAL PROCEDURE IS TO BE PERFORMED ON THE INDIVIDUAL.**

17           **(2) THE PHYSICIAN SHALL KEEP A COPY OF ANY DOCUMENTS**  
18 **PROVIDED BY THE INDIVIDUAL UNDER THIS SUBSECTION IN THE MEDICAL RECORD**  
19 **OF THE INDIVIDUAL FOR AT LEAST 5 YEARS AFTER THE DATE ON WHICH THE**  
20 **INDIVIDUAL REACHES THE AGE OF 18 YEARS OR 7 YEARS AFTER THE DATE OF THE**  
21 **MEDICAL PROCEDURE, WHICHEVER IS LATER.**

22           **(3) A PHYSICIAN WHO RECEIVES PARENTAL NOTICE UNDER**  
23 **PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL EXECUTE AND INCLUDE IN THE**  
24 **MEDICAL RECORD OF THE INDIVIDUAL AN AFFIDAVIT STATING:**

25           **“I, \_\_\_\_\_, CERTIFY THAT ACCORDING TO MY BEST INFORMATION AND**  
26 **BELIEF, A REASONABLE PERSON UNDER SIMILAR CIRCUMSTANCES WOULD RELY ON**  
27 **THE INFORMATION PRESENTED BY BOTH THE INDIVIDUAL AND THE INDIVIDUAL’S**  
28 **PARENT OR GUARDIAN AS SUFFICIENT EVIDENCE OF IDENTITY AND**  
29 **RELATIONSHIP.”.**

30           **(B) (1) IF A PHYSICIAN IS REQUIRED TO PROVIDE NOTICE TO THE PARENT**  
31 **OR GUARDIAN OF AN INDIVIDUAL BEFORE PERFORMING A MEDICAL PROCEDURE, A**  
32 **PHYSICIAN MAY PERFORM THE MEDICAL PROCEDURE ON THE INDIVIDUAL WITHOUT**  
33 **PROVIDING PRIOR NOTICE TO THE PARENT OR GUARDIAN OF THE INDIVIDUAL IF**  
34 **THE PHYSICIAN CERTIFIES IN A DOCUMENT MAINTAINED IN THE MEDICAL RECORD**  
35 **OF THE INDIVIDUAL THAT A MEDICAL EMERGENCY EXISTS AND THERE IS**

1 INSUFFICIENT TIME TO PROVIDE THE NOTICE.

2           **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IF**  
3 **THE PHYSICIAN PERFORMS A MEDICAL PROCEDURE ON AN INDIVIDUAL UNDER**  
4 **PARAGRAPH (1) OF THIS SUBSECTION, THE PHYSICIAN SHALL NOTIFY THE PARENT**  
5 **OR GUARDIAN OF THE INDIVIDUAL WITHIN 24 HOURS AFTER THE PROCEDURE,**  
6 **VERBALLY AND THROUGH CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE**  
7 **PARENT OR GUARDIAN, SENT WITH RESTRICTED DELIVERY AND RETURN RECEIPT**  
8 **REQUESTED:**

9                   **(I) THAT A MEDICAL PROCEDURE WAS PERFORMED ON THE**  
10 **INDIVIDUAL DUE TO A MEDICAL EMERGENCY;**

11                   **(II) OF THE NATURE OF THE MEDICAL PROCEDURE;**

12                   **(III) OF THE CIRCUMSTANCES OF THE MEDICAL EMERGENCY;**

13 **AND**

14                   **(IV) OF ANY ADDITIONAL RISKS TO THE INDIVIDUAL.**

15           **(3) (I) IF AN INDIVIDUAL GIVES NOTICE TO A PHYSICIAN OF THE**  
16 **INDIVIDUAL'S INTENT TO SEEK A JUDICIAL WAIVER UNDER SUBSECTION (C) OF THIS**  
17 **SECTION FOLLOWING A MEDICAL PROCEDURE PERFORMED UNDER PARAGRAPH (1)**  
18 **OF THIS SUBSECTION, THE PHYSICIAN:**

19                   **1. MAY NOT NOTIFY THE PARENT OR GUARDIAN OF THE**  
20 **MEDICAL PROCEDURE BEFORE:**

21                   **A. THE TIME FOR WHICH AN INDIVIDUAL MAY FILE A**  
22 **PETITION EXPIRES; OR**

23                   **B. THE COURT MAKES A RULING REGARDING THE**  
24 **JUDICIAL WAIVER; AND**

25                   **2. SHALL FILE A NOTICE WITH THE CIRCUIT COURT IN**  
26 **THE JURISDICTION IN WHICH THE MEDICAL PROCEDURE WAS PERFORMED STATING:**

27                   **A. THAT THE INDIVIDUAL HAS INDICATED THE**  
28 **INDIVIDUAL'S INTENT TO SEEK A JUDICIAL WAIVER UNDER SUBSECTION (C) OF THIS**  
29 **SECTION; AND**

30                   **B. THAT A MEDICAL PROCEDURE WAS PERFORMED ON**  
31 **THE INDIVIDUAL DUE TO A MEDICAL EMERGENCY, THE NATURE OF THE**

1 PROCEDURE, THE CIRCUMSTANCES OF THE EMERGENCY, AND ANY ADDITIONAL  
2 RISKS TO THE INDIVIDUAL WITHIN 24 HOURS AFTER THE PROCEDURE.

3 (II) IF A COURT RECEIVES NOTICE UNDER SUBPARAGRAPH (I)  
4 OF THIS PARAGRAPH, THE COURT SHALL PROMPTLY SCHEDULE A CONFIDENTIAL  
5 CONFERENCE REGARDING THE NOTICE AND PROVIDE NOTICE OF THE CONFERENCE  
6 TO THE PHYSICIAN AND THE INDIVIDUAL.

7 (III) IF THE INDIVIDUAL IS ABLE TO PARTICIPATE IN THE  
8 CONFERENCE, THE COURT SHALL:

9 1. ADVISE THE INDIVIDUAL THAT THE INDIVIDUAL HAS  
10 THE RIGHT TO COURT-APPOINTED COUNSEL; AND

11 2. ON THE INDIVIDUAL'S REQUEST, PROVIDE THE  
12 INDIVIDUAL WITH COUNSEL.

13 (IV) IF THE INDIVIDUAL IS UNABLE TO PARTICIPATE IN THE  
14 CONFERENCE, THE COURT SHALL APPOINT COUNSEL ON BEHALF OF THE  
15 INDIVIDUAL.

16 (V) AFTER THE CONFIDENTIAL CONFERENCE REGARDING THE  
17 NOTICE AND TAKING INTO ACCOUNT THE MEDICAL CONDITION OF THE INDIVIDUAL,  
18 THE COURT SHALL SET A DEADLINE BY WHICH THE INDIVIDUAL MUST FILE A  
19 PETITION UNDER SUBSECTION (C) OF THIS SECTION.

20 (VI) THE COURT MAY EXTEND THE DEADLINE FOR FILING A  
21 PETITION UNDER SUBSECTION (C) OF THIS SECTION BASED ON THE MEDICAL  
22 CONDITION OF THE INDIVIDUAL.

23 (VII) IF THE INDIVIDUAL DOES NOT FILE A PETITION OR MOTION  
24 BY THE DEADLINE SET BY THE COURT, THE COURT SHALL DIRECT THAT THE COURT  
25 CLERK PROVIDE THE NOTICE FILED UNDER SUBPARAGRAPH (I) OF THIS  
26 PARAGRAPH TO THE PARENT OR GUARDIAN OF THE INDIVIDUAL.

27 (C) (1) AN INDIVIDUAL MAY FILE A PETITION WITH THE CIRCUIT COURT  
28 FOR THE COUNTY WHERE THE INDIVIDUAL RESIDES OR WHERE THE PHYSICIAN'S  
29 OFFICE IS LOCATED TO SEEK AN ORDER WAIVING THE REQUIREMENT TO PROVIDE  
30 NOTICE TO A PARENT OR GUARDIAN OF THE INDIVIDUAL.

31 (2) (I) A COURT SHALL ISSUE AN ORDER AUTHORIZING THE  
32 INDIVIDUAL TO CONSENT TO A MEDICAL PROCEDURE WITHOUT THE NOTIFICATION  
33 OF A PARENT OR GUARDIAN OF THE INDIVIDUAL IF THE COURT FINDS, BY CLEAR

1 AND CONVINCING EVIDENCE, THAT:

2 1. THE INDIVIDUAL IS SUFFICIENTLY MATURE AND  
3 WELL-INFORMED ENOUGH TO DECIDE WHETHER TO HAVE THE MEDICAL  
4 PROCEDURE;

5 2. THE INDIVIDUAL IS A VICTIM OF PHYSICAL OR  
6 SEXUAL ABUSE BY A PARENT OR GUARDIAN; OR

7 3. THAT PROVIDING NOTIFICATION TO A PARENT OR  
8 GUARDIAN WOULD NOT BE IN THE BEST INTEREST OF THE INDIVIDUAL.

9 (II) IF THE INDIVIDUAL CLAIMS TO BE SUFFICIENTLY MATURE  
10 AND WELL-INFORMED TO DECIDE WHETHER TO HAVE THE MEDICAL PROCEDURE,  
11 THE INDIVIDUAL SHALL PROVIDE CLEAR AND CONVINCING EVIDENCE THAT THE  
12 INDIVIDUAL IS SUFFICIENTLY MATURE AND CAPABLE OF GIVING INFORMED  
13 CONSENT WITHOUT GIVING NOTICE TO THE INDIVIDUAL'S PARENT OR GUARDIAN  
14 BASED ON THE INDIVIDUAL'S EXPERIENCE LEVEL, PERSPECTIVE, AND JUDGMENT.

15 (III) IN DETERMINING WHETHER AN INDIVIDUAL IS  
16 SUFFICIENTLY MATURE AND WELL-INFORMED ENOUGH TO DECIDE WHETHER TO  
17 HAVE THE PROCEDURE, THE COURT MAY CONSIDER:

18 1. THE AGE OF THE INDIVIDUAL;

19 2. THE EXPERIENCES OF THE INDIVIDUAL WORKING,  
20 LIVING OUTSIDE THE HOME, TRAVELING ON THE INDIVIDUAL'S OWN, HANDLING  
21 PERSONAL FINANCES, OR MAKING OTHER SIGNIFICANT DECISIONS; AND

22 3. THE INTELLECTUAL ABILITY OF THE INDIVIDUAL TO  
23 UNDERSTAND THE INDIVIDUAL'S OPTIONS AND MAKE AN INFORMED DECISION.

24 (IV) IN DETERMINING WHETHER PROVIDING NOTIFICATION TO  
25 A PARENT OR GUARDIAN OF THE INDIVIDUAL IS NOT IN THE BEST INTEREST OF THE  
26 INDIVIDUAL, THE COURT MAY NOT CONSIDER THE POTENTIAL FINANCIAL IMPACT  
27 ON THE INDIVIDUAL OR THE FAMILY OF THE INDIVIDUAL IF THE INDIVIDUAL DOES  
28 NOT HAVE THE MEDICAL PROCEDURE.

29 (3) (I) BEFORE ISSUING A RULING ON A PETITION FILED UNDER  
30 THIS SUBSECTION, A COURT MAY ORDER THE INDIVIDUAL TO PARTICIPATE IN AN  
31 EVALUATION AND COUNSELING SESSION, WHICH SHALL BE PROMPTLY SCHEDULED  
32 WITH A MENTAL HEALTH PROFESSIONAL FROM THE DEPARTMENT OR THE  
33 DEPARTMENT OF HUMAN SERVICES.

1                   **(II) THE PURPOSE OF AN EVALUATION AND COUNSELING**  
2 **SESSION IS TO DEVELOP AN EXPERT OPINION ON:**

3                   **1. THE SUFFICIENCY OF KNOWLEDGE, INSIGHT,**  
4 **JUDGMENT, AND MATURITY OF THE INDIVIDUAL WITH REGARD TO THE**  
5 **INDIVIDUAL'S DECISION TO HAVE THE MEDICAL PROCEDURE; AND**

6                   **2. WHETHER THE INDIVIDUAL IS SEEKING THE MEDICAL**  
7 **PROCEDURE OF THE INDIVIDUAL'S OWN FREE WILL AND NOT ACTING UNDER**  
8 **COERCION, INTIMIDATION, THREATS, ABUSE, UNDUE PRESSURE, OR EXTORTION.**

9                   **(III) THE RESULTS OF AN EVALUATION AND COUNSELING**  
10 **SESSION UNDER THIS PARAGRAPH SHALL BE REPORTED TO THE COURT**  
11 **EXPEDITIOUSLY IN A CONFIDENTIAL AND SECURE MANNER TO ENSURE RECEIPT BY**  
12 **THE COURT BEFORE A HEARING ON THE PETITION.**

13                   **(4) ANY PROCEEDINGS, EVALUATION, OR COUNSELING SESSION**  
14 **HELD UNDER THIS SUBSECTION SHALL BE CONFIDENTIAL.**

15                   **(5) IF A COURT DOES NOT ISSUE AN ORDER UNDER PARAGRAPH (2)(1)**  
16 **OF THIS SUBSECTION, THE COURT SHALL DISMISS THE PETITION.**

17                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2022.