

HOUSE BILL 937

J1, J2, J5

2lr0314
CF SB 890

By: **Delegates Kelly, Pendergrass, Pena-Melnyk, Cullison, and Rosenberg**

Introduced and read first time: February 10, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Abortion Care Access Act

FOR the purpose of establishing the Abortion Clinical Care Training Program in the Maryland Department of Health; establishing the Abortion Care Clinical Training Program Fund; requiring interest earnings of the Fund to be credited to the Fund; establishing and altering certain requirements regarding abortion services, including a requirement related to who may perform abortions in the State; and generally relating to abortion care.

BY adding to

Article – Health – General
Section 13–4401 through 13–4407 to be under the new subtitle “Subtitle 44. Abortion Care Clinical Training Program”

Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 20–103 and 20–207 through 20–209
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)144. and 145.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)146.
Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – Health – General

SUBTITLE 44. ABORTION CARE CLINICAL TRAINING PROGRAM.

13–4401.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “FUND” MEANS THE ABORTION CARE CLINICAL TRAINING PROGRAM FUND.

(C) “PROGRAM” MEANS THE ABORTION CARE CLINICAL TRAINING PROGRAM.

13–4402.

THERE IS AN ABORTION CARE CLINICAL TRAINING PROGRAM IN THE DEPARTMENT.

13–4403.

THE PURPOSE OF THE PROGRAM IS TO PROTECT ACCESS TO ABORTION CARE BY ENSURING THAT THERE ARE A SUFFICIENT NUMBER OF HEALTH PROFESSIONALS TO PROVIDE ABORTION CARE.

13–4404.

(A) (1) THE DEPARTMENT SHALL CONTRACT WITH A COORDINATING ORGANIZATION TO ADMINISTER THE PROGRAM.

(2) THE DEPARTMENT SHALL USE FUNDS APPROPRIATED IN THE BUDGET FOR THE PROGRAM TO CONTRACT WITH THE COORDINATING ORGANIZATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(B) THE COORDINATING ORGANIZATION SHALL:

(1) HAVE DEMONSTRATED EXPERIENCE IN COORDINATING ABORTION CARE TRAINING PROGRAMS AT COMMUNITY-BASED AND HOSPITAL-BASED PROVIDER SITES;

(2) BE A NONPROFIT ENTITY;

(3) BE IN GOOD STANDING IN ANY STATE OR JURISDICTION IN WHICH THE ORGANIZATION IS REGISTERED OR INCORPORATED;

(4) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT ON THE PERFORMANCE OF THE PROGRAM;

(5) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE DEPARTMENT IF THE REQUIREMENTS ARE NOT INCONSISTENT WITH TITLE 20, SUBTITLE 2 OF THE HEALTH – GENERAL ARTICLE; AND

(6) PERFORM THE FOLLOWING FUNCTIONS:

(I) ADMINISTER GRANTS TO DEVELOP AND SUSTAIN ABORTION CARE TRAINING PROGRAMS AT A MINIMUM OF TWO COMMUNITY-BASED PROVIDER SITES;

(II) ADMINISTER GRANTS IF FUNDING IS AVAILABLE TO:

1. OTHER COMMUNITY-BASED SITES;

2. HOSPITAL-BASED PROVIDER SITES;

3. CONTINUING EDUCATION PROGRAMS FOR QUALIFIED PROVIDERS THROUGH PROFESSIONAL ASSOCIATIONS OR OTHER CLINICAL EDUCATION PROGRAMS; AND

4. ESTABLISH TRAINING PROGRAM REQUIREMENTS THAT:

A. ARE CONSISTENT WITH EVIDENCE-BASED TRAINING STANDARDS; AND

B. COMPLY WITH ANY APPLICABLE STATE LAW AND REGULATIONS;

(III) SUPPORT ABORTION CARE CLINICAL TRAINING TO QUALIFIED PROVIDERS AS DEFINED IN § 20-103 OF THIS ARTICLE AND TO THE CLINICAL CARE TEAMS OF THE QUALIFIED PROVIDERS TO:

1. EXPAND THE NUMBER OF HEALTH CARE PROFESSIONALS WITH ABORTION CARE TRAINING; AND

2. INCREASE THE RACIAL AND ETHNIC DIVERSITY AMONG HEALTH CARE PROFESSIONALS WITH ABORTION CARE TRAINING; AND

(IV) SUPPORT THE IDENTIFICATION, SCREENING, AND PLACEMENT OF QUALIFIED PROVIDERS AT TRAINING SITES.

(C) (1) THE DEPARTMENT SHALL RELEASE THE NAME OF THE COORDINATING ORGANIZATION THAT THE DEPARTMENT CONTRACTS WITH UNDER SUBSECTION (A) OF THIS SECTION AND ANY ENTITY RECEIVING FUNDS THROUGH THE COORDINATION ORGANIZATION.

(2) THE DEPARTMENT MAY NOT RELEASE THE NAME OF ANY INDIVIDUAL OR PERSON ADMINISTERING SERVICES THROUGH OR PARTICIPATING IN THE PROGRAM.

13-4405.

FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$3,500,000 TO THE PROGRAM.

13-4406.

(A) THERE IS AN ABORTION CARE CLINICAL TRAINING PROGRAM FUND.

(B) THE PURPOSE OF THE FUND IS TO SUPPORT THE PROGRAM.

(C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(D) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(E) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) ANY MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) INTEREST EARNINGS; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR THE PROGRAM.

(H) (1) THE STATE TREASURER SHALL INVEST AND REINVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(I) THE COMPTROLLER SHALL PAY OUT MONEY FROM THE FUND AS DIRECTED BY THE SECRETARY.

(J) NO PART OF THE FUND MAY REVERT OR BE CREDITED TO:

(1) THE GENERAL FUND OF THE STATE; OR

(2) ANY OTHER SPECIAL FUND OF THE STATE.

(K) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

13-4407.

ON OR BEFORE JULY 1 EACH YEAR, THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT ON THE PROGRAM TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

20-103.

(A) IN THIS SECTION, "QUALIFIED PROVIDER" MEANS A PHYSICIAN, NURSE PRACTITIONER, NURSE-MIDWIFE, LICENSED CERTIFIED MIDWIFE, PHYSICIAN

ASSISTANT, OR ANY OTHER INDIVIDUAL:

(1) WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PRACTICE IN THE STATE; AND

(2) FOR WHOM THE PERFORMANCE OF AN ABORTION IS WITHIN THE SCOPE OF THE INDIVIDUAL'S LICENSE OR CERTIFICATION.

[(a)] (B) Except as provided in subsections [(b) and] (c) **AND (D)** of this section, a [physician] **QUALIFIED PROVIDER** may not perform an abortion on an unmarried minor unless the [physician] **QUALIFIED PROVIDER** first gives notice to a parent or guardian of the minor.

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

- (1) The minor does not live with a parent or guardian; and
- (2) A reasonable effort to give notice to a parent or guardian is unsuccessful.

[(c)] (D) (1) The [physician] **QUALIFIED PROVIDER** may perform the abortion, without notice to a parent or guardian of a minor if, in the professional judgment of the [physician] **QUALIFIED PROVIDER**:

- (i) Notice to the parent or guardian may lead to physical or emotional abuse of the minor;
- (ii) The minor is mature and capable of giving informed consent to an abortion; or
- (iii) Notification would not be in the best interest of the minor.

(2) The [physician] **QUALIFIED PROVIDER** is not liable for civil damages or subject to a criminal penalty for a decision under this subsection not to give notice.

[(d)] (E) THE FOLLOWING SHALL BE CONCLUSIVE EVIDENCE OF NOTICE OR A REASONABLE ATTEMPT TO GIVE NOTICE:

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

(2) DOCUMENTATION IN THE HEALTH RECORD OF THE MINOR THAT NOTIFICATION OF THE PARENT OR GUARDIAN WAS ATTEMPTED BY USING THE CONTACT INFORMATION AVAILABLE TO THE QUALIFIED PROVIDER.

[(e)] (F) A [physician] **QUALIFIED PROVIDER** may not provide notice to a parent or guardian if the minor decides not to have the abortion.

20–207.

In Part II of this subtitle, [the word “physician”] “**QUALIFIED PROVIDER**” means [any person, including a doctor of osteopathy,] **AN INDIVIDUAL**:

(1) WHO IS licensed, **CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW** to practice [medicine] in the State [of Maryland in compliance with the provisions of Title 14 of the Health Occupations Article]; **AND**

(2) FOR WHOM THE PERFORMANCE OF AN ABORTION IS WITHIN THE SCOPE OF THE INDIVIDUAL’S LICENSE OR CERTIFICATION.

20–208.

An abortion must be performed by a [licensed physician] **QUALIFIED PROVIDER**.

20–209.

(a) In this section, “viable” means that stage when, in the best [medical] **CLINICAL** judgment of the [attending physician] **QUALIFIED PROVIDER** based on the particular facts of the case before the [physician] **QUALIFIED PROVIDER**, 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] CLINICAL practice.

(d) The [physician] **QUALIFIED PROVIDER** 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] **QUALIFIED PROVIDER'S** best [medical] CLINICAL judgment in accordance with accepted standards of [medical] CLINICAL practice.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

144. the Health Equity Resource Community Reserve Fund;
[and]

145. the Access to Counsel in Evictions Special Fund; AND

146. THE ABORTION CARE CLINICAL TRAINING PROGRAM FUND.

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