

HOUSE BILL 1233

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HB 958/23 – HGO

4lr1563

By: **Delegates Metzgar, Grammer, Hornberger, Howard, McComas, Miller, Rose, Stonko, and Tomlinson**

Introduced and read first time: February 8, 2024

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Abortion**

3 FOR the purpose of requiring that an abortion be performed by a physician, rather than a
4 qualified provider; repealing certain provisions of law related to State interference
5 with an abortion, regulations related to abortion, and liability or criminal
6 punishment for qualified providers who perform an abortion; prohibiting a physician
7 from knowingly performing, inducing, or attempting to perform or induce an abortion
8 under certain circumstances and subject to certain exceptions; establishing
9 requirements for performing or inducing an abortion on a pregnant woman;
10 requiring that certain requirements relating to the performance or inducement of
11 abortions be enforced exclusively through private civil actions; authorizing any
12 person, other than an officer or employee of the State or a local governmental entity
13 in the State, to bring certain civil actions; providing for sovereign, governmental, and
14 official immunity under certain circumstances; and generally relating to abortions.

15 BY repealing

16 Article – Health – General

17 The part designation “Part II. Abortion Procedures” immediately preceding Section
18 20–207; Section 20–209; the part designation “Part III. Information”
19 immediately preceding Section 20–211; and the part designation “Part IV.
20 Effect of Refusal to Participate or Refer” immediately preceding Section
21 20–214

22 Annotated Code of Maryland
23 (2023 Replacement Volume)

24 BY adding to

25 Article – Health – General

26 Section 20–202 and 20–204 through 20–212

27 Annotated Code of Maryland
28 (2023 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Health – General
 3 Section 20–207, 20–208, and 20–214
 4 Annotated Code of Maryland
 5 (2023 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 7 That the part designation “Part II. Abortion Procedures” immediately preceding Section
 8 20–207; the part designation “Part III. Information” immediately preceding Section
 9 20–211; and the part designation “Part IV. Effect of Refusal to Participate or Refer”
 10 immediately preceding Section 20–214 of Article – Health – General of the Annotated Code
 11 of Maryland be repealed.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 13 as follows:

14 **Article – Health – General**

15 **[20–207.] 20–201.**

16 (A) In [Part II of] this subtitle[, “qualified provider”] **THE FOLLOWING WORDS**
 17 **HAVE THE MEANINGS INDICATED.**

18 (B) **“FETAL HEARTBEAT” MEANS CARDIAC ACTIVITY OR THE STEADY AND**
 19 **REPETITIVE RHYTHMIC CONTRACTION OF THE FETAL HEART WITHIN THE**
 20 **GESTATIONAL SAC.**

21 (C) **“GESTATIONAL AGE” MEANS THE AMOUNT OF TIME THAT HAS ELAPSED**
 22 **FROM THE FIRST DAY OF THE PREGNANT WOMAN’S LAST MENSTRUAL PERIOD.**

23 (D) **“GESTATIONAL SAC” MEANS THE STRUCTURE THAT COMPRISES THE**
 24 **EXTRAEMBRYONIC MEMBRANES THAT ENVELOP A BABY AND THAT IS TYPICALLY**
 25 **VISIBLE BY ULTRASOUND AFTER THE FOURTH WEEK OF PREGNANCY.**

26 (E) **“PHYSICIAN”** means an individual[:

27 (1) Who] **WHO** is licensed[, certified, or otherwise authorized by law] to
 28 practice **MEDICINE** in the State[; and

29 (2) For whom the performance of an abortion is within the scope of the
 30 individual’s license or certification] **UNDER TITLE 14 OF THE HEALTH OCCUPATIONS**
 31 **ARTICLE.**

32 (F) **“PREGNANCY” MEANS THE HUMAN FEMALE REPRODUCTIVE CONDITION**

1 THAT:

2 (1) BEGINS WITH FERTILIZATION;

3 (2) OCCURS WHEN THE WOMAN IS CARRYING THE DEVELOPING BABY;

4 AND

5 (3) IS CALCULATED FROM THE FIRST DAY OF THE WOMAN'S LAST
6 MENSTRUAL PERIOD.

7 (G) "STANDARD MEDICAL PRACTICE" MEANS THE DEGREE OF SKILL, CARE,
8 AND DILIGENCE THAT AN OBSTETRICIAN OF ORDINARY JUDGMENT, LEARNING, AND
9 SKILL WOULD EMPLOY IN SIMILAR CIRCUMSTANCES.

10 20-202.

11 THE GENERAL ASSEMBLY FINDS, ACCORDING TO CONTEMPORARY MEDICAL
12 RESEARCH, THAT:

13 (1) FETAL HEARTBEAT HAS BECOME A KEY MEDICAL PREDICTOR
14 THAT A BABY WILL REACH LIVE BIRTH;

15 (2) CARDIAC ACTIVITY BEGINS AT A BIOLOGICALLY IDENTIFIABLE
16 MOMENT IN TIME, NORMALLY WHEN THE FETAL HEART IS FORMED IN THE
17 GESTATIONAL SAC;

18 (3) THE STATE HAS A COMPELLING INTEREST FROM THE OUTSET OF
19 A WOMAN'S PREGNANCY IN PROTECTING THE HEALTH OF THE WOMAN AND THE LIFE
20 OF THE BABY; AND

21 (4) TO MAKE AN INFORMED CHOICE ABOUT WHETHER TO CONTINUE
22 HER PREGNANCY, THE PREGNANT WOMAN HAS A COMPELLING INTEREST IN
23 KNOWING THE LIKELIHOOD OF HER BABY SURVIVING TO FULL-TERM BIRTH BASED
24 ON THE PRESENCE OF CARDIAC ACTIVITY.

25 [20-208.] 20-203.

26 An abortion must be performed by a [qualified provider] PHYSICIAN.

27 [20-209.

28 (a) In this section, "viable" means that stage when, in the best clinical judgment
29 of the qualified provider based on the particular facts of the case before the qualified
30 provider, there is a reasonable likelihood of the fetus's sustained survival outside the womb.

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

3 (1) Before the fetus is viable; or

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

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

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

9 (c) The Department may adopt regulations that:

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

12 (2) Are not inconsistent with established medical practice.

13 (d) The qualified provider is not liable for civil damages or subject to a criminal
14 penalty for a decision to perform an abortion under this section made in good faith and in
15 the qualified provider's best clinical judgment in accordance with accepted standards of
16 clinical practice.]

17 **20-204.**

18 **(A) FOR THE PURPOSES OF DETERMINING THE PRESENCE OF A FETAL**
19 **HEARTBEAT UNDER THIS SECTION, "STANDARD MEDICAL PRACTICE" INCLUDES**
20 **EMPLOYING THE APPROPRIATE MEANS OF DETECTING A HEARTBEAT BASED ON THE**
21 **ESTIMATED GESTATIONAL AGE OF THE BABY AND THE CONDITION OF THE WOMAN**
22 **AND HER PREGNANCY.**

23 **(B) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, A**
24 **PHYSICIAN MAY NOT KNOWINGLY PERFORM OR INDUCE OR ATTEMPT TO PERFORM**
25 **OR INDUCE AN ABORTION ON A PREGNANT WOMAN:**

26 **(1) BEFORE A PHYSICIAN DETERMINES IN ACCORDANCE WITH**
27 **SUBSECTION (C) OF THIS SECTION WHETHER THE BABY HAS A DETECTABLE**
28 **HEARTBEAT; AND**

29 **(2) IF THE PHYSICIAN DETERMINES THAT THE BABY HAS A**
30 **DETECTABLE HEARTBEAT.**

1 **(C) (1) TO DETERMINE WHETHER A BABY HAS A DETECTABLE**
2 **HEARTBEAT, A PHYSICIAN SHALL USE A TEST THAT IS:**

3 **(I) CONSISTENT WITH THE PHYSICIAN’S GOOD FAITH AND**
4 **REASONABLE UNDERSTANDING OF STANDARD MEDICAL PRACTICE; AND**

5 **(II) APPROPRIATE FOR THE ESTIMATED GESTATIONAL AGE OF**
6 **THE BABY AND THE CONDITION OF THE PREGNANT WOMAN AND HER PREGNANCY.**

7 **(2) A PHYSICIAN MAKING A DETERMINATION UNDER PARAGRAPH (1)**
8 **OF THIS SUBSECTION SHALL RECORD IN THE PREGNANT WOMAN’S MEDICAL**
9 **RECORD:**

10 **(I) THE ESTIMATED GESTATIONAL AGE OF THE BABY;**

11 **(II) THE METHOD USED TO ESTIMATE THE GESTATIONAL AGE;**

12 **AND**

13 **(III) THE TEST USED FOR DETECTING A FETAL HEARTBEAT,**
14 **INCLUDING THE DATE, TIME, AND RESULTS OF THE TEST.**

15 **(D) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A PHYSICIAN**
16 **WHO PERFORMS OR INDUCES AN ABORTION IF THE PHYSICIAN:**

17 **(1) BELIEVES THAT A MEDICAL EMERGENCY EXISTS THAT PREVENTS**
18 **COMPLIANCE WITH SUBSECTION (B) OF THIS SECTION; AND**

19 **(2) COMPLIES WITH THE REQUIREMENTS OF § 20-205 OF THIS**
20 **SUBTITLE.**

21 **(E) A PHYSICIAN IS NOT IN VIOLATION OF SUBSECTION (B) OF THIS SECTION**
22 **IF:**

23 **(1) THE PHYSICIAN COMPLIES WITH SUBSECTION (C) OF THIS**
24 **SECTION; AND**

25 **(2) THE METHOD USED TO TEST FOR THE PRESENCE OF A FETAL**
26 **HEARTBEAT DOES NOT DETECT A HEARTBEAT.**

27 **(F) THIS SECTION MAY NOT BE CONSTRUED TO:**

28 **(1) CREATE OR RECOGNIZE A RIGHT TO ABORTION BEFORE A FETAL**
29 **HEARTBEAT IS DETECTED;**

1 **(2) AUTHORIZE THE INITIATION OF A CAUSE OF ACTION AGAINST OR**
2 **THE PROSECUTION OF A WOMAN ON WHOM AN ABORTION IS PERFORMED OR**
3 **INDUCED OR ATTEMPTED TO BE PERFORMED OR INDUCED IN VIOLATION OF THIS**
4 **SECTION;**

5 **(3) WHOLLY OR PARTLY REPEAL, EITHER EXPRESSLY OR BY**
6 **IMPLICATION, ANY OTHER STATUTE THAT REGULATES OR PROHIBITS ABORTION; OR**

7 **(4) RESTRICT A POLITICAL SUBDIVISION FROM REGULATING OR**
8 **PROHIBITING ABORTION IN A MANNER THAT IS AT LEAST AS STRINGENT AS THE**
9 **LAWS OF THE STATE.**

10 **20-205.**

11 **(A) IF AN ABORTION IS PERFORMED OR INDUCED ON A PREGNANT WOMAN**
12 **BECAUSE OF A MEDICAL EMERGENCY, THE PHYSICIAN WHO PERFORMS OR INDUCES**
13 **THE ABORTION SHALL EXECUTE A WRITTEN DOCUMENT THAT:**

14 **(1) CERTIFIES THE ABORTION IS NECESSARY DUE TO A MEDICAL**
15 **EMERGENCY; AND**

16 **(2) SPECIFIES THE WOMAN'S MEDICAL CONDITION REQUIRING THE**
17 **ABORTION.**

18 **(B) A PHYSICIAN SHALL:**

19 **(1) INCLUDE THE DOCUMENT EXECUTED UNDER SUBSECTION (A) OF**
20 **THIS SECTION IN THE PREGNANT WOMAN'S MEDICAL RECORD; AND**

21 **(2) MAINTAIN A COPY OF THE DOCUMENT IN THE PHYSICIAN'S**
22 **PRACTICE RECORDS.**

23 **(C) A PHYSICIAN WHO PERFORMS OR INDUCES AN ABORTION ON A**
24 **PREGNANT WOMAN SHALL:**

25 **(1) IF THE ABORTION IS PERFORMED OR INDUCED TO PRESERVE THE**
26 **HEALTH OF THE PREGNANT WOMAN, EXECUTE A WRITTEN DOCUMENT THAT:**

27 **(I) SPECIFIES THE MEDICAL CONDITION THE ABORTION IS**
28 **ASSERTED TO ADDRESS; AND**

29 **(II) PROVIDES THE MEDICAL RATIONALE FOR THE PHYSICIAN'S**

1 CONCLUSION THAT THE ABORTION IS NECESSARY TO ADDRESS THE MEDICAL
2 CONDITION; OR

3 (2) FOR AN ABORTION OTHER THAN AN ABORTION DESCRIBED IN
4 ITEM (1) OF THIS SUBSECTION, SPECIFY IN A WRITTEN DOCUMENT THAT MATERNAL
5 HEALTH IS NOT A PURPOSE OF THE ABORTION.

6 (D) THE PHYSICIAN SHALL MAINTAIN A COPY OF A DOCUMENT EXECUTED
7 UNDER SUBSECTION (C) OF THIS SECTION IN THE PHYSICIAN'S PRACTICE RECORDS.

8 **20-206.**

9 (A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
10 REQUIREMENTS OF §§ 20-204 AND 20-205 OF THIS SUBTITLE SHALL BE ENFORCED
11 EXCLUSIVELY THROUGH THE PRIVATE CIVIL ACTIONS ESTABLISHED IN § 20-207 OF
12 THIS SUBTITLE.

13 (2) ENFORCEMENT OF § 20-204 OR § 20-205 OF THIS SUBTITLE MAY
14 NOT BE TAKEN OR THREATENED BY THE STATE, A POLITICAL SUBDIVISION OF THE
15 STATE, A STATE'S ATTORNEY, OR AN EXECUTIVE OR ADMINISTRATIVE OFFICER OR
16 EMPLOYEE OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE AGAINST
17 ANY PERSON, EXCEPT AS PROVIDED IN § 20-207 OF THIS SUBTITLE.

18 (B) SUBSECTION (A) OF THIS SECTION MAY NOT BE CONSTRUED TO:

19 (1) LEGALIZE THE CONDUCT PROHIBITED BY THIS SUBTITLE;

20 (2) LIMIT IN ANY WAY OR AFFECT THE AVAILABILITY OF A REMEDY
21 ESTABLISHED BY § 20-207 OF THIS SUBTITLE; OR

22 (3) LIMIT THE ENFORCEABILITY OF ANY OTHER LAWS THAT
23 REGULATE OR PROHIBIT ABORTION.

24 **20-207.**

25 (A) ANY PERSON, OTHER THAN AN OFFICER OR EMPLOYEE OF THE STATE
26 OR A LOCAL GOVERNMENTAL ENTITY IN THE STATE, MAY BRING A CIVIL ACTION
27 AGAINST ANY PERSON WHO:

28 (1) PERFORMS OR INDUCES AN ABORTION IN VIOLATION OF § 20-204
29 OR § 20-205 OF THIS SUBTITLE;

30 (2) KNOWINGLY ENGAGES IN CONDUCT THAT AIDS OR ABETS THE

1 PERFORMANCE OR INDUCEMENT OF AN ABORTION, INCLUDING PAYING FOR OR
2 REIMBURSING THE COSTS OF AN ABORTION THROUGH INSURANCE OR OTHERWISE,
3 IF THE ABORTION IS PERFORMED OR INDUCED IN VIOLATION OF § 20-204 OR §
4 20-205 OF THIS SUBTITLE, REGARDLESS OF WHETHER THE PERSON KNEW OR
5 SHOULD HAVE KNOWN THAT THE ABORTION WOULD BE PERFORMED OR INDUCED IN
6 VIOLATION OF § 20-204 OR § 20-205 OF THIS SUBTITLE; OR

7 (3) INTENDS TO ENGAGE IN THE CONDUCT DESCRIBED IN ITEM (1) OR
8 (2) OF THIS SUBSECTION.

9 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF A
10 CLAIMANT PREVAILS IN AN ACTION BROUGHT UNDER THIS SECTION, THE COURT
11 SHALL AWARD:

12 (1) INJUNCTIVE RELIEF SUFFICIENT TO PREVENT THE DEFENDANT
13 FROM VIOLATING § 20-204 OR § 20-205 OF THIS SUBTITLE OR ENGAGING IN ACTS
14 THAT AID OR ABET VIOLATIONS OF § 20-204 OR § 20-205 OF THIS SUBTITLE;

15 (2) STATUTORY DAMAGES IN AN AMOUNT OF NOT LESS THAN \$10,000
16 FOR EACH ABORTION THAT THE DEFENDANT PERFORMED OR INDUCED IN
17 VIOLATION OF § 20-204 OR § 20-205 OF THIS SUBTITLE, AND FOR EACH ABORTION
18 PERFORMED OR INDUCED IN VIOLATION OF § 20-204 OR § 20-205 OF THIS SUBTITLE
19 THAT THE DEFENDANT AIDED OR ABETTED; AND

20 (3) COSTS AND ATTORNEY'S FEES.

21 (C) A COURT MAY NOT AWARD RELIEF UNDER THIS SECTION IN RESPONSE
22 TO A CIVIL ACTION BROUGHT UNDER SUBSECTION (A)(1) OR (2) OF THIS SECTION IF
23 THE DEFENDANT DEMONSTRATES THAT THE DEFENDANT PREVIOUSLY PAID THE
24 FULL AMOUNT OF STATUTORY DAMAGES UNDER SUBSECTION (B)(2) OF THIS
25 SECTION IN A PREVIOUS ACTION FOR:

26 (1) THE PARTICULAR ABORTION PERFORMED OR INDUCED IN
27 VIOLATION OF § 20-204 OR § 20-205 OF THIS SUBTITLE; OR

28 (2) THE PARTICULAR CONDUCT THAT AIDED OR ABETTED AN
29 ABORTION PERFORMED OR INDUCED IN VIOLATION OF § 20-204 OR § 20-205 OF
30 THIS SUBTITLE.

31 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON MAY
32 NOT BRING AN ACTION UNDER THIS SECTION AFTER 4 YEARS AFTER THE DATE THE
33 CAUSE OF ACTION AROSE.

1 **(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING**
2 **ARE NOT A DEFENSE TO AN ACTION BROUGHT UNDER THIS SECTION:**

3 **(1) IGNORANCE OR MISTAKE OF LAW;**

4 **(2) A DEFENDANT'S BELIEF THAT THE REQUIREMENTS OF THIS**
5 **SUBTITLE ARE UNCONSTITUTIONAL;**

6 **(3) A DEFENDANT'S RELIANCE ON ANY COURT DECISION THAT HAS**
7 **BEEN OVERRULED ON APPEAL OR BY A SUBSEQUENT COURT, EVEN IF THAT COURT**
8 **DECISION HAD NOT BEEN OVERRULED WHEN THE DEFENDANT ENGAGED IN**
9 **CONDUCT THAT VIOLATES § 20-204 OR § 20-205 OF THIS SUBTITLE;**

10 **(4) A DEFENDANT'S RELIANCE ON ANY FEDERAL OR STATE COURT**
11 **DECISION THAT IS NOT BINDING ON THE COURT IN WHICH THE ACTION HAS BEEN**
12 **BROUGHT;**

13 **(5) NONMUTUAL ISSUE PRECLUSION OR NONMUTUAL CLAIM**
14 **PRECLUSION;**

15 **(6) THE CONSENT OF THE BABY'S MOTHER TO THE ABORTION; OR**

16 **(7) ANY CLAIM THAT THE ENFORCEMENT OF THIS SUBTITLE OR THE**
17 **IMPOSITION OF CIVIL LIABILITY AGAINST THE DEFENDANT WILL VIOLATE THE**
18 **CONSTITUTIONAL RIGHTS OF THIRD PARTIES, EXCEPT AS PROVIDED BY § 20-208 OF**
19 **THIS SUBTITLE.**

20 **(F) IT IS AN AFFIRMATIVE DEFENSE TO AN ACTION BROUGHT UNDER THIS**
21 **SECTION IF:**

22 **(1) A PERSON SUED UNDER SUBSECTION (A)(2) OF THIS SECTION**
23 **REASONABLY BELIEVED, AFTER CONDUCTING A REASONABLE INVESTIGATION,**
24 **THAT THE PHYSICIAN PERFORMING OR INDUCING THE ABORTION HAD COMPLIED**
25 **OR WOULD COMPLY WITH § 20-204 OR § 20-205 OF THIS SUBTITLE; OR**

26 **(2) A PERSON SUED UNDER SUBSECTION (A)(3) OF THIS SECTION**
27 **REASONABLY BELIEVED, AFTER CONDUCTING A REASONABLE INVESTIGATION,**
28 **THAT THE PHYSICIAN PERFORMING OR INDUCING THE ABORTION WOULD COMPLY**
29 **WITH § 20-204 OR § 20-205 OF THIS SUBTITLE.**

30 **(G) THE DEFENDANT HAS THE BURDEN OF PROVING AN AFFIRMATIVE**
31 **DEFENSE UNDER SUBSECTION (F) OF THIS SECTION BY A PREPONDERANCE OF THE**
32 **EVIDENCE.**

1 **(H) THIS SECTION MAY NOT BE CONSTRUED TO IMPOSE LIABILITY ON ANY**
2 **SPEECH OR CONDUCT PROTECTED BY THE FIRST AMENDMENT OF THE U.S.**
3 **CONSTITUTION, AS MADE APPLICABLE TO THE STATES THROUGH THE U.S.**
4 **SUPREME COURT'S INTERPRETATION OF THE FOURTEENTH AMENDMENT OF THE**
5 **U.S. CONSTITUTION, OR BY ARTICLE 40 OF THE MARYLAND DECLARATION OF**
6 **RIGHTS.**

7 **(I) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE STATE,**
8 **A STATE OFFICIAL, OR A STATE'S ATTORNEY MAY NOT INTERVENE IN AN ACTION**
9 **BROUGHT UNDER THIS SECTION.**

10 **(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT A**
11 **PERSON FROM FILING AN AMICUS CURIAE BRIEF IN AN ACTION.**

12 **(J) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY NOT**
13 **AWARD COSTS OR ATTORNEY'S FEES UNDER THE MARYLAND RULES OF CIVIL**
14 **PROCEDURE OR ANY OTHER RULE ADOPTED BY THE SUPREME COURT OF**
15 **MARYLAND TO A DEFENDANT IN AN ACTION BROUGHT UNDER THIS SECTION.**

16 **(K) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CIVIL ACTION**
17 **UNDER THIS SECTION MAY NOT BE BROUGHT BY AN INDIVIDUAL WHO IMPREGNATED**
18 **THE ABORTION PATIENT THROUGH AN ACT OF RAPE, SEXUAL ASSAULT, INCEST, OR**
19 **ANY OTHER ACT PROHIBITED BY LAW.**

20 **(L) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CIVIL ACTION**
21 **BROUGHT UNDER THIS SECTION SHALL BE BROUGHT IN:**

22 **(1) THE COUNTY IN WHICH ALL OR A SUBSTANTIAL PART OF THE**
23 **EVENTS OR OMISSIONS GIVING RISE TO THE CLAIM OCCURRED;**

24 **(2) THE COUNTY OF RESIDENCE FOR ANY ONE OF THE INDIVIDUAL**
25 **DEFENDANTS AT THE TIME THE CAUSE OF ACTION OCCURRED;**

26 **(3) THE COUNTY OF THE PRINCIPAL OFFICE IN THE STATE OF ANY**
27 **ONE OF THE DEFENDANTS THAT IS NOT AN INDIVIDUAL; OR**

28 **(4) THE COUNTY OF RESIDENCE FOR THE CLAIMANT IF THE**
29 **CLAIMANT IS AN INDIVIDUAL RESIDING IN THE STATE.**

30 **(M) IF A CIVIL ACTION IS BROUGHT UNDER THIS SECTION IN ANY ONE OF**
31 **THE VENUES DESCRIBED IN SUBSECTION (L) OF THIS SECTION, THE ACTION MAY**
32 **NOT BE TRANSFERRED TO A DIFFERENT VENUE WITHOUT THE WRITTEN CONSENT**

1 OF ALL PARTIES.

2 **20-208.**

3 (A) A DEFENDANT AGAINST WHOM AN ACTION IS BROUGHT UNDER § 20-207
4 OF THIS SUBTITLE DOES NOT HAVE STANDING TO ASSERT THE RIGHTS OF WOMEN
5 SEEKING AN ABORTION AS A DEFENSE TO LIABILITY UNDER THAT SECTION UNLESS:

6 (1) THE U.S. SUPREME COURT HOLDS THAT THE COURTS OF THE
7 STATE MUST CONFER STANDING ON THAT DEFENDANT TO ASSERT THE
8 THIRD-PARTY RIGHTS OF WOMEN SEEKING AN ABORTION IN STATE COURT AS A
9 MATTER OF FEDERAL CONSTITUTIONAL LAW; OR

10 (2) THE DEFENDANT HAS STANDING TO ASSERT THE RIGHTS OF
11 WOMEN SEEKING AN ABORTION UNDER THE TESTS FOR THIRD-PARTY STANDING
12 ESTABLISHED BY THE U.S. SUPREME COURT.

13 (B) (1) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT OR PRECLUDE
14 A DEFENDANT FROM ASSERTING THE DEFENDANT'S PERSONAL CONSTITUTIONAL
15 RIGHTS AS A DEFENSE TO LIABILITY UNDER § 20-207 OF THIS SUBTITLE.

16 (2) A COURT MAY NOT AWARD RELIEF UNDER § 20-207 OF THIS
17 SUBTITLE IF THE CONDUCT FOR WHICH THE DEFENDANT HAS BEEN SUED WAS AN
18 EXERCISE OF STATE OR FEDERAL CONSTITUTIONAL RIGHTS THAT PERSONALLY
19 BELONG TO THE DEFENDANT.

20 **20-209.**

21 (A) A PERSON MAY NOT PERFORM OR INDUCE AN ABORTION ON A
22 PREGNANT WOMAN IN THE STATE UNLESS THE ABORTION IS VOLUNTARY AND
23 INFORMED.

24 (B) CONSENT TO AN ABORTION IS VOLUNTARY AND INFORMED ONLY IF:

25 (1) THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION
26 INFORMS THE PREGNANT WOMAN ON WHOM THE ABORTION IS TO BE PERFORMED
27 OR INDUCED OF:

28 (I) THE PHYSICIAN'S NAME;

29 (II) THE PARTICULAR MEDICAL RISKS ASSOCIATED WITH THE
30 PARTICULAR ABORTION PROCEDURE TO BE EMPLOYED, INCLUDING, WHEN
31 MEDICALLY ACCURATE:

1 1. **THE RISKS OF INFECTION AND HEMORRHAGE;**

2 2. **THE POTENTIAL DANGER TO A SUBSEQUENT**
3 **PREGNANCY AND OF INFERTILITY; AND**

4 3. **THE POSSIBILITY OF INCREASED RISK OF BREAST**
5 **CANCER FOLLOWING AN INDUCED ABORTION AND THE NATURAL PROTECTIVE**
6 **EFFECT OF A COMPLETED PREGNANCY IN AVOIDING BREAST CANCER;**

7 (III) **THE PROBABLE GESTATIONAL AGE OF THE BABY AT THE**
8 **TIME THE ABORTION IS TO BE PERFORMED OR INDUCED; AND**

9 (IV) **THE MEDICAL RISKS ASSOCIATED WITH CARRYING THE**
10 **CHILD TO TERM;**

11 (2) **THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION**
12 **OR THE PHYSICIAN'S AGENT INFORMS THE PREGNANT WOMAN THAT:**

13 (I) **MEDICAL ASSISTANCE BENEFITS MAY BE AVAILABLE FOR**
14 **PRENATAL CARE, CHILDBIRTH, AND NEONATAL CARE;**

15 (II) **THE FATHER IS LIABLE FOR ASSISTANCE IN THE SUPPORT**
16 **OF THE CHILD WITHOUT REGARD TO WHETHER THE FATHER HAS OFFERED TO PAY**
17 **FOR THE ABORTION; AND**

18 (III) **PUBLIC AND PRIVATE AGENCIES PROVIDE PREGNANCY**
19 **PREVENTION COUNSELING AND MEDICAL REFERRALS FOR OBTAINING PREGNANCY**
20 **PREVENTION MEDICATIONS OR DEVICES, INCLUDING EMERGENCY CONTRACEPTION**
21 **FOR VICTIMS OF RAPE OR INCEST;**

22 (3) **THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION**
23 **OR THE PHYSICIAN'S AGENT:**

24 (I) **PROVIDES THE PREGNANT WOMAN WITH PRINTED**
25 **MATERIALS THAT DESCRIBE THE BABY AND LIST AGENCIES THAT OFFER**
26 **ALTERNATIVES TO ABORTION OR SONOGRAM SERVICES AT NO COST TO THE**
27 **PREGNANT WOMAN; AND**

28 (II) **INFORMS THE PREGNANT WOMAN THAT THOSE MATERIALS:**

29 1. **HAVE BEEN PROVIDED BY THE DEPARTMENT;**

1 2. **ARE ACCESSIBLE ON A WEBSITE SPONSORED BY THE**
2 **DEPARTMENT;**

3 3. **DESCRIBE THE BABY AND LIST AGENCIES THAT**
4 **OFFER ALTERNATIVES TO ABORTION; AND**

5 4. **INCLUDE A LIST OF AGENCIES THAT OFFER**
6 **SONOGRAM SERVICES AT NO COST TO THE PREGNANT WOMAN;**

7 (4) **BEFORE ANY SEDATIVE OR ANESTHESIA IS ADMINISTERED TO THE**
8 **PREGNANT WOMAN AND AT LEAST 24 HOURS BEFORE THE ABORTION OR AT LEAST 2**
9 **HOURS BEFORE THE ABORTION IF THE PREGNANT WOMAN WAIVES THIS**
10 **REQUIREMENT BY CERTIFYING THAT SHE CURRENTLY LIVES 100 MILES OR MORE**
11 **FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY THAT PERFORMS**
12 **MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD:**

13 (i) **THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE**
14 **ABORTION OR AN AGENT OF THE PHYSICIAN WHO IS ALSO A SONOGRAPHER**
15 **CERTIFIED BY A NATIONAL REGISTRY OF MEDICAL SONOGRAPHERS PERFORMS A**
16 **SONOGRAM ON THE PREGNANT WOMAN ON WHOM THE ABORTION IS TO BE**
17 **PERFORMED OR INDUCED; AND**

18 (ii) **THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE**
19 **ABORTION DISPLAYS THE SONOGRAM IMAGES IN A QUALITY CONSISTENT WITH**
20 **CURRENT MEDICAL PRACTICE IN A MANNER THAT THE PREGNANT WOMAN MAY VIEW**
21 **THEM AND HEAR THE FETAL HEARTBEAT IN A MANNER CONSISTENT WITH THE**
22 **STANDARD OF CARE;**

23 (5) **THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION**
24 **PROVIDES, IN A MANNER UNDERSTANDABLE TO A LAYPERSON, A VERBAL**
25 **EXPLANATION OF THE RESULTS OF THE SONOGRAM IMAGES, INCLUDING A MEDICAL**
26 **DESCRIPTION OF THE DIMENSIONS OF THE EMBRYO OR BABY, THE PRESENCE OF**
27 **CARDIAC ACTIVITY, AND THE PRESENCE OF EXTERNAL MEMBERS AND INTERNAL**
28 **ORGANS;**

29 (6) **THE PHYSICIAN WHO IS TO PERFORM OR INDUCE THE ABORTION**
30 **OR AN AGENT OF THE PHYSICIAN WHO IS ALSO A SONOGRAPHER CERTIFIED BY A**
31 **NATIONAL REGISTRY OF MEDICAL SONOGRAPHERS MAKES AUDIBLE THE HEART**
32 **AUSCULTATION FOR THE PREGNANT WOMAN TO HEAR, IF PRESENT, IN A QUALITY**
33 **CONSISTENT WITH CURRENT MEDICAL PRACTICE AND PROVIDES, IN A MANNER**
34 **UNDERSTANDABLE TO A LAYPERSON, A SIMULTANEOUS VERBAL EXPLANATION OF**
35 **THE HEART AUSCULTATION;**

1 **(7) BEFORE RECEIVING A SONOGRAM UNDER ITEM (6) OF THIS**
2 **SUBSECTION AND BEFORE THE ABORTION IS PERFORMED OR INDUCED AND BEFORE**
3 **ANY SEDATIVE OR ANESTHESIA IS ADMINISTERED, THE PREGNANT WOMAN**
4 **COMPLETES AND CERTIFIES WITH HER SIGNATURE AN ELECTION FORM THAT**
5 **STATES AS FOLLOWS:**

6 **“ABORTION AND SONOGRAM ELECTION**

7 **(1) THE INFORMATION AND PRINTED MATERIALS UNDER § 20–209(B)(3) OF**
8 **THE HEALTH – GENERAL ARTICLE HAVE BEEN PROVIDED AND EXPLAINED TO ME.**

9 **(2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF AN ABORTION.**

10 **(3) MARYLAND LAW REQUIRES THAT I RECEIVE A SONOGRAM PRIOR TO**
11 **RECEIVING AN ABORTION.**

12 **(4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW THE SONOGRAM**
13 **IMAGES.**

14 **(5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR THE HEARTBEAT.**

15 **(6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO HEAR AN EXPLANATION**
16 **OF THE SONOGRAM IMAGES UNLESS I CERTIFY IN WRITING ONE OF THE FOLLOWING:**

17 ___ I AM PREGNANT AS A RESULT OF SEXUAL ASSAULT, INCEST, OR
18 **OTHER VIOLATIONS OF THE MARYLAND PENAL CODE THAT HAVE BEEN REPORTED**
19 **TO LAW ENFORCEMENT AUTHORITIES OR THAT HAVE NOT BEEN REPORTED**
20 **BECAUSE I REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK OF**
21 **RETALIATION RESULTING IN SERIOUS BODILY INJURY.**

22 ___ I AM A MINOR AND OBTAINING AN ABORTION IN ACCORDANCE
23 **WITH § 20–103 OF THE HEALTH – GENERAL ARTICLE.**

24 ___ MY BABY HAS AN IRREVERSIBLE MEDICAL CONDITION OR
25 **ABNORMALITY, AS IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND**
26 **DOCUMENTED IN MY MEDICAL FILE.**

27 **(7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND WITHOUT**
28 **COERCION.**

29 **(8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE NEAREST**
30 **ABORTION PROVIDER THAT IS A FACILITY THAT PERFORMS MORE THAN 50**
31 **ABORTIONS IN ANY 12–MONTH PERIOD:**

1 THAT REPRESENTS ANY LITIGANT SEEKING SUCH RELIEF IN ANY STATE OR
2 FEDERAL COURT, IS JOINTLY AND SEVERALLY LIABLE TO PAY THE COSTS AND
3 ATTORNEY'S FEES OF THE PREVAILING PARTY.

4 (B) FOR PURPOSES OF THIS SECTION, A PARTY IS CONSIDERED A
5 PREVAILING PARTY IF A FEDERAL OR STATE COURT:

6 (1) DISMISSES ANY CLAIM OR CAUSE OF ACTION BROUGHT AGAINST
7 THE PARTY THAT SEEKS THE DECLARATORY OR INJUNCTIVE RELIEF UNDER
8 SUBSECTION (A) OF THIS SECTION, REGARDLESS OF THE REASON FOR THE
9 DISMISSAL; OR

10 (2) ENTERS JUDGMENT IN THE PARTY'S FAVOR ON ANY SUCH CLAIM
11 OR CAUSE OF ACTION.

12 (C) REGARDLESS OF WHETHER A PREVAILING PARTY SOUGHT TO RECOVER
13 COSTS OR ATTORNEY'S FEES IN THE UNDERLYING ACTION, A PREVAILING PARTY
14 UNDER THIS SECTION MAY BRING A CIVIL ACTION TO RECOVER COSTS AND
15 ATTORNEY'S FEES AGAINST A PERSON THAT SOUGHT DECLARATORY OR INJUNCTIVE
16 RELIEF UNDER SUBSECTION (A) OF THIS SECTION WITHIN 3 YEARS AFTER THE DATE
17 ON WHICH, AS APPLICABLE:

18 (1) THE DISMISSAL OR JUDGMENT UNDER SUBSECTION (B) OF THIS
19 SECTION BECOMES FINAL ON THE CONCLUSION OF APPELLATE REVIEW; OR

20 (2) THE TIME FOR SEEKING APPELLATE REVIEW EXPIRES.

21 (D) IT IS NOT A DEFENSE TO AN ACTION BROUGHT UNDER SUBSECTION (C)
22 OF THIS SECTION THAT:

23 (1) A PREVAILING PARTY UNDER THIS SECTION FAILED TO SEEK
24 RECOVERY OF COSTS OR ATTORNEY'S FEES IN THE UNDERLYING ACTION;

25 (2) THE COURT IN THE UNDERLYING ACTION DECLINED TO
26 RECOGNIZE OR ENFORCE THE REQUIREMENTS OF THIS SECTION; OR

27 (3) THE COURT IN THE UNDERLYING ACTION HELD THAT ANY
28 PROVISION OF THIS SECTION IS INVALID, UNCONSTITUTIONAL, OR PREEMPTED BY
29 FEDERAL LAW, NOTWITHSTANDING THE DOCTRINES OF ISSUE OR CLAIM
30 PRECLUSION.

31 20-212.

1 **(A) A STATUTE THAT REGULATES OR PROHIBITS ABORTION MAY NOT BE**
2 **CONSTRUED TO REPEAL ANY OTHER STATUTE THAT REGULATES OR PROHIBITS**
3 **ABORTION, EITHER WHOLLY OR PARTLY, UNLESS THE REPEALING STATUTE**
4 **EXPLICITLY STATES THAT IT IS REPEALING THE OTHER STATUTE.**

5 **(B) A STATUTE MAY NOT BE CONSTRUED TO RESTRICT A POLITICAL**
6 **SUBDIVISION FROM REGULATING OR PROHIBITING ABORTION IN A MANNER THAT IS**
7 **AT LEAST AS STRINGENT AS THE LAWS OF THE STATE UNLESS THE STATUTE**
8 **EXPLICITLY STATES THAT POLITICAL SUBDIVISIONS ARE PROHIBITED FROM**
9 **REGULATING OR PROHIBITING ABORTION IN THE MANNER DESCRIBED IN THE**
10 **STATUTE.**

11 **(C) (1) EVERY STATUTE THAT REGULATES OR PROHIBITS ABORTION IS**
12 **SEVERABLE IN EACH OF ITS APPLICATIONS TO EVERY PERSON AND CIRCUMSTANCE.**

13 **(2) IF ANY STATUTE THAT REGULATES OR PROHIBITS ABORTION IS**
14 **FOUND BY ANY COURT TO BE UNCONSTITUTIONAL, EITHER ON ITS FACE OR AS**
15 **APPLIED, THEN ALL APPLICATIONS OF THAT STATUTE THAT DO NOT VIOLATE THE**
16 **U.S. CONSTITUTION AND THE MARYLAND CONSTITUTION SHALL:**

17 **(I) BE SEVERED FROM THE UNCONSTITUTIONAL**
18 **APPLICATIONS;**

19 **(II) REMAIN ENFORCEABLE, NOTWITHSTANDING ANY OTHER**
20 **LAW; AND**

21 **(III) BE INTERPRETED AS IF CONTAINING LANGUAGE LIMITING**
22 **THE STATUTE'S APPLICATION TO THE PERSONS, GROUP OF PERSONS, OR**
23 **CIRCUMSTANCES FOR WHICH THE STATUTE'S APPLICATION WILL NOT VIOLATE THE**
24 **U.S. CONSTITUTION AND THE MARYLAND CONSTITUTION.**

25 **[20–214.] 20–213.**

26 **(a) (1) A person may not be required to perform or participate in, or refer to**
27 **any source for, any medical procedure that results in artificial insemination, sterilization,**
28 **or termination of pregnancy.**

29 **(2) The refusal of a person to perform or participate in, or refer to a source**
30 **for, these medical procedures may not be a basis for:**

31 **(i) Civil liability to another person; or**

32 **(ii) Disciplinary or other recriminatory action against the person.**

1 (b) (1) A licensed hospital, hospital director, or hospital governing board may
2 not be required:

3 (i) To permit, within the hospital, the performance of any medical
4 procedure that results in artificial insemination, sterilization, or termination of pregnancy;
5 or

6 (ii) To refer to any source for these medical procedures.

7 (2) The refusal to permit or to refer to a source for these procedures may
8 not be grounds for:

9 (i) Civil liability to another person; or

10 (ii) Disciplinary or other recriminatory action against the person by
11 this State or any person.

12 (c) (1) The refusal of an individual to submit to or give consent for an abortion
13 or sterilization may not be grounds for loss of any privileges or immunities to which the
14 individual otherwise would be entitled.

15 (2) Submitting to or granting consent for an abortion or sterilization may
16 not be a condition precedent to the receipt of any public benefits.

17 (d) Notwithstanding any other provision of this section, a health care provider, a
18 licensed hospital, a hospital director, or a hospital governing board is not immune from civil
19 damages, if available at law, or from disciplinary or other recriminatory action, if the failure
20 to refer a patient to a source for any medical procedure that results in sterilization or
21 termination of pregnancy would reasonably be determined as:

22 (1) The cause of death or serious physical injury or serious long-lasting
23 injury to the patient; and

24 (2) Otherwise contrary to the standards of medical care.

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

30 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2024.