



**Testimony for the House Health and Government Operation  
Committee  
March 13, 2020**

**HB 793 – Public Health – Unborn Child Protection for  
Dismemberment Abortion Act**

JOSEPH SPIELBERGER  
PUBLIC POLICY COUNSEL

**OPPOSE**

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

MAIN OFFICE  
& MAILING ADDRESS  
3600 CLIPPER MILL ROAD  
SUITE 350  
BALTIMORE, MD 21211  
T/410-889-8555  
or 240-274-5295  
F/410-366-7838

FIELD OFFICE  
6930 CARROLL AVENUE  
SUITE 610  
TAKOMA PARK, MD 20912  
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS  
JOHN HENDERSON  
PRESIDENT

The ACLU of Maryland opposes HB 793, which would ban dilation and evacuation (“D&E”) abortions, the safest and most common method of second-trimester abortion. This bill imposes an undue burden on women seeking pre-viability abortions, and is therefore unconstitutional.

The U.S. Supreme Court has long held that states may not impose an undue burden on a woman’s access to abortion before viability.<sup>1</sup> The Court has also made abundantly clear that banning a common method of abortion is an undue burden, thereby violating Constitutional protections.<sup>2</sup> Across the country, the D&E method accounts for 95% of second-trimester abortions.<sup>3</sup> Only two states, Mississippi and West Virginia, currently ban D&E abortions, and courts have enjoined D&E bans in several other states.<sup>4</sup> The Supreme Court has never upheld a method ban that would have such a significant impact on access.

Women must be able to receive the highest quality of medical care, based on each woman’s individual circumstances. By banning a safe method of abortion, this bill interferes with the practice of medicine and a woman’s access to abortion by legislating the manner in which doctors may provide safe and appropriate care.

It is necessary for women’s health and wellbeing that doctors are able to provide the safest, most appropriate medical care for each patient. This bill bans a safe method of abortion for women who choose to end their pregnancy, and will invite costly litigation because it is unconstitutional.

<sup>1</sup> *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

<sup>2</sup> *See Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976); *Stenberg v. Carhart*, 530 U.S. 914 (2002); *Gonzalez v. Carhart*, 550 U.S. 124 (2007).

<sup>3</sup> *See Hodes & Nauser, MDs, P.A. v. Schmidt*, 52 Kan, App. 2d 274, 368 P.3d 667 (2016).

<sup>4</sup> Guttmacher Institute, “Bans on Specific Abortion Methods Used After the First Trimester,” (as of March 1, 2020), accessed at <https://www.guttmacher.org/state-policy/explore/bans-specific-abortion-methods-used-after-first-trimester>



For the foregoing reasons, we urge an unfavorable report on HB 793.