



Opposition Statement Senate Bill 664

Declaration of Rights- Right to Privacy
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We Strongly Oppose Senate Bill 664

On behalf of our members across the state, we respectfully yet strongly object to Senate Bill 664 – Declaration of Rights – Right to Privacy.

Abortion is not a fundamental right

The Constitution of the United States is silent on abortion but clear on the right to Life. The Constitution affirms that no one can “be deprived of life, liberty or property” and deliberately echoes the Declaration of Independence’s proclamation that “all” are “endowed by their Creator” with the unalienable right to Life.

Life is the first and foremost fundamental human right. A right to *take life* cannot peacefully coexist with the fundamental right to life and has no place in the Maryland Constitution or anywhere else in a civilized society.

The vast majority (76%) of people favor some reasonable restrictions on abortion, particularly later in pregnancy when an unborn child can feel pain and when a child is likely to survive if delivered rather than aborted. 60-70% of people oppose the use of our tax dollars to fund abortion. But this bill takes that choice away from the voters by shifting the power to the courts instead of our elected representatives.

Senate Bill 664 – Sponsored by Senator Susan Lee, is a radical expansion of publicly-funded abortion in Maryland. Senator Lee’s bill seeks to establish a state constitutional right to privacy, which courts have consistently interpreted to include a right to abortion. The type of privacy asserted in the first paragraph of this bill is not an action in tort, but a broad constitutional right to privacy, even broader than the Supreme Court’s interpretation in *Roe v. Wade*.

The Supreme Court of the United States never held that abortion is a “fundamental” right. This bill attempts to make it so in Maryland. The Supreme Court has held that states may restrict abortion and that there is no right to public funding for abortions.

Abortion was never the law of the land in Maryland, until the judicial overreach of the Supreme Court in 1973 struck down Maryland’s abortion ban along with bans in 45 other states.

Prior to that time, abortion was a crime in Maryland. In fact, the highest court of the state, the Maryland Court of Appeals once called abortion an “abhorrent crime” (*Worthington v. State* 1901). Later Maryland statutes only permitted abortion in rare cases, including the life of the mother, rape and incest.

The Constitution of the State of Maryland (of 1867) is silent on abortion but clearly affirms the natural right to life. Statutes enacted at that time protected the lives of the unborn. Article 24 of the Maryland Declaration of Rights states:

Article 24. Due process -

That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

The abortion amendment would silence the voices of everyday Marylanders who want to engage in a meaningful public discussion and debate over the availability, safety, and even desirability of abortion. This bill takes that choice away from voters by shifting the power to the courts rather than our elected representatives.

Senate Bill 664 is intended to deregulate the abortion industry, reducing Maryland to a state of Do-It-Yourself and Back Alley abortions. The amendment would invalidate state abortion-related laws that are supported by the majority of the public including the following common sense, protective laws: sex trafficking reporting requirements; bans on selective abortion based on race, gender or disability; parental notification; informed consent; wrongful death laws that protect unborn children; religious freedom and rights of conscience laws that protect healthcare workers and employers; clinic safety regulations; and public funding restrictions. It also would make it more difficult to enforce existing laws against partial-birth abortion, infanticide, human cloning and physician assisted suicide.

No public funding for abortions

Taxpayers should not be forced to fund elective abortions, which make up the vast majority of abortions performed in Maryland. State funding for abortion on demand with taxpayer funds is in direct conflict with the will of the people. A 2019 Marist poll showed that 54% of Americans, both “pro-life” and “pro-choice” oppose the use of tax dollars to pay for a woman’s abortion. Never has more than 40% of the American public supported taxpayer funding of abortion regardless of the context or way in which the question is asked.

Funding restrictions are constitutional

The Supreme Court has held that the alleged constitutional “right” to an abortion “implies no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds.” When a challenge to the constitutionality of the Hyde Amendment reached the Supreme Court in 1980 in the case of *Harris v. McRae*, the Court ruled that the government may distinguish between abortion and other procedures in funding decisions -- noting that “no other procedure involves the purposeful termination of a potential life” -- and affirmed that *Roe v. Wade* had created a limitation on government, not a government entitlement.

We respectfully urge your unfavorable report on Senate Bill 664.