



Committee: Health and Government Operations

Testimony on: HB0626 – Pregnant Person’s Freedom Act of 2022

Position: Favorable

Hearing Date: March 11, 2022

Bill Contact: Delegate Nicole Williams

DoTheMostGood (DTMG) is a progressive grass-roots organization with more than 3000 members in all districts in Montgomery County as well as in several nearby jurisdictions. DTMG supports legislation and activities that keep all the members of our communities healthy and safe in a clean environment, uplift all members of our communities, and promote equity across all our communities. DTMG strongly supports HB0626 because it will protect pregnant women and those who have experienced pregnancy loss or termination, as well as individuals who assist or provide aid to pregnant people seeking abortion care.

Maryland is among best-practice states with respect to its feticide law, including an explicit recognition that the murder and manslaughter provisions are inapplicable to an act or omission of a woman or pregnant person with respect to a fetus they are carrying. However, given the renewed hostility toward abortion rights in neighboring states, the proliferation of arrests across the country of people for acts or omissions during pregnancy believed to have caused a risk to fetal health, and the anticipated increase of people turning to self-managed abortion as abortion pills become more available and abortion clinics are shuttered, states that intend to be abortion “safe zones” must ensure that people are safe from arrest, investigation, and/or prosecution for their reproductive decisions and experiences.

Since the 1973 Roe v. Wade ruling, there have been several hundred individuals across our nation have been subjected to criminal investigation, arrest, prosecution, and/or conviction of pregnancy loss or threat of pregnancy loss – and those are instances that are actually known to researchers as the number may be in the thousands. These situations have involved instances of women who have experienced miscarriage or stillbirths, defended themselves against forced C-sections, have been suspected of taking legal or illegal substances while pregnant, experienced a physical accident that threatened or ended the pregnancy, did not receive prenatal care, or engaged in terminating a pregnancy outside of a clinical setting.

Misapplication of feticide or fetal homicide provisions is not the only type of law used to punish pregnancy outcomes; child abuse or endangerment laws are also misinterpreted to declare fetuses as persons. With the new Texas law enacted to ban abortion access at 6 weeks by creating a vigilante system involving civil lawsuits against third-party actors assisting a pregnant person in accessing abortion care, we need to make it clear in Maryland that not only will we not subject pregnant people or those who have experienced pregnancy loss or termination to the criminal justice and/or civil court systems, but we will also protect those who assist or provide aid to pregnant people seeking abortion care.

The threat of criminalization of abortion and pregnancy is not relegated only to “red states” or those with little access to abortion and should be actively safeguarded by states seeking to be leaders on

reproductive rights and justice. This proposed revision of Maryland criminal law provides an opportunity to strengthen the protections Maryland already affords to pregnant people, sending a clear signal to law enforcement and prosecutors that nobody should be punished for having an abortion, losing a pregnancy, or suffering an infant loss.

HB0626 has four key provisions to protect women:

- A woman is not liable for civil damages or subject to criminal investigation or penalty for terminating or attempting to terminate the woman's own pregnancy under any circumstances.
- The state does not have the authority to criminally investigate or penalize a woman who has experienced a miscarriage, neonatal death related to a failure to act, or stillbirth.
- A person is not subject to criminal penalties or civil damages for aiding, informing, or in any way assisting a pregnant person in terminating or seeking to terminate the person's pregnancy.
- A person may bring a cause of action for damages if the person was subject to unlawful arrest or criminal investigation for a violation of these provisions.

No person should fear arrest or be subjected to government control or retribution as a result of pregnancy or any outcome of pregnancy. Prosecuting an individual for miscarriage, stillbirth, or neonatal death ignores root causes of poor pregnancy outcomes and perinatal loss and discourages those who need prenatal or obstetric care the most. For communities of color who have constantly been challenged in experiencing positive pregnancy outcomes due to systemic racism and ethnic disparities, the threats of discrimination, incarceration, loss of parental rights, or loss of personal autonomy are powerful deterrents to seeking timely healthcare. No pregnancy-related medical event or condition should be criminalized, including for pregnant women with substance use disorders, under medication-assisted treatment, or engaged in behavioral therapies.

Anti-abortion laws and regulations are rooted in white supremacy, and since the pandemic, more aggressive restrictions are being passed across the nation making access to reproductive healthcare harder for communities of color. For example, abortion bans disproportionately harm Black people, who are three times more likely to die during childbirth than white people. Abortion bans impact people of color not only because of maternal mortality rates, but because people of color are overrepresented in abortion care. Most people who need abortion care are low-income, and because of the legacy of slavery and institutionalized and systemic racism, a greater proportion of people of color are low-income. Black, Latinx, and Native American people are disproportionately affected by financial hardship and may have fewer resources to travel for timely reproductive healthcare.

Even before the pandemic, there was an increase in patients from other states seeking early and later abortion care in Maryland, and the number continues to rise. And with the newly enacted Texas abortion ban, legislators in other states such as North Carolina, Virginia, and Pennsylvania are threatening to follow in passing similar measures. Vigilante action in the form of empowering private citizens to sue anyone suspected of providing or aiding access to abortion care against restrictions or bans will disproportionately target people of color. Those who would be opening themselves to civil liability include clinic employees, counselors, and anyone providing transportation or funding to a person obtaining abortion care.

For all these reasons, DTMG strongly supports HB0626 and urges a **FAVORABLE** report on this bill.

Respectfully submitted,

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