

BILL NO: House Bill 735
TITLE: Public Health – Abortion
COMMITTEE: Health & Government Operations
HEARING DATE: March 11, 2022
POSITION: **OPPOSE**

House Bill 735 would prohibit a physician from performing an abortion once a fetal heartbeat is detected. Exceptions are permitted only if an abortion is medically necessary, and in those cases, a physician must document the reasons for the abortion. Failure to abide by these requirements would be a felony. Because such restrictions create undue burdens on a woman's right to choose, and violate a woman's due process rights, the Women's Law Center is opposed to HB 735.

First and foremost, as stated, this legislation imposes an undue burden on a woman's constitutionally recognized right to abortion. The current U.S. Supreme Court standard holds that states may prohibit abortion *after* fetal viability so long as there are exceptions for the life and health (both physical and mental) of the woman. Under this legal standard, viability must be determined on an individual basis, and determinations of both fetal viability and the woman's health are at the discretion of the patient's physician. Maryland law, codified after a ballot initiative in 1992, states that 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. Md. Code Ann., Health Gen. § 20-209. Federal and state courts have almost entirely blocked enforcement of laws that ban abortion before viability.

This bill is modeled after Texas SB 8 and is essentially a complete ban on abortion. The law would be enforced through intimidation. Any person, whether they even know the woman, could file a civil action against anyone who "knowing engages in conduct that aids or abets the performance or inducement of an abortion." Thus, health care providers, friends and family of the woman, a person who provides a ride to the woman (taxi driver), is at risk from complete strangers if they help an individual seeking abortion care.

This legislation gives little consideration to individual patients' medical circumstances and no consideration to their reason for choosing to terminate the pregnancy. A woman and her health care provider need to have open communication free from political interference. Decisions about abortion need to be based on individual patient circumstances. If enacted, this legislation would alter the dialogue between a woman and her health care provider, ignoring individual conditions such as terminating a wanted pregnancy due to a lethal fetal anomaly or terminating a pregnancy that is a result of rape or incest.

The Women's Law Center strongly believes that reproductive choice is essential for the health and well-being of women in Maryland. For these reasons, the Women's Law Center urges an **unfavorable** report on House Bill 735.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change. The Women's Law Center operates three hotlines, Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County, and the Multi-Ethnic Domestic Violence Project.