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BILL NO: Senate Bill 504
TITLE: Equal Protection for Unborn Beings Act of 2022
COMMITTEE: Judicial Proceedings
HEARING DATE: February 16, 2022
POSITION: **OPPOSE**

The National Women's Law Center strongly opposes Senate Bill 504. Senate Bill 504 is a harmful and blatantly unconstitutional bill that would effectively ban all abortions in Maryland – with only narrow exception – and criminalize providers and pregnant people by subjecting them to murder or manslaughter charges. By doing so, this bill places equal weight on the life of the pregnant person and fetus and ignores unambiguous legal precedent.

For over forty-nine years, the U.S. Supreme Court has made it clear that the U.S. Constitution protects an individual's right to decide whether to have an abortion.¹ Beginning with *Roe v. Wade*² the Supreme Court held that the Due Process Clause of the Fourteenth Amendment protects a woman's right to decide to have an abortion, and that the State cannot ban abortion prior to viability; and after viability, the State cannot ban abortion when it is necessary to preserve the life or health of the woman.³ The Supreme Court has repeatedly affirmed the central holding in *Roe v. Wade*. In *Planned Parenthood v. Casey*, the Court adopted an undue burden test to determine whether a law creates a substantial obstacle to accessing abortion, but still made clear that "a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability."⁴ This has been repeatedly reaffirmed by the Supreme Court, including as recently as 2020, in *June Medical Services v. Russo*.⁵ As of this writing, all of the states – Alabama, Arkansas, Louisiana, Oklahoma, and Utah – that have attempted to enforce a law that bans abortion at conception or fertilization, like S.B. 504, have been stopped by court order.⁶

Not only is S.B. 504 unconstitutional, it shows an appalling lack of concern for and understanding of the reality of Marylanders' lives, decisions, and health. Pregnant people should be able to get the care they need throughout a pregnancy, and in consultation with those they trust, such as a medical professional, without political interference.

¹ See, e.g., *Roe v. Wade*, 410 U.S. 113, 153 (1973); see also *Planned Parenthood of Cent. Mo. v. Danforth*, 428 U.S. 52, 72–73 (1976); *City of Akron v. Akron Ctr. for Reprod. Health, Inc.*, 462 U.S. 416, 432–33 (1983); *Hodgson v. Minnesota*, 497 U.S. 417, 434 (1990); *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 878 (1992); *Whole Woman's Health v. Hellerstedt*, 136 S. Ct. 2292, 2318 (2016).

² *Roe v. Wade*, 410 U.S. 113, 166 (1973).

³ *Id.* at 163-165.

⁴ *Planned Parenthood v. Casey*, 505 U.S. 833, 879 (1992).

⁵ 140 S. Ct. 2103, 2135 (2020).

⁶ GUTTMACHER INST., *State Bans on Abortion Throughout Pregnancy* (Jan. 1, 2022), <https://www.guttmacher.org/state-policy/explore/state-policies-later-abortions>.

For these reasons, the National Women's Law Center urges an unfavorable report on Senate Bill 504.

The National Women's Law Center, based in Washington, D.C., is a nonpartisan, non-profit legal and advocacy organization dedicated to the advancement and protection of women's legal rights and opportunities. At the Law Center, we use the law in all its forms to change culture and drive solutions to the gender inequity that shapes our society, and to break down the barriers that harm all of us – especially those who face multiple forms of discrimination.