



**Unfavorable**  
**SB798/HB 705– Declaration of Rights – Right to Reproductive Liberty**  
 Laura Bogley, JD  
 Executive Director, Maryland Right to Life

*“...The judgments of the Supreme Court were never meant to be infallible or eternal. **And what if we’ve been wrong?** If the Court should soon reverse itself on the abortion issue in the light of changing times and/or new scientific evidence, what an **incalculable injustice** will have been perpetrated. What an immeasurable, irretrievable loss will have been suffered.”*

– **Dr. Bernard N. Nathanson, M.D., the “Abortion King”, Co-Founder  
 National Abortion Rights Action League (NARAL)**

On behalf of the Board of Directors of Maryland Right to Life, and pro-life citizens across the state of Maryland, I write in defense of the Constitution of the State of Maryland and of the inalienable right to life which it guarantees for all, born and preborn. Senate Bill 798/House Bill 705 is regressive, oppressive and coercive and we urge your unfavorable report. Through this legislation, a fundamental right to abortion could easily deteriorate into abortion coercion and forced abortions in Maryland.

After nearly fifty years and 64 million lives lost, the states have been freed from federal judicial abortion mandates under *Roe v. Wade* (1973). In *Dobbs v. Jackson Women’s Health Organization* (2022), the Supreme Court of the United States held:

*“The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision.” [\[1\]](#)*

The Constitution of the United States, echoed by the Constitution of the State of Maryland, is clear that the right to life is **unalienable** and **shall not be infringed** by government. The operable question this bill asks is whether the Constitution authorizes the government to limit or qualify that unalienable right to life to accommodate a parent’s desire to kill her offspring. Clearly the state does not have and cannot secure that authority on Constitutional grounds.

We urge Governor Wes Moore and the Maryland General Assembly to take this opportunity to change course to lead Maryland families toward a more just and prosperous future. The state must put the health and safety of women and children before divisive abortion politics and profit, by prioritizing public policy and funding for services that empower women of all socio-economic groups to choose life for their children.

## **AN ABORTION AMENDMENT IS REGRESSIVE**

Abortion is big business in the state of Maryland. Abortion blood money is buying elections and suppressing opposition. But abortion is a failed public policy that puts abortion profits before the health and safety of women and children. Maryland's radical abortion policies and millions of dollars in public abortion funding have failed to end childhood poverty, prevent unplanned pregnancies or cure the socio-economic ills that women face in raising their families.

Senate Bill 798 is a desperate attempt by an antiquated movement to enslave women in a perpetual state of war against their own children. This regressive policy would be a death sentence for Black babies and a blood sacrifice at the altars of misogyny and hedonism.

Prior to the Supreme Court's imposition of their federal abortion mandate in *Roe*, the Maryland legislature had enacted a ban on abortion as a crime against the person and only would allow exception for the physical life of the mother, if two physicians agreed that termination of the pregnancy was necessary to avoid the imminent death of the mother. Advances in medical science have made it possible to now spare the lives of both mother and child by 22 weeks gestation.

Advances in science since 1973, including ultrasound technology, have firmly established the humanity of the preborn child. 95% of biologists agree that a unique human life begins at fertilization, when 46 chromosomes are present. By the time a woman discovers she is pregnant, she already has reproduced. This is not a matter of opinion or religious dogma- but of *scientific fact*.

Pregnancy is not a disease and abortion is never medically necessary. The fact that abortion is not healthcare as evidenced by the fact that 85% of obstetricians and gynecologists in a national survey refuse to participate in abortion practices.

But because of Abortion Distortion, the state of Maryland is rejecting the science and failing to provide for the legitimate reproductive health needs of Maryland Women. The state is failing to ensure that women have access to quality health care through a licensed physician. The state is failing to ensure that abortion clinics are safe and in compliance with existing health regulations. The state is failing to address incidents of abortion-related maternal injury and death or risks of future miscarriage, pre-term birth or loss of fertility. The state is failing to ensure that reproductive health education in our K-12 public education system is medically accurate or age appropriate. The state is failing to protect women and girls from abortion coercion, sexual abuse and sex trafficking. The state is failing to invest in and promote lifesaving alternatives to abortion like quality prenatal care, the Maryland Safe Haven Program, affordable adoption programs and foster care reform.

## **ABORTION IS UNSAFE IN MARYLAND**

Abortion activists occupying the Maryland General Assembly only care that abortion is legal and lucrative. The state is derelict in its duty to provide for the public health and welfare, and must put patient safety before abortion politics.

**Recent radical abortion enactments by the state legislature have completely removed abortion from the spectrum of "healthcare". As a result of these pernicious policies, the practice of abortion in**

## **Maryland has become the “red light district” of medicine, populated by dangerous, substandard providers.**

Maryland is one of only four states that forces taxpayers to pay for other people’s abortions. Maryland is one of only three states that shield abortionists from liability by refusing to report abortion data to the CDC.

The state legislature has repealed all criminal penalties and statutory restrictions on abortionists and abortion practices. Regulations on abortion clinics and practices are not routinely enforced. Physicians now serve only a tangential role on paper *if at all*, either as remote medical directors for abortion clinics or as remote prescribers of abortion pills.

Under the *Maryland Freedom of Choice Act* of 1991, abortion is legal in Maryland through birth, for any reason. Women in Maryland have unlimited access to abortion and may obtain free abortions at taxpayer or insurer’s expense. Minor girls can obtain abortions without parental notice or consent, even during the school day with excused absences. There are no criminal penalties for a woman seeking abortion and doctors are not prohibited from providing medical intervention in the case of miscarriage or ectopic pregnancy.

The *Abortion Care Access Act* of 2022 deprives poor women access to quality care through licensed physicians. The law repealed the last remaining safeguard in law for women, which was the requirement that only a licensed physician may perform abortion. It reduced the standard of medical care, allowing non-medical workers to be certified to provide both chemical and surgical abortion through birth. Finally the law forces insurance carriers to fully fund elective abortions and forces Maryland taxpayers to subsidize the abortion industry by committing \$3.5 annually to develop the new substandard abortion workforce.

Through “**telabortion**”, interstate compacts and the unregulated proliferation of “**Do-It-Yourself**” chemical abortion pills, the Maryland General Assembly has enabled the abortion industry to subject women to “back alley” style abortions, where they bleed alone without medical supervision or assistance, then flush their babies down toilets. This is not progressive, but regressive.

## **ABORTION AMENDMENT IS COERCIVE**

Abortion extremism in the Maryland General Assembly **actively deprives women their freedom to reproduce** by denying them access to lifesaving alternatives to abortion. The Assembly’s current package of abortion bills, including House Bill 705 will make Maryland a safe harbor for profit-minded abortionists but a hostile environment for women and children. The legislation shields abortionists from any liability to women for injury or death and shields sexual predators who utilize abortion to cover their crimes.

Nearly ten years before *Dobbs*, Supreme Court Justice Ruth Bader Ginsburg, champion of the women’s equality movement, admitted that *Roe* never conferred a right to women, but only rights to abortionists. “*Roe isn’t really about the woman’s choice, is it? It’s about the doctor’s freedom to practice*” said Ginsburg in 2013. [\[2\]](#)

Nearly 3 of 4 women said that they did not choose, but felt pressured into their abortions. Sound abortion regulatory policies serve women by promoting a high standard of medical care, protecting women's right to give informed consent to procedures and protecting women from abortion coercion at the hands of abortionists, abusive partners and sex traffickers.

Currently, all 50 states have laws requiring healthcare professionals and others to report the suspected sexual abuse of minors including statutory rape. The federal government also mandates that Title X healthcare facilities comply with state criminal reporting laws. However, there is substantial and developing evidence that many family planning and abortion clinics are not reporting all instances of suspected abuse and are, in some cases, advising minors and their abusers on how to circumvent the law. As a result, sexual predators are free to continue to abuse their victims, scarring them for life.

### **ABORTION AMENDMENT IS OPPRESSIVE**

By fear mongering and fabricating a state constitutional right to abortion on demand, abortion activists occupying the Maryland General Assembly could use the full force of state government to enshrine the abortion industry's monopoly over women's health care and to discriminate against pro-life organizations and medical providers who offer women better options.

House Bill 705 is anti-democratic and anti-American. It seeks to silence the voices of everyday Marylanders who have the right to engage in a meaningful public discussion and debate over the availability, safety, and even desirability of abortion. By enacting this bill, state lawmakers will relinquish their legislative authority to the courts, denying representation to their pro-life constituents and evading accountability to voters.

By making abortion a "fundamental right" the state infringes on citizens' rights of free speech, conscience and religious exercise and denies citizens their rights to due process and equal protection. The Amendment would compel physicians, hospitals and other healthcare and insurance providers to participate in abortion. Enactment would bar any future attempts to pass lifesaving legislation such as partial birth abortion or dismemberment bans. Any individual or organization that is deemed to have discriminated against a woman's "fundamental right" to abortion could face litigation and prosecution.

### **ABORTION IS LEADING KILLER OF BLACK LIVES**

Abortion is the greatest human and civil rights abuse of our time and as a civilized people we cannot continue to justify or subsidize this genocide. The state of Maryland cannot succeed in stopping the violence in our streets, while it sanctions violence in the womb.

Abortion has reached epidemic proportions among people of color with half of all pregnancies of Black women ending in abortion. The Black population has long been targeted for elimination through sterilization and abortion. Even today, 78% of abortion clinics are located in minority communities. As a result abortion has become the leading killer of Black lives.

There were only two other times in our nation's history when the government so egregiously denied the very humanity of a class of human beings to justify depriving them of basic human rights. First with the brutal annihilation and subjugation of the Native American people. Then by the inhumane enslavement

and segregation of African American people. In both instances the American people stood up to resoundingly reject these crimes against our human brothers and sisters.

The Maryland Democrat Party recently led the charge to tear down the statue of Supreme Court Justice Roger Taney who abused his authority to deprive African Americans their freedom and prohibited the states from outlawing slavery on the basis that African Americans do not have the rights of citizens. Justice Taney's abhorrent decision in *Dred Scott v. Sanford*, was met with public disdain and propelled Congressional Republicans to legislative victory in passing the 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Amendments to the Declaration of Rights and re-election.

But now these same Democrats erect this monument of a bill to deny the humanity of preborn human beings and forever enslave Maryland children in their mother's wombs. Our children are NOT CHATTEL to be disposed of as we see fit.

By denying any class of persons, including fetal human beings, the unalienable right to life that exists in nature independent of government, the government actively infringes on the rights of the people in violation of the Constitution and of your oath of office to defend the Constitution.

As Maryland's own Frederick Douglas said in response to the Supreme Court in *Dred Scott*: *"The Constitution knows all the human inhabitants of this country as "the people". It makes no discrimination in favor of or against any class of the people, but is fitted to protect and preserve the rights of all, without reference to color, size or any physical peculiarities."*

But because of abortion extremism, abortion is having a genocidal effect on Black lives – as it was intended to do from the start. 22 million Black children have been killed legally by abortion in this nation. Abortion is now the leading killer of Black lives - more than gun violence and the top 20 causes of death combined. At least half of all children conceived by Black women in Baltimore City are killed by abortion violence.

If we are to live together as a civilized people and a just society, Democrats and Republicans must stand together to proclaim the humanity of unborn children and guarantee to them, the Equal Protection of our Constitution and laws.

## **FORCED ABORTIONS AND "BROKEN BRANCHES"**

The United States is one of only six countries that permit abortion through birth, including China, North Korea, South Korea, Vietnam and Canada. With this amendment, Maryland will be only one-step removed from China's forced abortion policy- which nearly annihilated the Chinese people until its repeal in 2016.

China's one-child policy restricted most couples to only a single offspring and was enforced by China's National Health and Family Planning Commission. Women who had more than one child could be subjected to forced abortion, have their children confiscated by the government or be fined millions of dollars. Couples were forced into sex-selective abortions and infanticide. The Nobel economist Amartya

Sen estimated there were about 100 million missing women, women that were never born or killed or aborted across Asia. [3]

After 35 years of this one-child policy, the birth rate in China had dropped to 1.3 children per woman, below the level of 2.1 needed for stable population growth. The government had no choice but to curtail the policy after it has resulted in a severe workforce shortage and gender imbalance.

Because of sex selective abortion, China had 30 million more men than women. The Chinese refer to these single men as “broken branches” because their family tree dies with them. Aging parents who lose their only child have no means of financial support and are rejected by nursing homes.

## **ABORTION FUNDING RESTRICTIONS ARE CONSTITUTIONAL**

The *Maryland Medical Assistance Program* and the *Maryland Children’s Health Program* (MCHP) are the two primary programs used for publicly funded reimbursements to abortion providers in Maryland.

According to the Maryland Department of Legislative Services in their *Analysis of the FY2022 Maryland Executive Budget*, Maryland taxpayers, through the Maryland Medical Assistance Program, are being forced to pay for *elective* abortions. Last year we spent at least \$6.5 million for 9,864 abortions, less than 10 of which were due to rape, incest or to save the life of the mother.

**But the state of Maryland has no legal obligation, nor moral authority to use public funds for abortion.** As early as 1980 the Supreme Court affirmed in *Harris v. McRae*, that *Roe* had created a **limitation on government, not a government funding entitlement.** 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 held that there is “*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.*”

Despite the fact that the Maryland General Assembly enacted a liberal abortion statute in 1991, the law itself *allows* but *does not require* public funding for abortion, nor reimbursement to abortion providers. Language attached to the Medicaid budget since 1979 and MCHP since 1999 only allowed the use of state funds to pay for abortion in certain circumstances, specifically if a physician or surgeon certified that the procedure is medically necessary.

## **ABORTION IN MARYLAND- A CONSTITUTIONAL PRIMER**

**The Constitution 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. The 5<sup>th</sup> Amendment prohibits the federal government from infringing on the right to life. The 14<sup>th</sup> Amendment prohibits state and local governments from infringing on the right to life.

The members of the Maryland General Assembly understood this when you repealed the Death Penalty but seek to empower mothers to be executioners of their own children.

## MARYLAND DECLARATION OF RIGHTS

**A right to abortion cannot be found in the text or structure of the Maryland Constitution. The Declaration of Rights of the Constitution of Maryland likewise affirms the right to life.**

**Article 2** of the Maryland Declaration of Rights states “**The Constitution of the United States**, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and **shall be the Supreme Law of the State**; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.”

**Article 24** of the Maryland Declaration of Rights establishes 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” (amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978).

## COMMON LAW ON ABORTION

**Abortion was a crime at common law in Maryland** at all stages of pregnancy without regard to quickening or viability, except to save the life of the mother (*Lamb v. State*, 1887 Md Court of Appeals). There is no evidence that the framers of the Maryland Constitution of 1867 intended the Declaration of Rights to limit the legislature’s authority to prohibit abortion. In fact, several months earlier the legislature enacted its first abortion statute, prohibiting abortion at any stage of pregnancy except when three practitioners confirmed it was necessary for the safety of the mother.

Prior to 1968, in *Worthington v. State* (1901), the Maryland Court of Appeals, the highest court of Maryland, characterized abortion as an “abhorrent crime”. The Court recognized that the abortion statutes were intended to protect unborn children and that legal rights were extended to unborn children outside the issue of abortion, including wrongful death and inheritance.

**For these reasons, we respectfully urge you to denounce abortion extremism that exploits women and destroys families, by issuing an unfavorable report on Senate Bill 798/House Bill 705. We appeal to you to prioritize the state’s interest in human life and restore to all people, born and preborn, the natural and Constitutional right to life.**

Respectfully Submitted,  
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