

**Senate Judicial Proceedings Committee
Senate Bill 859 – Reproductive Health Protection Act
Favorable
March 1, 2023**

Overview of the Reproductive Health Landscape

Abortion Bans will have a chilling effect in Maryland and other states that protect abortion rights.

On June 22, 2022, millions of Marylanders lost the fundamental right of bodily autonomy. With the *Dobbs* decision, the U.S. Supreme Court overturned *Roe v Wade* and eliminated constitutional protections for abortion rights. Justice Clarence Thomas also suggested that other protections, such as the right to birth control, may also be called into question.

Since the *Dobbs* decision, fourteen states have implemented abortion bans, including our neighboring state of West Virginia. By the end of this year, we expect about half the states to ban or severely restricting abortion rights. Many states are not just stopping at trying to ban abortion within their borders. They are enacting laws, such as SB 8 in Texas and copycat laws in Oklahoma and Idaho, which threaten providers and support networks, like abortion funds, that support their residents in seeking care out of state.

There are numerous proposals to criminalize abortion care for patients, providers and support networks. Kentucky and South Carolina are considering bills that would treat abortion as homicide for both patients and providers. In West Virginia, just one legislator is standing in the way of creating severe criminal penalties for abortion providers.

Other states, such as Missouri, are considering how to block their residents from going over state lines. A law firm, the Thomas More Society has even developed model legislation to support states seeking to shut down access to out-of-state abortion care.¹

Abortion bans eliminate abortion rights within a state’s borders and to prevent residents from traveling out-of-state. These bills are also designed to have a chilling effect in states that protect abortion rights, as providers may be too intimidated to continue to provide abortion care.

The Reproductive Health Protection Act

Legislation is needed to shield patients, providers, and support networks from intimidation tactics with severe consequences.

The Reproductive Health Protection Act will counteract the efforts of states like Texas to intimidate our patients, providers and support networks. The bill creates a “shield” against criminal, civil, and administrative penalties related to legally protected health care. Legally protected health care includes abortion, contraception, miscarriage management, fertility treatment and reproductive health care.

The bill contains similar elements as other shielding bills enacted by other states where abortion rights are protected: California, Connecticut, District of Columbia, Delaware, Illinois, Massachusetts, New Jersey, and New York. Similar legislation has been introduced in New Mexico, and we are expecting to see several other states actively consider shielding legislation this year.

Maryland’s shielding bill includes:

- Restrictions on using state resources to support out-of-state investigations of legally protected care;
- A prohibition of issuing subpoenas or other court orders related to legally protected care;
- Limitations on extraditions related to legally protected care where the law already provides for discretion of the Governor to make such decisions;
- Protections for health care practitioners in being disciplined by a Maryland health occupational board for an adverse action taken by an out-of-state board related to the provision of reproductive health care that would have been legal in Maryland; and
- A prohibition on malpractice insurers raising rates if health care practitioners are disciplined by out-of-state boards for legally protected care.

Conclusion

Planned Parenthood of Maryland requests a favorable report on *the Reproductive Health Protection Act*. The bill ensures that reproductive health services remain accessible in Maryland to in-state and out-of-state residents. We also note that the legislature should consider a similar measure for gender-affirming care, as states that have banned abortion care are now enacting restrictions on gender affirming care. If we can provide any assistance as you consider this critical legislation, please contact Robyn Elliott at relliott@policypartners.net.

ⁱ <https://www.culawreview.org/journal/the-post-dobbs-legality-of-out-of-state-abortion-travel-bans>