
BILL NO:	Senate Bill 859
TITLE:	Reproductive Health Protection Act
COMMITTEE:	Judiciary (Cross Over Hearing)
HEARING DATE:	March 28, 2023
POSITION:	SUPPORT

The Women's Law Center of Maryland (WLC) is a non-profit legal services and advocacy organization dedicated to ensuring the physical safety, economic security, and bodily autonomy of women in Maryland. While our direct representation projects are limited to primarily survivors of domestic violence, our advocacy is in support of gender justice as a whole, because all women are entitled to access to justice, equality, and autonomy. We recognize that all the issues we fight for are interconnected. Women cannot have bodily autonomy unless they have physical safety. They cannot have physical safety without economic security. And they cannot have economic security without bodily autonomy.

The WLC wholeheartedly supports The Reproductive Health Protection Act, Senate Bill 859. This legislation states unequivocally that Maryland will not participate in the concerted actions of anti-abortion states designed to intimidate Maryland patients and providers and have a chilling effect on the accessing of critical reproductive health care services. SB859 will protect health care providers, patients, and the people who support patients in their reproductive health decisions from criminal charges, civil litigation, and administrative penalties.

Why is this bill necessary?

In the wake of the Supreme Court's ruling in *Dobbs v. Jackson Whole Women's Health*, 14 states have already fully or nearly banned abortion, and another ten are expected to do so. Over 300 abortion-related bills have already been filed this year across the country, the majority of which are anti-abortion. With the overturning of *Roe v. Wade*, many of them now target providers¹. Some examples include:

- Wyoming – providers face up to 14 years in prison for performing an abortion²;
- Nebraska – providers will have license stripped for performing abortion after fetal heartbeat and be found guilty of a felony³;
- Iowa – providers face 10 years in prison for prescribing abortion pills⁴
- Idaho – makes transporting minors to obtain an abortion the crime of human trafficking⁵.
- Alabama – Attorney General has made clear that women who received abortion pills would be criminally prosecuted⁶.
- Kentucky – raises abortion to the crime of homicide⁷.

¹ [Many States Impose a Jail Sentence for Doctors Who Perform Abortions Past Gestational Limits](#), Kaiser Family Foundation, May 22, 2023

² WY ST. §35-6-110

³ NE ST. §28-332

⁴ Chen, David W., The New York Times, [A New Goal for Abortion Bills: Punish or Protect Doctors](#), 2/16/23.

⁵ [Idaho House Bill 98](#) (2023)

⁶ [Women Can Be Prosecuted for Taking Abortion Pills, Says Alabama Attorney General](#), Amy Yurkanin, 01/10/23

⁷ [Kentucky Bill Raising Abortion to Homicide Draws Republican Pushback](#), PBC New Hour, Bruce Schreiner, 02/15/23

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.

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.

These consequences have had the very intentional impact of deterring providers across the country from providing not only abortion care even to save a woman's life, but also pregnancy care, including the delaying of services until complications rise to the level of life-threatening, in order to avoid imprisonment. This legislation is therefore necessary to protect Maryland providers and Maryland patients.

What does this bill do?

Summons & Subpoenas

- Maryland courts may not issue out-of-state subpoenas or summonses for cases involving legally protected health care.

Foreign Judgments

- Maryland will not honor a foreign judgment if it arises from a claim related to legally protected health care.

Extradition

- The Governor SHALL NOT honor another state's extradition request for someone who committed an act in Maryland, or a third state, if it relates to legally protected health care and would not be a crime in Maryland.

Interstate Investigations

- No state funds, personnel, property, or other resources may be used to further an interstate investigation or proceeding seeking to impose civil, criminal, or administrative liability related to legally protected health care.

Provider Licenses

- Health Occupation Boards cannot take adverse actions against a provider because of the provision of, or disciplinary action related to, otherwise lawful legally protected health care.

Malpractice Insurance

- Insurance providers cannot raise premiums or refuse to renew insurance against a provider because of the provision of, or disciplinary action related to, otherwise lawful legally protected health care.

The Women's Law Center of Maryland is a private, non-profit, legal services 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, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

Are there any exceptions in this bill?

- It does NOT apply to conduct that is subject to criminal, civil, or administrative liability under Maryland law.
- It does NOT apply to a claim brought by a patient who received legally protected health care.
- It does NOT apply to investigations where the subject of the investigation provides written consent.

When the Supreme Court in *Dobbs* overturned fifty years of legal precedent and protections for abortion rights, it made clear that abortion is now a matter to be handled by the states. At least fifteen states, plus the District of Columbia, have done just that, already taking action to shield patients and providers from liability related to legally protected health care, either through Executive Order or statute. These include California, Connecticut, District of Columbia, Delaware, Illinois, Massachusetts, New Jersey, and New York. Oregon and New Mexico also have similar legislation pending.

Maryland must act now to do the same. We will only have reproductive freedom in Maryland if we shield ourselves from the threats and intimidation tactics of other states. It is worth noting that those providing or pursuing reproductive health care are not the only ones at risk in the current legal and political environment. Across the nation, many states that are seeking to criminalize abortion are simultaneously passing measures to criminalize gender-affirming care and those that seek it. The WLC would support measures to include gender-affirming care to the definition of legally protected health care as it would further protect providers and patients in our state.

For these reasons, the Women's Law Center of Maryland strongly urges a favorable report on the Reproductive Health Protection Act, Senate Bill 859.