
BILL NO: House Bill 995
TITLE: Commercial Law – Health Data Privacy
COMMITTEE: Economic Matters
HEARING DATE: March 1, 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 House Bill 995 – Commercial Law – Health Data Privacy. This bill is aimed at ensuring that the private health information of individuals online is not utilized to prosecute, harass, or intimidate people seeking reproductive health care. Specifically, it provides that a private entity may not collect, use, disclose or disseminate the private health data of a consumer without the consumer's express consent. Amongst the many things included as health data are medical information, diagnostic testing, treatments, medication, and significantly, legally protected health care, which includes all reproductive health services related to pregnancy, contraception, assisted reproduction, and abortion.

Reproductive freedom depends on the ability to keep personal information private. But it is nearly impossible not to leave an electronic trail when seeking reproductive health information and services. The harsh reality is that people can be easily identified through:

- their searches for a reproductive health care provider on the internet;
- the use of their phones for driving directions to a reproductive health provider; or
- geo-tracking applications collecting data on an individual's precise location.

Access to this data can have very serious consequences. 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;

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

- 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.

While historically anti-abortion laws have not targeted those who obtain abortions, that landscape has also changed in the past year⁶. Already the Attorney General of Alabama has announced that the state could seek to penalize pregnant people who take abortion pills, while legislation has been proposed in Louisiana that would see pregnant people facing murder charges for receiving an abortion. Lawmakers in Indiana seek to change the state’s criminal statutes to apply to the moment of fertilization. In Arizona, a bill was introduced that included abortion in the state’s homicide laws and legislation in Texas was proposed last year that would have made getting an abortion punishable by the death penalty if it had gone into law⁷.

Given the extreme rhetoric and actions of these states, steps must be taken to prevent people’s search histories, location data, medical information, and other digitally collected health information from being used by law enforcement agencies investigating or prosecuting abortion-related cases. Unfortunately, individuals currently have little recourse in this matter, as online data is owned by private companies rather than consumers themselves. For many people, particularly those currently living in states with abortion bans, the internet is the only source for medical information and referrals related to abortion care. These fears are already being substantiated; for example, in Nebraska where police have used information from Facebook Messenger to prosecute a mother for obtaining abortion pills for her pregnant daughter. Reports have found that Facebook and anti-abortion clinics together collect sensitive information on would-be patients, while pharmacies selling abortion pills also share data with Google⁸.

In this post-*Dobbs* environment, online information will be sought by states and anti-abortion organizations aiming to intimidate people seeking reproductive health services. The disclosure of online data will put reproductive health patients at risk for civil litigation or even criminal charges. For these reasons, the Women’s Law Center of Maryland strongly urges a favorable report on House Bill 995.

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.

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 [Talk of Prosecuting Women for Abortion Pills Roils Antiabortion Movement](#), The Washington Post, Kitchener and Francis, 01/11/23.

⁷ <https://www.cnn.com/2022/09/20/politics/abortion-bans-murder-charges-invs/index.html>

⁸ [How US police use digital data to prosecute abortions](#), TechCrunch, Sandvik, Runa, 01/27/23.