



Bill No: SB798
Title: Declaration of Rights - Right to Reproductive Freedom
Committee: Health and Government Operations
Hearing: March 28, 2023
Position: SUPPORT

The Maryland Legislative Agenda for Women (MLAW) is a statewide coalition of women’s groups and individuals formed to provide a non-partisan, independent voice for Maryland women and families. MLAW’s purpose is to advocate for legislation affecting women and families. To accomplish this goal, MLAW creates an annual legislative agenda with issues voted on by MLAW members and endorsed by organizations and individuals from all over Maryland. **SB798 - Declaration of Rights - Right to Reproductive Freedom** is a priority on the [2023 MLAW Agenda](#) and we urge your support.

SB798 would enable a ballot measure to constitutionally enshrine the rights of Marylanders to reproductive freedom. Specifically, the bill recognizes that a central component of an individual’s rights to liberty and equality includes the fundamental right to reproductive liberty. This includes the right to make decisions and choices regarding their own reproduction, including decisions related to preventing, continuing, or terminating a pregnancy. Significantly, the bill also states that those rights may only be abridge if “justified by a compelling state interest achieved by the least restrictive means.” A constitutional amendment is the strongest protection we could provide to ensure future generations of Marylanders have meaningful access to the full range of reproduction health care, from birth control to infertility treatments, to abortion. And by including a strict scrutiny standard, i.e., by explicitly requiring that the “state may not, directly or indirectly, deny, burden, or abridge the right unless justified by a compelling state interest achieved by the least restrictive means,” we would ensure that the right to reproductive liberty is unequivocal.

In the months following the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health*, which overturned the seminal case *Roe v. Wade* after nearly 50 years, we have already seen 14 states ban almost all abortion care, with another 9 poised to enact restrictions so severe as to essentially prohibit any abortions in those states. Many in Maryland think of our state as a “safe state” and that we are immune from the impact of the *Dobbs* decision. It is true that we are safer than states like Texas which have enacted a near total abortion ban or our neighboring state of West Virginia which has banned abortions at all stages of pregnancy. But the truth is that our statutory protections only create a legal buffer against the erosion of our rights in Maryland.

Marylanders’ reproductive freedom has historically been protected by a layering of Maryland law, Maryland’s constitution, federal law, and the U.S. Constitution. Unfortunately, the Supreme Court no longer recognizes that the fundamental right to privacy protects our ability to make our own reproductive health provisions, leaving the decision to regulate abortion up to individual states without the additional constitutional protection. This means Maryland’s statutory right to abortion is vulnerable, as well as other rights related to privacy that we take for granted here. Campaigns in other states to erode abortion rights have lasted decades, with incremental changes gained slowly over long periods of time. *Dobbs* was not overturned overnight but

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was part of a decades-long operation to overturn Roe v. Wade. While we are confident in our legislature's ability to maintain our right to reproductive freedom it would be foolish to believe that ability will last indefinitely.

Furthermore, the right to privacy was recognized not just in the landmark case of Roe v. Wade. It has also been the underpinning of cases like Griswold v Connecticut in which the Court found in 1965 that married couples had a fundamental right to privacy to make their own birth control decisions. And in 1972, the Court reaffirmed the right to privacy to make birth control decisions and extended those rights to unmarried couples through the Court's findings in Eisenstadt v. Baird. Due to the Court's decision in Dobbs, we are witnessing the most rapid unraveling of civil rights in our lifetime. And it's not just abortion at stake. Even our rights to make birth control decisions may be at risk because so many prior U.S. Court decisions depend on the legal underpinning of the right to privacy. Indeed, Justice Clarence Thomas, in his concurrence in the Dobbs case stated "in future cases, we should reconsider all of this Court's substantive due process precedents, including Griswold, Lawrence, and Obergefell. Because any substantive due process decision is 'demonstrably erroneous.'" Thus, Dobbs could be just the first case in a long list of cases designed to constrict our reproductive freedoms and civil liberties.

For these reasons, MLAW strongly urges the passage of SB798.

MLAW 2023 Supporting Organizations

The following organizations have signed on in support of our 2023 Legislative Agenda*:

AAUW Anne Arundel County
AAUW Howard County
AAUW Maryland
Advocacy and Training Center
Allegany County Women's Action Coalition
Anne Arundel County NOW
Aspire Ascend
Baltimore County State Democratic Central Committee
Bound for Better
Business and Professional Women of Maryland
Charles County Commission for Women
Climate Xchange Maryland
Drake Institute of Women's Policy
Empowered Women in Business International
ERA Coalition
For All Seasons, Inc.
Kensington-Rockville AAUW
Maryland Coalition Against Sexual Assault (MCASA)
Maryland Commission for Women
Maryland NOW
Maryland WISE Women
Miller Partnership Consultants LLC
MoCoWoMen
Montgomery County Business & Professional Women (MC BPW)
Montgomery County Chapter, National Organization for Women
Montgomery County Commission for Women
Montgomery County Women's Democratic Club
National Coalition of 100 Black Women, Prince George's County Chapter
National Women of Achievement, Inc.
Planned Parenthood of Maryland
Planned Parenthood of Metropolitan Washington, DC
Reproductive Justice Inside
Southern Prince George's Business and Professional Women
Top Ladies of Distinction, Inc., Prince George's County Chapter
University of Baltimore School of Law If/When/How Chapter
Women's Democratic League of Frederick County
Women's Equity Center and Action Network (WE CAN)
Women's Law Center of Maryland
Zonta Club of Annapolis
Zonta Club of Mid-Maryland

**as of 2/3/2023*

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