



BILL NUMBER: HB 1143

TITLE: Public Health - Office of the Chief Medical Examiner - Perinatal Autopsies (Lung Float Test Ban)

COMMITTEE: Finance

HEARING DATE: March 26, 2026

POSITION: Favorable

Reproductive Justice Maryland Action supports House Bill 1143 in keeping with our mission to champion reproductive justice as a fundamental human right for all Marylanders. We believe that everyone deserves the freedom to make informed decisions about their bodies, health, and futures, free from discrimination, coercion, and barriers.

HB 1143 will support the integrity of criminal prosecutions by placing a two-year moratorium on the use of the unscientific hydrostatic lung test, also known as the Lung Float Test (LFT). During the moratorium, the Attorney General of Maryland and the Maryland Department of Health are to investigate the use of the LFT and to determine whether scientific evidence supports its continued use. The LFT is currently used to determine whether an infant was born alive for a homicide investigation.¹ The test, which dates to the 17th century, involves placing the infant's heart and lung tissue in a vial of water and observing whether it floats, indicating the lungs held air/a live birth, or it sinks, indicating a stillbirth.²

Alarming, there is no standard procedure used for the LFT. There is no standard water volume or temperature. If the sample floats, the practitioner is then directed to test each lung and each lung lobe twice: once before compressing it, and once after. There is no standard procedure for compression, meaning that the tissue could be compressed with a small amount of force (such as with the practitioner's fingers) or with a larger amount of

¹ MacLeod, Heather, et al. "The National Association of Medical Examiners (NAME) Position Paper." *American Journal of Forensic Medicine & Pathology*, vol. 47, no. 1, Lippincott Williams & Wilkins, Feb. 2026, <https://doi.org/10.1097/paf.0000000000001117>. Accessed 1 Mar. 2026.

² *Id.* at 7-8.

force (such as with the practitioner standing on a board on top of it).³ The nature of the test also means it cannot be replicated by another practitioner.

It is of grave concern to us that such a test could be used to support a homicide prosecution of a woman who has suffered a personal tragedy in losing a pregnancy. Based on Maryland's adoption of the Next Generation Science Standards in 2013, it would be reasonable to expect an average Maryland tenth grader to understand that such a problematic experimental design would not lead to scientifically valid results. Yet disturbingly, we are aware of the use of the LFT by the Office of the Chief Medical Examiner.⁴ No Marylander experiencing the trauma of pregnancy loss should be imprisoned based on the results of such an obviously flawed procedure. Reproductive Justice Maryland Action is proud to support HB 1143 and urges a favorable report.

³ *Id.*

⁴ *State v. Akers*, C-13-CR-19-000367.