



**BILL NUMBER:** SB 169

**TITLE:** Hospitals - Emergency Medical Conditions - Procedures

**COMMITTEE:** Finance

**HEARING DATE:** February 3, 2026

**POSITION:** Favorable

Reproductive Justice Maryland Action supports Senate Bill 169 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. This includes the right to seek medical treatment in an emergency which threatens the life or health of a pregnant individual without regard for that individual's ability to pay.

Since 1986, the federal Emergency Medical Treatment and Active Labor Act (EMTALA) has mandated that hospitals which receive federal funding and have emergency departments must provide "stabilizing treatment" within their capacity to all patients who present at the emergency department experiencing a medical emergency, including active labor, without regard to that patient's ability to pay.<sup>1</sup> The hospital may transfer these patients only in several narrowly defined circumstances.<sup>2</sup> Hospitals or physicians who violate EMTALA can face civil monetary penalties, loss of federal funds, and litigation from affected patients.<sup>3</sup>

Senate Bill 169 arrives at a critical moment. Since EMTALA is a federal statute, it is subject to modification or abrogation by Congress, enforcement by the President and executive agencies, and interpretation by federal courts. When this bill was before the Committee last year, we predicted that EMTALA enforcement as applied to pregnant patients would be greatly reduced. Unfortunately, that prediction has proven accurate. On June 3, 2025, the Department of Health and Human Services rescinded previous agency guidance regarding EMTALA as applied to pregnant patients.<sup>4</sup>

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<sup>1</sup> 42 U.S.C. § 1395dd.

<sup>2</sup> *Ibid.* at (c).

<sup>3</sup> *Ibid.* at (d).

<sup>4</sup> "CMS Statement on Emergency Medical Treatment and Labor Act (EMTALA) | CMS." *Cms.gov*, 3 June 2025, [www.cms.gov/newsroom/press-releases/cms-statement-emergency-medical-treatment-and-labor-act-emtala](http://www.cms.gov/newsroom/press-releases/cms-statement-emergency-medical-treatment-and-labor-act-emtala).

In fact, attacks on EMTALA as applied to pregnant patients have been underway since *Dobbs v. Jackson*.<sup>5</sup> States hostile to reproductive rights have argued that because “stabilizing treatment” within the meaning of EMTALA could require the termination of a pregnancy to prevent negative health outcomes short of the patient’s death, EMTALA conflicts with state laws that prohibit termination of pregnancy unless necessary to save the life of the patient. The real-world impact of these laws has been that pregnant women in states with these laws have been told by emergency department staff that they must allow their condition to deteriorate until it becomes life-threatening.<sup>6</sup>

Under the Biden Administration, the Department of Justice defended EMTALA from a challenge of this nature by Idaho.<sup>7</sup> However, now that the Department of Justice is under the Trump Administration, it has withdrawn its defense of the law. More concerning still is the Supreme Court’s indication that it is willing to take up this issue again.<sup>8</sup> In fact, in 2024 the Supreme Court issued a decision allowing a Texas challenge to enforcement of EMTALA on these grounds to stand, which remains the status quo in those states subject to the jurisdiction of the United States Court of Appeals for the Fifth Circuit.<sup>9</sup> To be clear, this is the very same Supreme Court that issued the decision in *Dobbs*. We cannot rely on it to safeguard the rights of indigent Maryland patients who experience a medical emergency while pregnant.

Senate Bill 169 will allow Maryland to step up where the federal government has abdicated its responsibility. It will function as a Maryland analogue of EMTALA’s status quo with respect to pregnancy, ensuring that no pregnant Marylander is denied stabilizing treatment due to inability to pay, no matter what treatment may be needed to stabilize the patient.

In the face of the federal government’s hostility, we must defend the right of the most vulnerable Marylanders to seek emergency care when pregnant. Reproductive Justice Maryland Action is proud to support Senate Bill 169 and urges a favorable report.

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<sup>5</sup> 597 U.S. 215 (2022).

<sup>6</sup> Seitz, Amanda. “Emergency Rooms Refused to Treat Pregnant Women, Leaving One to Miscarry in a Lobby Restroom.” *AP News*, 19 Apr. 2024, [apnews.com/article/pregnancy-emergency-care-abortion-supreme-court-roe-9ce6c87c8fc653c840654de1ae5f7a1c](https://apnews.com/article/pregnancy-emergency-care-abortion-supreme-court-roe-9ce6c87c8fc653c840654de1ae5f7a1c).

<sup>7</sup> *Moyle v. United States*, 603 U.S. 324 (2024).

<sup>8</sup> *Id.*

<sup>9</sup> *Texas v. Becerra*, No. 23-10246, slip op. (5th Cir. Jan 2, 2024) and *Texas v. Becerra*, No. 23-1076 cert. denied (U.S. October 7, 2024). The Fifth Circuit serves Texas, Louisiana, and Mississippi.