



**Written Testimony of Emily Hoegler**  
**Policy Counsel, Americans United for Life**  
**In Support of House Bill No. 1281**  
**Submitted to the House Health Committee**  
**March 19, 2026**

Dear Chair Bagnall, Vice-Chair Cullison, and Members of the Committee,

My name is Emily Hoegler, and I serve as Policy Counsel at Americans United for Life (“AUL”). Established in 1971, AUL is a national law and policy nonprofit organization that specializes in abortion, end-of-life issues, and bioethics law. AUL publishes pro-life model legislation and policy guides,<sup>1</sup> tracks state bioethics legislation,<sup>2</sup> and regularly testifies on pro-life legislation in Congress and the states. Our vision at AUL is to strive for a world where everyone is welcomed in life and protected in law. As Policy Counsel, I specialize in constitutional law and abortion jurisprudence, including informed consent laws that empower women with authentic choice.

Thank you for the opportunity to testify in support of H.B. 1281. It is in my expert legal opinion that (I) Maryland’s Constitution permits the State to regulate abortion if the law passes strict scrutiny; (II) protecting informed consent is a compelling state interest, which satisfies the first part of the strict scrutiny test; and (III) ultrasounds and reflection periods ensure women’s informed consent through the least restrictive means, which passes

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<sup>1</sup> *Pro-Life Model Legislation and Guides*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/> (last visited Mar. 16, 2026). AUL is the original drafter of many of the hundreds of pro-life bills enacted in the States in recent years. See Olga Khazan, *Planning the End of Abortion*, ATLANTIC (July 16, 2020), [www.theatlantic.com/politics/archive/2015/07/what-pro-life-activists-really-want/398297/](http://www.theatlantic.com/politics/archive/2015/07/what-pro-life-activists-really-want/398297/) (“State legislatures have enacted a slew of abortion restrictions in recent years. Americans United for Life wrote most of them.”); see also Anne Ryman & Matt Wynn, *For Anti-Abortion Activists, Success of ‘Heartbeat’ Bills was 10 Years in the Making*, CTR. FOR PUB. INTEGRITY (Jun. 20, 2019), <https://publicintegrity.org/politics/state-politics/copy-paste-legislate/for-anti-abortion-activists-success-of-heartbeat-bills-was-10-years-in-the-making/> (“The USA TODAY/Arizona Republic analysis found Americans United for Life was behind the bulk of the more than 400 copycat [anti-]abortion bills introduced in 41 states.”).

<sup>2</sup> *State Spotlight*, AMS. UNITED FOR LIFE, <https://aul.org/law-and-policy/state-legislation-tracker/> (last visited Mar. 16, 2026).

the second part of the strict scrutiny test. Accordingly, I urge this Committee to pass H.B. 1281 to safeguard informed consent and empower women in Maryland.

### **I. Maryland’s Constitutional Right to Abortion Recognizes the State May Regulate Abortion if the Law Passes Strict Scrutiny.**

Maryland’s Constitution creates a “right” to terminate a human being in the womb. The amendment provides:

That every person, as a central component of an individual’s rights to liberty and equality, has the fundamental right to reproductive freedom, including but not limited to the ability to make and effectuate decisions to prevent, continue, or end one’s own pregnancy. 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.<sup>3</sup>

Although the Maryland Constitution confers a right to abortion, this right is not absolute. The Maryland Constitution permits laws regulating abortion if those laws, first, are “justified by a compelling State interest,” and, second, have a compelling State interest that is “achieved by the least restrictive means.” This is commonly known as the strict scrutiny test. H.B. 1281 passes strict scrutiny because its provisions further the State’s compelling interest in protecting a woman’s right to be fully informed to enable her to consent to or decline an abortion, and the provisions do so through the least restrictive means.

### **II. H.B. 1281’s Provisions Requiring Informed Consent Accomplish a Compelling State Interest.**

H.B. 1281 furthers a compelling State interest: ensuring the informed consent of women considering abortion. Informed consent is a foundational principle of modern medicine.<sup>4</sup> Upholding a woman’s right to be fully informed to enable her to consent to or decline an abortion is a widely accepted and evidence-based standard of care. Aware of the gravity of this decision, at least 30 states currently protect a woman’s right to be fully informed to enable her to consent to or decline an abortion.<sup>5</sup> Additionally, informed consent is not unique to abortion; healthcare providers must receive a patient’s informed consent before they perform *any* medical intervention.<sup>6</sup>

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<sup>3</sup> MD. CONST., DECL. OF RTS. art. 48.

<sup>4</sup> Christine S. Cocanour, *Informed Consent—It’s More Than a Signature on a Piece of Paper*, 214 AM. J. SURGERY 993, 993 (2017).

<sup>5</sup> The states are Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

<sup>6</sup> *Id.*

Informed consent “is a process by which the treating health care provider discloses appropriate information to a competent patient so that the patient may make a voluntary choice to accept or refuse treatment.”<sup>7</sup> It “involves discussion of the benefits and risks of available treatment options in the context of a patient’s values and priorities.”<sup>8</sup> Informed consent “requires that the patient has the ability to understand and reason through this information and is free to ask questions and to make an intentional and voluntary choice, which may include refusal of care or treatment.”<sup>9</sup> A woman cannot agree to medical treatment unless she is “competent, adequately informed and not coerced” in giving informed consent.<sup>10</sup> “Some informed consent challenges are universal to medicine, whereas other challenges arise more commonly in the practice of obstetrics and gynecology than in other specialty areas.”<sup>11</sup>

Women considering abortion often face unique informed consent challenges. Abortion is a life-altering decision, that has both short- and long-term risks.<sup>12</sup> On top of this, “[a]bortion presents a profound moral issue” about human life and liberty for many women.<sup>13</sup> There are problems in ensuring a woman’s decision is volitional.<sup>14</sup> Unfortunately, there are “[h]igh rates of physical, sexual, and emotional violence among women seeking a[n] abortion.”<sup>15</sup> In fact, for women seeking abortion, the prevalence of intimate partner violence is nearly three times greater than women continuing a pregnancy.<sup>16</sup> These factors make

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<sup>7</sup> *Id.*

<sup>8</sup> COMM. ON ETHICS, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS, *Informed Consent and Shared Decision Making in Obstetrics and Gynecology*, Comm. Op. No. 819, at 1 (2021).

<sup>9</sup> *Id.* at 2.

<sup>10</sup> Cocanour, *supra* note 4, at 993.

<sup>11</sup> COMM. ON ETHICS, *supra* note 8, at 1.

<sup>12</sup> RSCH. COMM., AM. ASS’N OF PRO-LIFE OBSTETRICIANS & GYNECOLOGISTS, *State Restrictions on Abortion: Evidence-Based Guidance for Policymakers*, Comm. Op. No. 10, at 12, 16 (2022).

<sup>13</sup> *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2240 (2022).

<sup>14</sup> *See, e.g.*, Priscilla K. Coleman et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experience*, 22 J. AM. PHYSICIANS & SURGEONS 113, 113-15 (2017) (finding that, of a given group of women who received abortions, 58% reported having their abortions just to make others happy; 28% reported that they thought they would lose their partner unless they received an abortion; 74% reported experiencing at least some pressure to abort; and 68% reported that the decision to get an abortion was one of the hardest decisions of their lives); Moria Gaul, *Protecting Women from Coerced Abortions: The Important Role of Pregnancy Help Centers*, CHARLOTTE LOZIER INST., Mar. 2022, at 2, [https://lozierinstitute.org/wp-content/uploads/2022/03/On-Point-78\\_Protecting-Women-from-Coerced-Abortion\\_2022.pdf](https://lozierinstitute.org/wp-content/uploads/2022/03/On-Point-78_Protecting-Women-from-Coerced-Abortion_2022.pdf) (finding that “[o]ne provider of post-abortive counseling reported . . . that, in any given year, 75-85% of women who received post-abortive counseling reported that ‘they felt they were misled by the abortion clinics and that their decisions were uninformed and, in many ways, coerced.’”); David C. Readon & Tessa Longbons, *Effects of Pressure to Abort on Women’s Emotional Responses and Mental Health*, 15 CUREUS 1 (2023).

<sup>15</sup> Megan Hall et al., *Associations Between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review and Meta-Analysis*, 11 PLOS MED., Jan. 2014, at 1, 21.

<sup>16</sup> COMM. ON HEALTH CARE FOR UNDERSERVED WOMEN, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS, *Reproductive and Sexual Coercion*, Comm. Op. No. 554, at 2 (2022).

informed consent counseling difficult for a woman considering an abortion. However, heightened informed consent protections can mitigate these challenges.

Although the Maryland Constitution permits abortion as a medical intervention, medical professionals nevertheless must receive a woman's voluntary, informed consent before inducing an abortion. If a provider performs an ultrasound prior to an abortion, under H.B. 1281 the provider must 1) be appropriately trained and supervised, ensuring that the provider obtains pertinent information about the preborn child, and 2) offer the woman the ability to view the ultrasound image prior to the abortion.<sup>17</sup> Likewise, the bill establishes a reflection period so a woman has time to consider this life-changing decision.<sup>18</sup> These provisions further the State's compelling interest in ensuring a woman provides informed consent before the provider performs or induces an abortion. Ultimately, H.B. 1281 empowers women with authentic choice when considering their pregnancy options.

### **III. H.B. 1281's Provisions Requiring Informed Consent Use the Least Restrictive Means to Accomplish a Compelling State Interest.**

H.B. 1281 passes scrutiny because, as discussed above, its provisions further the compelling state interest of protecting women's informed consent. These provisions are also narrowly tailored to apply only to providers performing abortions. Accordingly, this Committee should support H.B. 1281

As a preliminary note, the bill applies to "qualified providers," restricting their ability to "perform or induce an abortion on a pregnant woman . . . [w]ithin 24 hours after the woman receives" an ultrasound.<sup>19</sup> Likewise, the bill requires that any ultrasound performed on a woman, must be done by a medical professional that meets certain requirements. In this regard, the bill directly regulates the provider and medical professionals' standard of care, not the woman's right to abortion.

Furthermore, the bill is written to minimize any burden upon the woman. For example, the bill's provisions do not apply if "[t]he woman is a victim of an alleged rape or of incest," which has been reported to law enforcement.<sup>20</sup> Additionally, the 24-hour reflection period is lessened to two hours if a woman "resides at least 100 miles from the facility in which the abortion will be performed."<sup>21</sup> Accordingly, the ultrasound and reflection period provisions narrowly tailor their requirements to safeguard a woman's informed consent without unduly burdening her decision making.

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<sup>17</sup> H.B. 1281, 449th Gen. Assemb., Reg. Sess. (Md. 2026).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

*A. The Ultrasound Provisions Ensure Informed Consent Through the Least Restrictive Means to the Woman.*

The ultrasound requirement promotes the State’s compelling interest in safeguarding a woman’s informed consent through the least restrictive means. H.B. 1281 foremost sets a standard of care for the medical provider. The medical professional must “[b]e trained in sonography and working under the supervision of a qualified provider.”<sup>22</sup> Likewise, the medical professional must use the ultrasound image to determine the gestational age of the unborn child through “[m]easurement of the fetus in as manner consistent with the standard of care” or, alternatively, through “measurement of the gestational sac” if it is visible.<sup>23</sup> In turn, these provisions provide important benefits for a woman considering abortion.

Ultrasound provisions both promote the woman’s physical and psychological health and are critical to informed consent counseling.<sup>24</sup> The ultrasound provisions serve an essential and irreplaceable medical purpose because it is the only method of diagnosing ectopic pregnancies, which if left undiagnosed can result in infertility or even fatal blood loss for the mother.<sup>25</sup>

An ultrasound enables the healthcare provider to more accurately date the gestational age of a child. Accurate dating of pregnancy protects the woman’s physical health and ensures the abortion provider offers appropriate pregnancy options. For example, the U.S. Food and Drug Administration has only approved chemical abortion drugs up to ten weeks gestation.<sup>26</sup> Likewise, abortion providers offer different surgical options based upon the gestational age of the unborn child.<sup>27</sup> “[W]omen who do not receive an ultrasound prior to abortion are suboptimally dated, which diminishes the accuracy of providers’ counseling about procedure risks.”<sup>28</sup> This is especially concerning because “[t]he frequency of complications increases with gestational age due to the greater degree of anatomic and physiologic changes later in pregnancy.”<sup>29</sup>

The ultrasound provisions empower the woman with authentic choice during the informed consent process. The provider must offer to perform additional ultrasonography

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See *Dobbs*, 142 S. Ct. at 2284 (discussing the State’s “legitimate interests includ[ing] . . . the protection of maternal health and safety . . . [and] the preservation of the integrity of the medical profession”).

<sup>25</sup> See, e.g., *Ectopic Pregnancy*, MAYO CLINIC (Mar. 12, 2022), <https://www.mayoclinic.org/diseases-conditions/ectopic-pregnancy/symptoms-causes/syc-20372088>.

<sup>26</sup> *Mifeprex Prescribing Information*, U.S. FOOD & DRUG ADMIN. (Jan. 2023), [https://www.accessdata.fda.gov/drugsatfda\\_docs/label/2023/020687Orig1s025Lbl.pdf](https://www.accessdata.fda.gov/drugsatfda_docs/label/2023/020687Orig1s025Lbl.pdf).

<sup>27</sup> RSCH. COMM., AM. ASS’N OF PRO-LIFE OBSTETRICIANS & GYNECOLOGISTS, *Concluding Pregnancy Ethically*, Prac. Guideline No. 10, at 8 (2022).

<sup>28</sup> RSCH. COMM., *State Restrictions*, *supra* note 12, at 9.

<sup>29</sup> *Id.* at 12.

for the woman if the provider cannot determine the gestational age of the unborn child.<sup>30</sup> The provider must also offer the woman the option to “[v]iew the ultrasound image,” “[r]eceive a printed copy of the ultrasound image,” and “[h]ear the fetal heartbeat in a manner consistent with the standard of care.”<sup>31</sup> However, it is ultimately the woman’s choice whether she accepts these offers. H.B. 1281 explicitly recognizes that “[a] woman is not required to accept anything offered during transabdominal ultrasound imaging performed in accordance [with this bill].”<sup>32</sup>

Allowing a woman the opportunity to view her ultrasound and hear the fetal heartbeat helps ensure an informed choice. At least sixteen states recognize this value and require medical professionals to perform ultrasounds as part of informed consent counseling for abortion.<sup>33</sup> The ultrasound imaging gives the mother the option of seeing her unborn child as he or she really is—by seeing his or her form and face on a screen and by hearing his or her heartbeat. Medical evidence indicates that a woman feels bonded to her unborn child after seeing him or her on the ultrasound screen.<sup>34</sup> Once that bond is established, researchers argue, a woman no longer feels ambivalent toward her pregnancy and in fact begins to feel invested in her unborn child.<sup>35</sup> And thus, by giving every woman the choice to view her child’s ultrasound image, the State also furthers its interest in protecting life, as some women may ultimately decide to carry their child to term. In fact, a 2015 study found that 78% of women who see an ultrasound image of their infant in utero choose life for their baby.<sup>36</sup>

In sum, ultrasonography is critical to providing complete informed consent counseling about pregnancy options. H.B. 1281 furthers this compelling interest in safeguarding informed consent through the least restrictive means to a woman’s right to continue or end her pregnancy. The bill sets a standard of care for abortion providers, while empowering women with accurate informed consent counseling and the option of viewing the ultrasound image.

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> The states are Alabama, Arizona, Arkansas, Florida, Indiana, Iowa, Kansas (temporarily enjoined), Kentucky, Louisiana, Mississippi, North Carolina, Ohio (temporarily enjoined), Oklahoma, Tennessee, Texas, and Wisconsin.

<sup>34</sup> See John C. Fletcher & Mark I. Evans, *Maternal Bonding in Early Fetal Ultrasound Examinations*, 308 NEW ENG. J. MED. 392 (1983).

<sup>35</sup> *Id.*

<sup>36</sup> Thomas A. Glessner, *National Survey of Pro-life Pregnancy Centers Shows Major Influence of Ultrasound on a Mother’s Choice for Life*, STANDARD NEWSWIRE (Mar. 4, 2015), <http://standardnewswire.com/news/23610063.html> (surveying 75,318 ultrasounds performed for pregnant patients identified as either abortion-minded or abortion-vulnerable and finding 58,634 chose to allow their children to live, or about 78%).

*B. The Reflection Period Provision Protects Informed Consent Through the Least Restrictive Means to the Woman.*

H.B. 1281 reflection period supports the State’s compelling interest in promoting informed consent, and it does this through the least restrictive means to the woman considering abortion. Under the bill, “[a] qualified provider may not perform or induce an abortion on a pregnant woman...[w]ithin 24 hours after the woman receives transabdominal ultrasound imaging in accordance with [requirements under the bill].”<sup>37</sup> However, the bill considers the potential burden upon a woman if she needs to travel. The reflection period is reduced to 2 hours “[i]f the woman resides at least 100 miles from the facility in which the abortion will be performed.”<sup>38</sup>

Reflection periods support the informed consent of women considering abortion. The 24-hour reflection period—like the reflection periods ranging from 18 hours to 72 hours in at least 28 other states<sup>39</sup>—helps ensure a woman has the time she needs to consider the information she has received from the abortion provider without the pressure of making an immediate, life-altering decision. This is critical since the “medical, emotional, and psychological consequences of an abortion are serious and can be lasting.”<sup>40</sup>

Before the Supreme Court overruled *Roe v. Wade*,<sup>41</sup> it notably upheld a 24-hour reflection period under the purported federal constitutional right to abortion.<sup>42</sup> In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the Supreme Court determined a 24-hour reflection period was not an “undue burden” and “[t]he idea that important decisions will be more informed and deliberate if they follow some period of reflection” was not “unreasonable.”<sup>43</sup>

Even beyond the abortion context, many States have established reflection periods that implicate other fundamental rights concerning the family and parenting, such as reflection periods for marriage, adoption, or divorce.<sup>44</sup> In fact, Maryland has a 48-hour

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> The states are Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas (temporarily enjoined), Kentucky, Louisiana, Michigan (temporarily enjoined), Mississippi, Missouri (temporarily enjoined), Montana (temporarily enjoined), Nebraska, North Carolina, North Dakota, Ohio (temporarily enjoined), Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin.

<sup>40</sup> *H.L. v. Matheson*, 450 U.S. 398, 411 (1981).

<sup>41</sup> *Roe v. Wade*, 410 U.S. 113 (1973), *overruled by Dobbs*, 142 S. Ct. 2228.

<sup>42</sup> 505 U.S. at 887.

<sup>43</sup> *Id.* at 885.

<sup>44</sup> *See, e.g., Planned Parenthood of the Heartland, Inc. v. Reynolds ex rel. State*, 975 N.W.2d 710, 719 (Iowa 2022) (“In any event, Iowa law has waiting periods for other important decisions that implicate fundamental rights, including marriage, adoption, and divorce.” (citations omitted)).

waiting period for marriages,<sup>45</sup> even though “the right to marry is protected by the Constitution.”<sup>46</sup>

In sum, the reflection period provision serves the compelling State interest of empowering a woman to give informed consent, and the bill does this through the least restrictive means to the woman considering abortion.

#### **IV. Conclusion.**

Ultrasounds and reflection periods are critical to women’s agency and decision making when considering abortion. I urge you to pass H.B. 1281 to give women full information and empower them with authentic choice in their pregnancy decisions.

Respectfully Submitted,



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AMERICANS UNITED FOR LIFE

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<sup>45</sup> Md. Family Law Code § 2-405.

<sup>46</sup> Obergefell v. Hodges, 576 U.S. 644, 664 (2015).