OPPOSITION STATEMENT

HB536 - Employment Discrimination - Reasonable Accommodations - Disabilities Due to Childbirth, Menopause, and Related Medical Conditions Public Institutions of Higher Education – Pregnant and Parenting Students – Plan & Reporting

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We Strongly Oppose Abortion Mandates on Employers

Maryland Right to Life (MDRTL) supports any public policy that enables and empowers women and men to choose life for their preborn children. We applaud any sincere effort to create a professional working environment and culture that supports employees in their decision to become parents and provides reasonable accommodations to ensure healthy birth and delivery outcomes.

However, we must oppose this bill that would impose unlawful abortion mandates on employers to accommodate and fund elective abortions, including through employer-funded health insurance and leave plans, without regard for the employer's religious liberties or rights of conscience.

These abortion mandates on employers have been overturned by federal courts and rejected by legislative and executive actions.

The State of Maryland already is under federal investigation and facing sanctions for violation of the Weldon Amendment, by requiring private insurance and state-regulated plans to cover abortion. Maryland must provide an employer "opt-out" based on conscience or have federal Medicaid dollars withheld.

Maryland taxpayers should not be forced to fund the State of Maryland's ongoing lawfare against our popularly-elected President, especially in light of the State's embarrassing budget deficit.

HB 536 Imposes Antiquated Abortion Mandates on Employers

HB 536 is yet another attempt to codify since-repealed extreme abortion mandates in Maryland, including rejected political interpretations of Title VII of the Civil Rights Act of 1964 and the federal **Pregnant Workers Fairness Act** (PWFA), which was hijacked by abortion activists **despite legislative intent that specifically excluded application of the law to elective abortion.**

Maryland law already requires accommodations for pregnancy and childbirth. Adding "related medical conditions" i.e. ***termination of pregnancy***, is an attempt to undermine post-*Roe* federal law and judicial precedent including the recent federal court ruling in *Louisiana & Mississippi v. EEOC* (2025) that struck

down the Biden EEOC's misinterpretation of the PWFA which wrongly included elective abortion.

As of **March 2026**, the case of *Louisiana & Mississippi v. EEOC* has effectively dismantled the federal abortion accommodation mandate under the PWFA. A U.S. District Court **vacated** the portions of the EEOC's "Final Rule" that required employers to accommodate elective abortions.

In rejecting the EEOC's rule, federal courts have consistently distinguished between "elective abortions" (which they are striking down) and "medical terminations" (such as for miscarriage or ectopic pregnancies), which remain protected under the PWFA.

The bill expands the definition of "temporary disabilities" that employers must accommodate under Maryland's anti-discrimination laws to include accommodations for elective abortions, which are never medically necessary. It would affect employers in the following ways:

- **Incorporation of Rejected Federal "Abortion" Definitions:** By using the term "related medical condition," the bill attempts to burden Maryland law with antiquated *Roe v. Wade*, abortion language used in Title VII regulations attached to the Civil Rights Act of 1964. The Biden Equal Employment Opportunity Commission (EEOC), also relied on this antiquated language in applying the federal *Pregnant Workers Fairness Act* (PWFA) to elective abortions, despite Congressional legislative intent to the contrary.
- **Mandatory Leave for Abortion:** Under HB 536, an employer would be required to provide "reasonable accommodations"—which explicitly includes **granting leave**—to an employee seeking an elective abortion, as it would be classified as a "related medical condition."
- **Expansion of Liability:** The bill makes it an "unlawful employment practice" for an employer to deny these accommodations. This means a pro-life business owner or religious nonprofit could face lawsuits, back-pay penalties, and administrative fines if they refuse to facilitate an employee's abortion through workplace accommodations.
- **Mandatory "Rights" Postings:** Employers would be required to post notices in the workplace and include language in employee handbooks informing staff of their right to these accommodations, effectively forcing pro-life employers to advertise for abortion-related leave.

However the bill does not contain a conscience clause to protect the rights of employers, including faith-based employers and hospitals who do not want to participate in or fund abortion. It forces religious hospitals, charities, and private business owners to become "complicit" in an act they find morally reprehensible. By requiring them to facilitate the logistics of an abortion (via leave or scheduling), the state is infringing on the **Free Exercise Clause** of the First Amendment and once again, violating the federal Weldon Amendment.

Courts Reject EEOC Abortion Mandates on Employers

The current legal and legislative debate surrounding Title VII and the **Pregnant Workers Fairness Act (PWFA)** centers on the Equal Employment Opportunity Commission's (EEOC) "Final Rule." This rule interpreted the term "related medical conditions" to include elective abortion, effectively requiring employers to provide accommodations (such as leave) for the procedure.

Pro-life advocates, religious organizations, and several state attorneys general have mounted significant opposition, arguing that this mandate exceeds federal authority and violates conscience rights.

Arguments against codifying abortion accommodations under Title VII and the PWFA generally fall into three categories:

1. Statutory "Hijacking" and Legislative Intent

Maryland Right to Life issued warnings to National Right to Life, the U.S. Conference of Catholic Bishops (USCCB), and the Maryland Catholic Conference that the *Pregnant Workers Fairness Act* would be used to impose abortion mandates on employers. Unfortunately, the USCCB continued to promote the legislation, resulting in litigation. While the bishops maintained that the PWFA was a bipartisan "pro-life" law designed to help women stay in the workforce while having **healthy pregnancies and babies**, we warned that the Biden administration would interpret the law within the existing context of Title VII of the Civil Rights Act of 1964, which still contains antiquated *Roe* abortion language to include the "pregnancy related conditions", i.e. abortion.

The bishops argued that the text of the PWFA never mentions "abortion" and the EEOC "hijacked" the law by adding abortion through the back door of administrative rulemaking. They also cited that during floor debates, key sponsors (such as Senator Bob Casey, D-PA) explicitly stated that the PWFA could not be used by the EEOC to mandate abortion leave. Unfortunately as we warned the bishops, the EEOC ignored this legislative history.

2. Infringement on Religious Liberty and Conscience

Religious employers, particularly Catholic organizations, argue that being forced to "accommodate" an elective abortion makes them complicit in an act that contradicts their core moral teachings. Requiring an employer to grant leave specifically for an abortion—and potentially barring them from speaking about pro-life alternatives to the employee—is viewed as a violation of the **First Amendment** and the **Religious Freedom Restoration Act (RFRA)**.

3. Federalism and State Sovereignty

States with strict pro-life laws (like Mississippi and Louisiana) argue that the federal government is attempting to nullify their state-level protections for the unborn. By requiring state agencies to accommodate abortions, the federal government is forcing states to facilitate a practice they have legally restricted or banned following the *Dobbs* decision that overturned *Roe v. Wade*.

Louisiana & Mississippi v. EEOC

As of **March 2026**, the case of *Louisiana & Mississippi v. EEOC* has resulted in a significant legal victory for the plaintiff states, effectively dismantling the federal abortion accommodation mandate under the Pregnant Workers Fairness Act (PWFA).

1. Current Status: In Effect (Vacated)

The mandate is **no longer in effect**. On **May 21, 2025**, Judge David Joseph of the U.S. District Court for the Western District of Louisiana issued a final ruling that **vacated** (cancelled) the portions of the EEOC's "Final Rule" that required employers to accommodate elective abortions.

Because the court **vacated** the rule itself (rather than just enjoining it for specific parties), many legal analysts argue the EEOC is currently prohibited from enforcing the "elective abortion" provision **anywhere in the U.S.**

- **Finality:** Unlike the preliminary injunction from 2024, which only "paused" the rule, the 2025 vacatur is a final judgment on the merits.

- **The Ruling:** The court held that the EEOC exceeded its statutory authority by "hijacking" the PWFA to include elective abortion, which was never mentioned in the law's text.
- **Administration Stance:** Since the transition in January 2025, the **Department of Justice (DOJ)** under the Trump administration has declined to appeal this ruling, effectively letting the vacatur stand.

2. Other Related Activity

While the 5th Circuit remains the primary battleground, the **8th Circuit** (covering states like Arkansas, Missouri, and Iowa) is currently reviewing *Tennessee v. EEOC*. In February 2025, that court ruled that 17 additional states have "standing" to challenge the rule, which could lead to a second, reinforcing blow against the mandate later this year.

HB 536 Conflicts with Federal Legislative and Executive Activity

Since the beginning of 2025, the Trump administration has moved to dismantle the Biden-era EEOC mandate requiring abortion-related accommodations. The efforts have focused on shifting the leadership and procedural rules of the **Equal Employment Opportunity Commission (EEOC)** and leveraging the **Department of Justice (DOJ)** to defend employer conscience rights.

1. Regulatory Rollbacks and EEOC Restructuring

The administration has effectively neutralized the EEOC's "Final Rule" on the Pregnant Workers Fairness Act (PWFA) through personnel and procedural changes.

- **Leadership Change:** On January 20, 2025, **Andrea Lucas** was appointed Acting Chair of the EEOC. Lucas had been a vocal dissenter of the original 2024 rule, arguing that "related medical conditions" was never intended by Congress to include elective abortion.
- **Congressional Challenges:** Various "Resolution of Disapproval" efforts under the **Congressional Review Act (CRA)** have been introduced to permanently strike the abortion-related provisions from the EEOC's regulatory code.
- **Rescinding Voting Procedures:** In January 2026, the Republican-majority Commission voted 2-1 to scrap internal voting procedures established late in the Biden administration. This allows Chair Lucas to **fast-track the rescission** of the 2024 PWFA regulations and Harassment Guidance without prolonged public comment periods or internal delays.
- **Narrowing the Definition:** The administration is currently working to replace existing guidance to explicitly exclude "elective abortion" while maintaining protections for "biological" conditions like miscarriage, stillbirth, and lactation.

2. Executive Orders on "Biological Truth" and Faith

The President has issued several executive orders that provide a legal framework for employers to bypass reproductive health mandates.

- **EO 14168 (January 20, 2025):** Titled *"Defending Women from Gender Ideology Extremism and Restoring Biological Truth,"* this order directed all federal agencies, including the EEOC, to align their guidance with a biological definition of sex. This has been used as the primary legal justification for removing **"abortion"** and "gender-affirming care" from the list of required medical accommodations.
- **Establishment of the Religious Liberty Commission:** Created on May 1, 2025, under the DOJ, this commission is tasked with identifying and "securing" the rights of Americans of faith. It has held

multiple hearings (most recently in March 2026) focusing on protecting healthcare providers and business owners from being forced to facilitate abortions against their conscience.

3. Targeted Investigations of State Mandates (The Weldon Amendment)

In a major shift, the administration has begun using federal enforcement to pressure states that require private insurance to cover abortion, including the State of Maryland.

- **The 13-State Investigation:** On **March 19, 2026**, the Department of Health and Human Services (HHS) launched formal investigations into 13 states (including **Maryland**, California, and New York) that mandate abortion coverage in state-regulated health plans. The administration argues these states are violating the **Weldon Amendment**, a federal provision that bars states receiving federal funds from "discriminating" against health entities (including employers) that refuse to provide, cover, or refer for abortions. If these states do not allow for an employer "opt-out" based on conscience, the administration has threatened to withhold federal Medicaid dollars.

4. Judicial "Non-Defense" Strategy

The Department of Justice has shifted its stance in ongoing litigation, often choosing not to defend the Biden-era mandates in court.

- **Vacating the PWFA Mandate:** In May 2025, following a lawsuit by Louisiana and Mississippi, a federal court vacated the EEOC's elective abortion mandate. The Trump administration chose **not to appeal** this ruling, effectively allowing the mandate to remain dead in those jurisdictions and signaling to other courts that the executive branch no longer supports the rule.
- **Pardoning Pro-Life Activists:** In January 2025, the President pardoned 23 individuals convicted under the FACE Act (Freedom of Access to Clinic Entrances), signaling a broader policy shift toward protecting pro-life advocacy over clinic access enforcement.

<u>Abortion is not healthcare</u>

Abortion is not healthcare. It is violence and brutality that ends the lives of unborn children through suction, dismemberment or chemical poisoning. The fact that 85% of OB-GYNs in a representative national survey do not perform abortions on their patients is glaring evidence that abortion is not an essential part of women's healthcare.

<u>Recent acts of abortion activists occupying the Maryland General Assembly have completely removed abortion from the spectrum of healthcare.</u> As a result of the *Abortion Care Access Act* of 2022, sponsored by Delegate Ariana Kelly (D-Montgomery), a former NARAL employee, poor women will be deprived access to care through a licensed physician. To the detriment of women's reproductive health, the state is now allowing any "certified provider of abortion care" to perform or provide both surgical and chemical abortion through birth.

Combine this with the fact that nearly 75% of abortions are now "Do-It-Yourself" abortions where women are remotely prescribed dangerous abortion pills without a physician's examination and are left to hemorrhage

alone until their bodies forcefully expel their babies' bodies, and the argument that abortion is healthcare is completed discredited.

Abortion is a Failed Policy

Nearly fifty years of federal abortion mandates on the state have failed to cure the underlying socio-economic challenges women face in raising their families. The abortion industry has failed to reduce pregnancies, but only reduced the number of *live births*. In fact, the number of abortions has increased proportionately with the increase in public funding for abortion businesses.

Planned Parenthood and their network of organizations are financially invested in unplanned pregnancies that increase abortion profits. They cannot be trusted to instruct children and young adults in human reproduction and sexuality or to promote their abortion business under the guise of student "health".

The fact that the number of abortions is highest among college-aged students, demonstrates that decades of public funding to abortion activists in Maryland k-12 public education, has failed to prepare our youth with sound family planning practices. Throwing additional public funding toward the multi-billion dollar abortion industry's failed practices, is not sound fiscal policy and harms those most in need of quality maternal health care options.

Disparate Impact Statement: Abortion is having a genocidal impact on Black Marylanders

Abortion has a disproportionate impact on Black Americans who have long been targeted by the abortion industry for eugenics purposes. Even today 78% of abortion clinics are located in minority communities. As a result abortion violence has become the leading killer of Black lives, more than gun violence and all other causes combined. More than half of all pregnancies to Black women in Baltimore City end through abortion violence.

The state fails to measure or report the correlation between the increased use of abortion with increased risk to maternal mortality, infertility, miscarriage, pre-term births for Black mothers. This makes any argument that abortion is healthcare a morally repugnant call for state-sponsored genocide of Black children in Maryland.

For these reasons we respectfully urge you to issue an unfavorable report on this bill and encourage the sponsor to introduce a bill that ensures that pregnant employees are empowered to choose life for their children and enjoy healthy birth and delivery outcomes.