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March 5, 2026

TO: The Honorable J. Sandy Bartlett
Chair, Judiciary Committee

FROM: Jer Welter
Principal Deputy Solicitor General, Office of the Attorney General,
Office of the Solicitor General, Criminal Appeals Division

RE: House Bill 1131 – Public Health – Pregnancy Loss – Prohibited Actions
(Pregnancy Outcome Protection Act) – **Letter of Concern**¹

The Office of the Attorney General writes to express concern regarding **House Bill 1131**. With certain exceptions, the bill would generally prohibit law enforcement, child welfare agencies, and other investigating entities, from investigating, criminally prosecuting, or subjecting to civil liability individuals who experience “pregnancy loss,” as defined by the bill.² It would also generally prohibit healthcare providers from reporting incidents of pregnancy loss, and would protect healthcare providers from “investigation, criminal penalty, or civil liability” for “supporting a patient who is experiencing a pregnancy loss or after a pregnancy loss.”

The Office of the Attorney General commends the bill’s overall purpose to support the right to reproductive freedom guaranteed by Article 48 of the Maryland Declaration of Rights. Nevertheless, the bill as written raises several policy concerns.

1. The bill’s criminal and civil liability provisions create unwarranted potential liability for law enforcement and healthcare providers that will inhibit legitimate investigations and prosecutions.

Our primary concern is that the bill creates a civil cause of action against law enforcement and other investigators who conduct inquiries in alleged violation of the bill’s broad

¹ This letter is a statement of the Office of the Attorney General’s policy position on the referenced pending legislation. For legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Office of Counsel to the General Assembly.

² The bill defines “pregnancy loss” to mean “the unintentional or intentional death of a fetus or embryo during pregnancy or labor,” including a miscarriage, stillbirth or “self-managed abortion,” and excludes from the definition “a death that occurs after a live birth.”

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prohibition on investigating individuals who experience a pregnancy loss. It also imposes criminal penalties on law enforcement, healthcare providers, and others who “knowingly and willfully” violate the bill, with enhanced penalties—including imprisonment—for violations involving “false pretenses or deception.” Imposing both civil and criminal liability on law enforcement and medical professionals is an extraordinary step.

We are particularly concerned that the threat of criminal and civil liability will have the effect of deterring legitimate investigations and prosecutions that the bill purports to allow. Although the bill defines “pregnancy loss” to exclude “a death that occurs after a live birth” and limits criminal liability to “knowing and willful” violations, the practical effect of the liability provisions will be to create a chilling effect against law enforcement conducting investigations to determine *whether* a perinatal death was a stillbirth, a post-birth death from natural causes, or a post-birth homicide. It will likewise have a chilling effect against healthcare providers making reports to law enforcement, even when a report is necessary to prompt legitimate investigations.

2. The bill creates other impediments to initiating legitimate investigations.

Relatedly, the bill creates major circularity problems that would make legitimate investigations nearly impossible to start. It would require law enforcement to have “independent evidence of criminal conduct unrelated to the pregnancy or pregnancy loss” before opening an investigation or obtaining a search warrant concerning an ostensible pregnancy loss. Evidence unrelated to the pregnancy loss, however, would rarely be relevant to such an investigation—and if such evidence existed, an investigation would normally be how police discover it. But the bill prohibits opening an investigation unless law enforcement has the evidence already. Likewise, law enforcement would need the incident to be reported to them to begin an investigation, but the bill threatens healthcare providers with criminal liability for reporting a pregnancy loss to law enforcement—thus effectively preventing investigations before they begin.

In most cases where a law enforcement investigation might occur, as noted, the question of *whether* an incident is in fact a pregnancy loss, as defined, or is a homicide would ordinarily be the core question to be answered by an investigation. Without already possessing the required “independent evidence,” law enforcement who discover a dead newborn in a home seemingly would have to uncritically accept (on pain of civil and criminal liability) a claim that the death was a result of pregnancy loss. It is unreasonable to require law enforcement to accept such a claim without investigation—just as it would not be reasonable to accept without any further investigation the discovery of a deceased adult in a home where a resident asserts that the decedent died naturally of a heart attack.

3. Several of the bill’s other provisions are unclear.

Finally, other provisions of the bill are unclear. For example, the bill authorizes “a civil action against the investigating entity” without addressing what remedies would be available or how the state and local tort claims acts and immunity doctrines—such as prosecutorial immunity—would apply. In the criminal liability sections, the bill does not identify who would investigate or prosecute violations—an important omission, given that many potential defendants would

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themselves be law enforcement agencies or personnel. Similarly, the bill prohibits “reporting” by healthcare providers but does not specify to whom reporting would be barred.

The bill also relies on several undefined terms, including “related to the pregnancy loss,” “independent evidence,” “clear evidence,” “external abuse or coercion,” and “supporting a patient who is experiencing a pregnancy loss.” It makes the prohibitions on healthcare providers “subject to generally accepted medical standards,” without explaining what that standard entails. Finally, the bill’s broad shield from liability for healthcare providers appears so sweeping that it could potentially limit accountability for unconsented or negligently performed pregnancy terminations.

The Office of the Attorney General thanks the Judiciary Committee for this opportunity to share its concerns regarding **House Bill 1131**. We would welcome the opportunity to work with the sponsors to address these concerns and strengthen reproductive freedom without exposing law enforcement and other investigators to liability or inhibiting legitimate investigations.

cc: Del. Lesley J. Lopez
Members, Health Committee