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**WRITTEN TESTIMONY OF BENJAMIN P. SISNEY¹
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Re: In Opposition to Maryland H.B. 1131: Pregnancy Outcome Protection Act

March 3, 2026

For the reasons set forth herein, the American Center for Law & Justice (“ACLJ”), on behalf of itself and over 354,000 of its members, including over 4,700 Maryland residents, who value the sanctity of life, urges this Committee to give H.B. 1131 an unfavorable review.

By way of introduction, the ACLJ is a national nonprofit organization dedicated to the defense of constitutional liberties secured by law, including the defense of the sanctity of human life. Counsel for the ACLJ have presented expert testimony before state (including Maryland) and federal legislative bodies, and have presented oral argument, represented parties, and submitted amicus briefs before the Supreme Court of the United States and numerous state and federal courts around the country in cases involving a variety of issues, including the right to life. *See, e.g., Pleasant Grove City v. Summum*, 555 U.S. 460 (2009); *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016); *June Medical Servs. v. Russo*, 140 S. Ct. 2103 (2020); and *Dobbs v. Jackson Women’s Health Org.*, No. 19-1393 (Sup. Ct.).

I. Background

H. B. 1131 will only achieve *reduced* protections for Maryland women and their children, not more. It ties the hands of legitimate investigators in cases where women are procuring or being administered unsafe abortions and children are at risk of infanticide. If the goals of the legislation

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are to stop criminalization of women experiencing the tragedy of pregnancy loss or abortion services in general, both of those experiences are already protected under Maryland law.

Pregnancy loss in Maryland is protected statutorily. Maryland Criminal Code § 2-103 protects licensed medical professionals who are administering lawful medical care. This does not apply to acts or failures to act of pregnant women regarding their own unborn children.² There are additional statutory procedures for fetal deaths past twenty weeks gestation and stillbirths in Maryland.³ The Criminal Code also does not apply liability to licensed medical professions who administer lawful medical care for the death of an unborn child.⁴

Beyond the unintentional loss of a child through miscarriage or stillbirth, Maryland law further protects abortion at any stage of gestation.⁵ The Criminal Code protects rights to abortion in Maryland and even insists that no part of the section confers fetal personhood.⁶ Maryland is home to two clinics providing abortions at any trimester, including one performing abortions until thirty-five weeks and six days.⁷

Maryland maintains some of the most permissive abortion laws in the nation.⁸ It was even described in 2023 as becoming “The Patron State of Abortions.”⁹ Aside from requiring that abortions be performed by qualified providers,¹⁰ state law permits abortion for any reason before fetal viability and at any time during pregnancies to protect the life of the mother or if the unborn child has genetic defects, serious deformities, or abnormalities.¹¹ Qualified providers are also free from liability for civil damages or criminal penalties if they performed abortions in good faith with their best clinical judgments with accepted clinical practice standards.¹²

Maryland can only adopt regulations for abortion as long as they “are both necessary and the least intrusive method to protect the life or health of the woman; and . . . not inconsistent with established clinical practice.”¹³ Governor Wes Moore signed an enshrinement of reproductive

² Md. Crim. Code § 2-103(d).

³ See Md. Code Ann. §§ 4-213-213.1.

⁴ Md. Crim. Code § 2-103(e).

⁵ See *Interactive Map: US Abortion Policies and Access After Roe*, GUTTMACHER INST. (Feb. 20, 2026), <https://states.guttmacher.org/policies> (under “Abortion Policies in Maryland”: “Abortion is not restricted based on gestational duration.”).

⁶ Md. Crim. Code § 2-103(d), (g).

⁷ Taylor Nichols & Cait Kelley, *Some People Need Abortions Later in Pregnancy – Many Come to Maryland*, WAMU 88.5 (Dec. 16, 2024), <https://wamu.org/story/24/12/16/md-later-term-abortion-clinics/>.

⁸ See *After Roe Fell: U.S. Abortion Laws by State*, CTR. FOR REPROD. RIGHTS, <https://reproductiverights.org/maps/abortion-laws-by-state/> (last updated Feb. 2026).

⁹ Christina Cauterucci, *Maryland is Becoming the Patron State of Abortions* (July 17, 2023, 5:40 AM), https://slate.com/news-and-politics/2023/07/maryland-abortion-access-wes-moore.html?pay=1772040648397&support_journalism=please.

¹⁰ Md. Code Ann., Health § 20-208.

¹¹ “Except as otherwise provided . . . the State may not interfere with the decision of a woman to terminate a pregnancy: (1) Before the fetus is viable; or (2) At any time during the woman’s pregnancy, if: (i) The termination procedure is necessary to protect the life or health of the woman; or (ii) The fetus is affected by genetic defect or serious deformity or abnormality.” Md. Code Ann., Health § 20-209(b).

¹² Md. Code Ann. § 20-209(d).

¹³ *Id.* (c).

rights into the Maryland Constitution¹⁴ that includes a fundamental right to “the ability to make and effectuate decisions to . . . end one’s own pregnancy.”¹⁵

Rather than creating new protections for women or abortion providers, H. B. 1131 would significantly restrict the ability of law enforcement investigators to examine deaths associated with self-managed abortions. In circumstances where a “self-managed”¹⁶ abortion results in the birth of a live infant who later dies, investigators could proceed with their investigation only with the woman’s consent or upon discovering evidence of criminal conduct unrelated to the birth of that infant.¹⁷ Likewise, doctors and hospitals would be prohibited from reporting an infant death absent clear evidence of coercion, external abuse, or other independent indications of criminal wrongdoing, unless the woman grants permission.¹⁸ Indeed, a provider who reports that infant death could be subject to criminal penalties and fines, yet the bill gives no definition or explanation of “clear evidence of coercion,” or “independent evidence of criminal conduct,” to put providers and investigators on notice of what they should consider before subjecting themselves to potential criminal charges and penalties.¹⁹

Even for a search warrant, authorities would have to find independent evidence unrelated to the loss or obtain consent from the mother to investigate someone else who is related to the pregnancy loss.²⁰ With 24% of women describing their abortions and “‘unwanted’ or ‘coerced’”,²¹ it is unlikely to expect they would report the individuals responsible for pressuring them into the abortions.

Instead of protecting women and making abortion safe for them, H. B. 1131 would expand Maryland’s permissive abortions laws to remove critical protections for women and effectively legalize infanticide and abuse for nefarious actors exploiting these women.

II. *H. B. 1131 Would Remove Protections for Infants Born Alive*

At the moment of birth, an infant born in Maryland is a citizen and national of the United States, with all the rights that that status encompasses. *See, e.g.*, 8 U.S.C. §§ 1401(a) & (b).²²

¹⁴ Press Release, *Governor Moore Signs Proclamation to Enshrine Reproductive Freedom in Maryland’s Constitution*, STATE OF MD. (Jan. 17, 2025), <https://governor.maryland.gov/news/press/pages/governor-moore-signs-proclamation-to-enshrine-reproductive-freedom-in-maryland%E2%80%99s-constitution.aspx>.

¹⁵ MD. CONST. of 1867, art. 48 (2024).

¹⁶ “A self-managed abortion (SMA) is when a person ends their pregnancy outside the formal medical system. That means they don’t get in-person or telehealth support from a doctor or clinic.” *What is Self-Managed Abortion?*, NAT’L NETWORK OF ABORTION FUNDS, <https://abortionfunds.org/need-an-abortion/what-is-self-managed-abortion/> (last visited Feb. 26, 2026).

¹⁷ Pregnancy Outcome Protection Act, H.B. 1131, 449th Gen. Assemb., Reg. Sess. (Md. 2026).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Monica Snyder, et al., *Pivoting to Unwanted and Coerced Abortion: A Manifesto*, PUB. DISCOURSE (June 16, 2024), <https://www.thepublicdiscourse.com/2024/06/95171/>.

²² Maryland law defines the term “born” as “the complete expulsion or extraction of a product of human conception from the mother, regardless of the period of gestation, if, after the expulsion or extraction, it breathes or shows any other evidence of life, such as heartbeat, pulsation of the umbilical cord, or definite movement of voluntary muscle, whether or not the umbilical cord is cut or the placenta is attached.” Md. Code Ann., Health § 20-401(b).

Maryland law provides numerous special protections for minors, including newborns. Md. Code Ann., Criminal Law § 1-101(a)(g) (a “minor” is “an individual under the age of 18 years.”). This extends to children in utero. Maryland courts have affirmed that injuries inflicted on a pregnant woman whose born alive child died as a result of the prenatal injury could constitute manslaughter.²³

While HB 1131 states that “[p]regnancy loss’ does not include a death that occurs after a live birth[,]”²⁴ without the supervision of a clinician or a diligent clinician and without the ability to investigate whether the infant’s death occurred before or during labor, or after birth, *this clarification is practically meaningless*. As noted, Maryland law includes in the defining of “born,” “regardless of the period of gestation, if, after the expulsion or extraction, [the unborn child] breathes or shows any other evidence of life, such as heartbeat, pulsation of the umbilical cord, or definite movement of voluntary muscle”²⁵ Cardiac activity for an unborn child begins with a pulse at five weeks,²⁶ umbilical vein pulsations are present in the first trimester,²⁷ and “quickening” occurs at around twelve weeks.²⁸ All of these are present for a baby as late as thirty-five weeks and six days (which has happened in Maryland) and babies can be born alive as early as before twenty-four weeks gestation, and survive.²⁹

This legislation does not provide protections for born alive infants and does not remain consistent with what Maryland law considers as “born.” It would only serve the role of removing needed protections for babies born alive in Maryland who need medical intervention and care as soon as possible.

III. H. B. 1311 Removes Critical Protections for Women Seeking Abortions

H.B. 1311 would not decriminalize women experiencing the tragedy of pregnancy loss; rather, it would serve to make abortions more unsafe in Maryland and create a safety net for nefarious actors. Although a January study from the University of Maryland asserts that “it is far more dangerous to be pregnant than to have an abortion,” the World Health Organization cautions that “[m]aternal deaths due to unsafe abortion are often misclassified and underreported”³⁰

“An *unsafe abortion* is defined as ‘a procedure for terminating an unintended pregnancy carried out either by persons lacking the necessary skills or in an environment that does not

²³ See *Williams v. State*, 316 Md. 677, 682-83 (Md. 1989).

²⁴ H.B. 1131.

²⁵ Md. Code Ann., Health § 20-401.

²⁶ Colleen de Bellefonds, *Thump-Thump! Here’s When You’ll Hear Your Baby’s Heartbeat and Every Amazing Week-by-Week Change*, WHAT TO EXPECT (Feb. 6, 2026), <https://www.whattoexpect.com/pregnancy/fetal-development/fetal-heart-heartbeat-circulatory-system/>.

²⁷ G Rizzo, et al., *Umbilical Vein Pulsations: A Physiologic Finding in Early Gestation*, AM. J. OBSTETRICS & GYNECOLOGY (Sept. 1992), <https://pubmed.ncbi.nlm.nih.gov/1530021/>.

²⁸ *Quickening in Pregnancy*, CLEVELAND CLINIC, <https://my.clevelandclinic.org/health/symptoms/22829-quickening-in-pregnancy> (last updated Apr. 22, 2022).

²⁹ *When Is It Safe to Deliver Your Baby?*, UNIV. OF UTAH, <https://healthcare.utah.edu/womens-health/pregnancy-birth/preterm-birth/when-is-it-safe-to-deliver> (last visited Feb. 26, 2026).

³⁰ *Abortion*, WORLD HEALTH ORG. (Dec. 8, 2025), <https://www.who.int/news-room/fact-sheets/detail/abortion>.

conform to minimal medical standards or both.”³¹ This is not unheard of in Maryland. Cases such as the mere three-month suspension of Dr. Iris Dominy’s medical license in 2013 for a patient who died during an abortion procedure;³² the report finding some deficiencies in Dr. Leroy Carhart’s Germantown abortion clinic following the death of another woman seeking an abortion;³³ and the death of another woman in Baltimore during a 2006 abortion procedure after being administered too much anesthesia by Dr. Romeo Ferrer³⁴ are instances of these tragic and dangerous consequences.

There are also considerable dangers present for “at-home abortions.” Although the American College of Obstetricians & Gynecologists claims that for many, “the greatest risk of harm related to [self-managed abortion] comes from the threat of criminalization[,]”³⁵ that is simply not the case. Mifeprex (mifepristone) has a boxed warning for “[s]erious and sometimes fatal infections or bleeding[.]” where “[p]rolonged heavy bleeding . . . and prompt medical or surgical intervention may be needed.”³⁶ Cytotec (misoprostol) also has a boxed warning for “[u]terine rupture . . . reported when Cytotec was administered . . . to induce abortion.”³⁷

Outside of the general risks of using mifepristone and/or misoprostol (“Significant morbidity and mortality have occurred following the use of mifepristone as an abortifacient.”³⁸) (“A risk of uterine rupture exists with misoprostol When using misoprostol for medical abortion, clinicians should perform follow-up evaluations[.]”³⁹), self-managed abortion can also be accomplished with “herbs, teas, and other methods passed down from families and cultural traditions over generations.”⁴⁰ However, these other methods have included “significant morbidity and mortality implications[.]”⁴¹ The National Capital Poison Center has warned to not use herbal

³¹ Lisa B. Haddad, MD, MA & Nawal M. Nour, MD, MPH, *Unsafe Abortion: Unnecessary Maternal Mortality*, 2 REVS. IN OBSTETRICS & GYNECOLOGY 122, 122 (2009), https://pmc.ncbi.nlm.nih.gov/articles/PMC2709326/pdf/RIOG002002_0122.pdf.

³² Order for Summary Suspension of License to Practice Medicine, MD. STATE BD. OF PHYSICIANS (May 29, 2013), <https://www.mbp.state.md.us/BPQAPP/orders/d3089005.293.pdf>; Letter from Kevin A. Dunne, Esq. & Robert J., Gilbert, Asst. Att’y Gen., to Iris E. Dominy, M.D. (Aug. 29, 2013), <https://www.mbp.state.md.us/bpqapp/Orders/D3089008.293.PDF>.

³³ *Md. Officials Find No Deficiencies in Abortion Death at Germantown Clinic*, ABC-7 News, <https://wjla.com/news/local/md-officials-find-no-deficiencies-in-abortion-death-at-germantown-clinic-89249> (last updated July 10, 2015, 7:10 AM).

³⁴ George P. Matysek Jr., *Family of Woman Who Died in Botched Abortion Wants Laws Changed*, CATH. REVIEW (Jan. 19, 2012), <https://www.archbalt.org/family-of-woman-who-died-in-botched-abortion-wants-laws-changed/>.

³⁵ *Self-Managed Abortion*, AM. COLL. OF OBSTETRICIANS & GYNECOLOGISTS (Dec. 2024), <https://www.acog.org/clinical/clinical-guidance/committee-statement/articles/2024/12/self-managed-abortion>.

³⁶ *Mifeprex® (mifepristone) tablets, for oral use*, FDA, https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/020687s0201bl.pdf (last revised Mar. 2016).

³⁷ *CYTOTEC- misoprostol tablet*, PFIZER, <https://labeling.pfizer.com/showlabeling.aspx?id=559> (last visited Feb. 26, 2026).

³⁸ Kathi Aultman, et al., *Deaths and Severe Adverse Events After the Use of Mifepristone as an Abortifacient from September 2000 to February 2019*, ISSUES LAW MED. (2021), <https://pubmed.ncbi.nlm.nih.gov/33939340/>.

³⁹ Marissa Krugh, et al., *Misoprostol*, STATPEARLS, <https://www.ncbi.nlm.nih.gov/books/NBK539873/> (last updated Dec. 11, 2024).

⁴⁰ Adirenne Ramcharan, MPH, *Self-Managed Abortion Fact Sheet*, PHYSICIANS FOR REPROD. HEALTH (Sept. 2023), https://prh.org/wp-content/uploads/2023/09/SMAFactSheet_09182023.pdf.

⁴¹ Chris Feng, et al., *Toxicities of Herbal Abortifacients*, AM. J. EMERG. MED. (Mar. 7, 2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10192026/>.

medicines for inducing abortion and side effects include liver damage, difficulties breathing, and even death.⁴²

H. B. 1311 protects nefarious actors who pressure or force women into these dangerous self-managed abortions. It is well known that human traffickers, sexual predators, and domestic abusers often force women into having an abortion. Survivors of sex trafficking report “that they often [do] not feely choose the abortions they [have] while being trafficked.”⁴³ Sexual predators will use abortion as a means to conceal obvious evidence—pregnancy and childbirth—of their exploitation.⁴⁴ Women of domestic abuse have reported that they been forced by their abusers to ingest abortion pills.⁴⁵

In these circumstances described above, doctors and providers are prohibited from reporting an infant death absent clear evidence of coercion, external abuse, or other independent indications of criminal wrongdoing, unless the woman consents.⁴⁶ As a result, doctors and providers are incentivized to not report nefarious actors. Not only does the bill not define or explain what constitutes “clear evidence,”⁴⁷ but it assumes that women dealing with nefarious actors are in a safe position to consent to their trafficker or abuser being investigated. Providers are likely not going to risk criminal penalties and fines when they are unsure that reporting is lawful, and women are likely not going to consent when it is unsafe to do so.

H. B. 1311 will create a legal opening for these types of procedures to occur in Maryland without accountability or investigation. Not only does it risk the life of the unborn child being aborted (which is quite obviously the State’s desired goal), but it also puts the mother at risk of serious health consequences. Furthermore, it does little if anything to combat dangerous self-managed abortions at the hands of nefarious actors and further facilitates the exploitation of women.

CONCLUSION

For the reasons stated above, among others, we oppose House Bill 1131.

⁴² *Is Herbal Abortion Safe?*, POISON CONTROL, <https://www.poison.org/articles/herbal-abortion> (last visited Feb. 26, 2026).

⁴³ Laura J. Lederer & Christopher A. Wetzel, *The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities*, 23 *Annals Health L.* 61, 73 (2014), <https://tinyurl.com/3hvjednk>.

⁴⁴ See, e.g., Cole Waterman, *Saginaw Man Gets Prison Time for Raping Minor, Trying to Force Her into Getting Abortion*, MLive Mich. (Aug. 23, 2023, 10:42 AM), <https://tinyurl.com/ejhn5dk8>; Carole Novielli, *Man Took 14-Year-Old For Three Abortions After Impregnating Her, Clinics Ignored the Rapes*, LifeNews (July 30, 2014, 1:39 PM), <https://tinyurl.com/5a9mcfk4>; David McFadden, *Probation Revoked for Man in Impregnating 11-Year-Old, Forcing to Get Abortion*, ABC13 News, <https://tinyurl.com/mrwddyzt> (last updated July 19, 2018, 5:26 AM).

⁴⁵ E.g. Nancy Dillon, *California Man Accused of Forcing Pregnant Girlfriend to Take Miscarriage Pills at Gunpoint*, N.Y. Daily News, <http://tinyurl.com/36z4jd4d> (last updated Dec. 12, 2019, 6:06 PM); *Cops: NY Man Forced Woman to Swallow Abortion Pill*, Associated Press (Dec. 5, 2014, 10:55 AM), <http://tinyurl.com/4pmzu33s>.

⁴⁶ H.B. 1131.

⁴⁷ *Id.*