

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 846 (Delegate Cox)  
Health and Government Operations

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Public Health - Abortions - Prenatal Diagnosis of Down Syndrome (Down Syndrome Dignity Act)

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This bill modifies the current prohibition on the State interfering with the decision of a woman to terminate a pregnancy at any time during the woman’s pregnancy if the fetus is affected by genetic defect or serious deformity or abnormality. The bill specifies that this prohibition does not apply to a decision to terminate a pregnancy because the fetus has a prenatal diagnosis of Down syndrome unless (1) the fetus was conceived as the result of rape or incest or (2) an abortion is required because of a medical emergency.

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Fiscal Summary

**State Effect:** Medicaid general fund expenditures decrease to the extent that fewer Medicaid-funded abortions occur under the bill. However, the overall net effect on Medicaid expenditures and federal matching revenues is indeterminate, as discussed below.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** The State may not interfere with a woman’s decision to end a pregnancy before the fetus is viable, or at any time during a woman’s pregnancy, if the procedure is necessary to protect the life or health of the woman or if the fetus is affected by a genetic defect or serious deformity or abnormality. This is consistent with the U.S. Supreme Court’s holding

in *Roe v. Wade*. A viable fetus is one that has a reasonable likelihood of surviving outside of the womb. The Maryland Department of Health (MDH) may adopt regulations consistent with established medical practice if they are necessary and the least intrusive method to protect the life and health of the woman. If an abortion is provided, it must be performed by a licensed physician. A physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion made in good faith and in the physician's best medical judgment using accepted standards of medical practice.

"Down syndrome" means a chromosomal condition caused by an error in cell division that results in the presence of an extra whole or partial copy of chromosome 21.

**State Fiscal Effect:** MDH advises that, in fiscal 2020, the average cost of an abortion was \$660. Thus, to the extent fewer Medicaid-funded abortions occur, general fund expenditures decrease by an indeterminate amount.

Medicaid has previously noted that any cost savings from fewer State-funded abortions may be offset by an increase in costs for labor and delivery services provided to Medicaid-eligible women to the extent that births increase as a result of the bill. The approximate average cost for labor and delivery services is currently \$15,000. In addition, newborns born to Medicaid-eligible mothers are deemed automatically eligible for Medicaid benefits for their first year and typically retain eligibility for subsequent years. On average, Medicaid pays \$2,352 for health care per eligible child annually (50% general funds and 50% federal funds). The extent of any increase in expenditures cannot be reliably estimated at this time. Federal fund revenues increase accordingly.

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### **Additional Information**

**Prior Introductions:** HB 1583 of 2020 was referred to the House Rules Committee, but no further action was taken.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2021  
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