

HOUSE BILL 1214

D4, J1

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By: **Delegates McComas, Boteler, McKay, and Shoemaker**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Child Protection Act of 2022**

3 FOR the purpose of establishing certain duties and responsibilities of a mandatory
4 reporter; specifying that a mandatory reporter who fails to act is subject to a certain
5 penalty; requiring a physician who performs an abortion on a minor under a certain
6 age to preserve and submit a certain sample of fetal tissue to the Maryland
7 Department of Health; prohibiting a person from assisting a minor with obtaining
8 an abortion under certain circumstances; authorizing a court to enjoin certain
9 conduct under certain circumstances; and generally relating to the Maryland Child
10 Protection Act of 2022.

11 BY adding to
12 Article – Family Law
13 Section 5–717
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2021 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Family Law**

19 **5–717.**

20 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
21 **INDICATED.**

22 **(2) (I) “ABORTION” MEANS THE ACT OF USING OR PRESCRIBING**
23 **ANY INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR**
24 **MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 PREGNANCY OF A WOMAN WITH THE KNOWLEDGE THAT THE TERMINATION BY
2 THOSE MEANS WILL, WITH REASONABLE LIKELIHOOD, CAUSE THE DEATH OF THE
3 FETUS.

4 (II) "ABORTION" DOES NOT INCLUDE THE USE OF A PROCEDURE
5 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE PROCEDURE IS DONE WITH THE
6 INTENT TO:

7 1. SAVE THE LIFE OR PRESERVE THE HEALTH OF THE
8 UNBORN CHILD;

9 2. REMOVE A DEAD FETUS CAUSED BY SPONTANEOUS
10 ABORTION; OR

11 3. REMOVE AN ECTOPIC PREGNANCY.

12 (3) "ABUSE" HAS THE MEANING STATED IN § 7-1005 OF THE HEALTH
13 - GENERAL ARTICLE.

14 (4) "CARETAKER" MEANS A PERSON LEGALLY OBLIGATED TO
15 PROVIDE OR SECURE ADEQUATE CARE FOR A MINOR, INCLUDING A PARENT,
16 GUARDIAN, TUTOR, LEGAL CUSTODIAN, FOSTER PARENT, OR ANOTHER PERSON
17 PROVIDING A MINOR WITH A RESIDENCE.

18 (5) "MANDATORY REPORTER" MEANS A PERSON WHO HOLDS A
19 PROFESSIONAL POSITION THAT REQUIRES THE PERSON TO REPORT TO THE
20 APPROPRIATE STATE AGENCY A CASE OF SUSPECTED CHILD ABUSE.

21 (6) "PHYSICIAN" HAS THE MEANING STATED IN § 14-101 OF THE
22 HEALTH OCCUPATIONS ARTICLE.

23 (7) "REPRODUCTIVE HEALTH CARE FACILITY" MEANS AN OFFICE,
24 CLINIC, OR OTHER PHYSICAL LOCATION THAT PROVIDES ABORTIONS, ABORTION
25 COUNSELING, ABORTION REFERRALS, CONTRACEPTIVES, CONTRACEPTIVE
26 COUNSELING, SEX EDUCATION, OR GYNECOLOGICAL CARE AND SERVICES.

27 (B) (1) A MANDATORY REPORTER SHALL REPORT IN WRITING TO THE
28 APPROPRIATE LAW ENFORCEMENT OR STATE AGENCY EVERY SUSPECTED
29 INSTANCE OF ALLEGED OR SUSPECTED ABUSE, SEXUAL ABUSE, OR SEXUAL CRIMES
30 AGAINST A MINOR IN THE MANDATORY REPORTER'S CARE.

31 (2) A MANDATORY REPORTER SHALL FILE THE WRITTEN REPORT
32 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION NOT LATER THAN 48

1 HOURS AFTER THE ALLEGED OR SUSPECTED ABUSE, SEXUAL ABUSE, OR SEXUAL
2 CRIME IS BROUGHT TO THE ATTENTION OF THE MANDATORY REPORTER.

3 (3) A MANDATORY REPORTER MAY NOT DELEGATE THE
4 RESPONSIBILITY FOR MAKING A REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
5 SUBSECTION TO ANOTHER PERSON.

6 (C) A REPORT MADE UNDER SUBSECTION (B) OF THIS SECTION SHALL
7 INCLUDE:

8 (1) THE NAME AND ADDRESS OF THE MINOR;

9 (2) THE NAME AND ADDRESS OF THE PERSON WHO IS RESPONSIBLE
10 FOR THE CARE OR CUSTODY OF THE MINOR; AND

11 (3) ANY INFORMATION PERTAINING TO THE ALLEGED OR SUSPECTED
12 ABUSE, SEXUAL ABUSE, OR SEXUAL CRIME.

13 (D) A MANDATORY REPORTER WHO HAS CAUSE TO BELIEVE THAT A MINOR
14 HAS BEEN ABUSED, SEXUALLY ABUSED, OR THE VICTIM OF A SEXUAL CRIME AND
15 FAILS TO REPORT THE ABUSE, SEXUAL ABUSE, OR SEXUAL CRIME TO THE
16 APPROPRIATE AUTHORITY SHALL BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING
17 \$5,000.

18 (E) (1) (I) A PHYSICIAN WHO PERFORMS AN ABORTION ON A MINOR
19 WHO IS UNDER THE AGE OF 14 YEARS AT THE TIME OF THE ABORTION PROCEDURE
20 SHALL PRESERVE FETAL TISSUE EXTRACTED DURING THE ABORTION.

21 (II) THE PHYSICIAN SHALL SUBMIT FETAL TISSUE EXTRACTED
22 DURING AN ABORTION PERFORMED ON A MINOR WHO IS UNDER THE AGE OF 14
23 YEARS TO THE MARYLAND DEPARTMENT OF HEALTH.

24 (2) THE SECRETARY OF HEALTH SHALL ADOPT REGULATIONS TO
25 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION, INCLUDING:

26 (I) THE AMOUNT AND TYPE OF FETAL TISSUE TO BE
27 PRESERVED AND SUBMITTED BY A PHYSICIAN;

28 (II) PROCEDURES FOR THE PROPER PRESERVATION OF FETAL
29 TISSUE FOR THE PURPOSE OF DNA TESTING AND EXAMINATION;

30 (III) PROCEDURES FOR DOCUMENTING THE CHAIN OF CUSTODY
31 OF FETAL TISSUE FOR USE AS EVIDENCE IN A COURT PROCEEDING;

1 (IV) PROCEDURES FOR PROPER DISPOSAL OF FETAL TISSUE
2 PRESERVED IN ACCORDANCE WITH THIS SUBSECTION;

3 (V) A STANDARD REPORTING DOCUMENT TO BE USED BY
4 PHYSICIANS WHEN SUBMITTING FETAL TISSUE IN ACCORDANCE WITH THIS
5 SUBSECTION, WHICH SHALL INCLUDE:

6 1. THE NAME AND ADDRESS OF THE PHYSICIAN; AND

7 2. THE NAME AND ADDRESS OF THE PARENT OR
8 GUARDIAN OF THE MINOR ON WHOM THE ABORTION WAS PERFORMED; AND

9 (VI) PROCEDURES FOR COMMUNICATION WITH THE
10 DEPARTMENT OF STATE POLICE REGARDING EVIDENCE OBTAINED IN
11 ACCORDANCE WITH THIS SUBSECTION.

12 (3) IF A PHYSICIAN FAILS TO COMPLY WITH THE PROVISIONS OF THIS
13 SUBSECTION, THE SECRETARY OF HEALTH MAY MAKE A RECOMMENDATION FOR
14 DISCIPLINE TO THE STATE BOARD OF PHYSICIANS BASED ON THE SEVERITY OF THE
15 PHYSICIAN'S ACTION OR INACTION.

16 (F) (1) NO PERSON MAY INTENTIONALLY CAUSE, ABET, OR ASSIST A
17 MINOR TO OBTAIN AN ABORTION WITHOUT THE CONSENT OF THE MINOR'S PARENT
18 OR GUARDIAN.

19 (2) (I) A PERSON WHO VIOLATES PARAGRAPH (1) MAY BE CIVILLY
20 LIABLE FOR DAMAGES IN ACCORDANCE WITH THIS SUBSECTION.

21 (II) A COURT MAY AWARD DAMAGES TO A PERSON OR PERSONS
22 ADVERSELY AFFECTED BY A VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION,
23 INCLUDING COMPENSATION FOR EMOTIONAL INJURY WITHOUT THE ADVERSELY
24 AFFECTED PARTY NEEDING TO HAVE BEEN PRESENT WHEN THE ABORTION WAS
25 PERFORMED.

26 (III) AN ADULT WHO ENGAGES IN OR CONSENTS TO ANOTHER
27 ADULT ENGAGING IN A SEXUAL ACT WITH A MINOR MAY NOT BE AWARDED DAMAGES
28 UNDER THIS SUBSECTION.

29 (3) A DEFENSE UNDER THIS SUBSECTION MAY NOT INCLUDE THAT
30 THE ABORTION WAS PERFORMED OR INDUCED IN SUCH A MANNER THAT WAS
31 OTHERWISE LAWFUL IN THE STATE OR PLACE WHERE THE ABORTION WAS
32 PERFORMED OR INDUCED.

1 **(4) AN UNEMANCIPATED MINOR DOES NOT HAVE THE CAPACITY TO**
2 **CONSENT TO ANY ACTION IN VIOLATION OF THIS SECTION.**

3 **(G) A COURT OF COMPETENT JURISDICTION MAY ENJOIN CONDUCT THAT**
4 **WOULD BE IN VIOLATION OF THIS SECTION ON PETITION BY THE ATTORNEY**
5 **GENERAL, A DISTRICT ATTORNEY, OR ANY PERSON ADVERSELY AFFECTED OR WHO**
6 **REASONABLY MAY BE ADVERSELY AFFECTED BY SUCH CONDUCT, ON A SHOWING**
7 **THAT THE CONDUCT:**

8 **(1) IS REASONABLY ANTICIPATED TO OCCUR IN THE FUTURE; OR**

9 **(2) HAS OCCURRED IN THE PAST, WHETHER WITH THE SAME MINOR**
10 **OR OTHERS, AND THAT IT IS REASONABLE TO EXPECT THE CONDUCT WILL BE**
11 **REPEATED.**

12 **(H) THIS SECTION MAY BE CITED AS THE MARYLAND CHILD PROTECTION**
13 **ACT OF 2022.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2022.