

HOUSE BILL 1369

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By: **Delegates Cox, Arikan, Boteler, Krebs, McComas, Reilly, Rose, Shoemaker, and Wivell**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Abortions – Standards and Reporting**

3 FOR the purpose of altering the criteria related to the State’s authority to interfere with a
4 decision of a woman to terminate a pregnancy; prohibiting a physician from
5 performing an abortion under certain circumstances; requiring a physician to use
6 certain judgement in making certain determinations; establishing certain reporting
7 requirements related to abortions; and generally relating to the performance of
8 abortions.

9 BY repealing and reenacting, with amendments,
10 Article – Health – General
11 Section 20–209
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2021 Supplement)

14 BY adding to
15 Article – Health – General
16 Section 20–210
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2021 Supplement)

19 Preamble

20 WHEREAS, Fetal heartbeat has become a key medical predictor that an unborn
21 individual will reach live birth; and

22 WHEREAS, Cardiac activity begins at a biologically identifiable moment in time,
23 normally when the fetal heart is formed in the gestational sac; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, In order to make an informed choice about whether to continue the
2 pregnancy, a pregnant woman has a legitimate interest in knowing the likelihood of the
3 fetus surviving to full-term birth based on the presence of cardiac activity; now, therefore,

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

6 **Article – Health – General**

7 20–209.

8 (a) [In this section, “viable” means that stage when, in the best medical judgment
9 of the attending physician based on the particular facts of the case before the physician,
10 there is a reasonable likelihood of the fetus’s sustained survival outside the womb.

11 (b)] Except as otherwise provided in this subtitle, the State may not interfere with
12 the decision of a woman to terminate a pregnancy:

13 (1) Before the **GESTATIONAL AGE OF THE** fetus is [viable] **24 WEEKS**; or

14 (2) [At any time during the woman’s pregnancy, if:

15 (i) The] **IF AFTER AN EXAMINATION CONDUCTED UNDER §**
16 **20–210 OF THIS SUBTITLE, A PHYSICIAN DOES NOT DETECT A FETAL HEARTBEAT**
17 **AND** termination procedure is necessary to protect the life or health of the woman[; or

18 (ii) The fetus is affected by genetic defect or serious deformity or
19 abnormality].

20 [(c)] **(B)** The Department may adopt regulations that:

21 (1) Are both necessary and the least intrusive method to protect the life or
22 health of the woman; and

23 (2) Are not inconsistent with established medical practice.

24 [(d)] **(C)** The physician is not liable for civil damages or subject to a criminal
25 penalty for a decision to perform an abortion under this section made in good faith and in
26 the physician’s best medical judgment in accordance with accepted standards of medical
27 practice.

28 **20–210.**

29 **(A) A PHYSICIAN MAY NOT PERFORM AN ABORTION:**

1 **(1) BEFORE CONDUCTING A PHYSICAL EXAMINATION OF THE**
2 **PREGNANT WOMAN AND HER UNBORN CHILD TO DETERMINE IF THERE IS A FETAL**
3 **HEARTBEAT PRESENT;**

4 **(2) IF A FETAL HEARTBEAT IS DETECTED AFTER AN EXAMINATION**
5 **UNDER ITEM (1) OF THIS SUBSECTION;**

6 **(3) IF THE GESTATIONAL AGE OF THE UNBORN CHILD IS AT LEAST 24**
7 **WEEKS; OR**

8 **(4) (I) IF NO FETAL HEARTBEAT IS DETECTED; AND**

9 **(II) THE PHYSICIAN DOES NOT:**

10 **1. DETERMINE THAT, IN THE PHYSICIAN'S BEST**
11 **CLINICAL JUDGMENT, THE ABORTION IS NECESSARY TO SAVE THE LIFE OF THE**
12 **PREGNANT WOMAN; OR**

13 **2. RECEIVE WHAT THE PHYSICIAN REASONABLY**
14 **BELIEVES IS A WRITTEN STATEMENT SIGNED BY ANOTHER PHYSICIAN, CERTIFYING**
15 **THAT IN THE OTHER PHYSICIAN'S BEST CLINICAL JUDGMENT THE ABORTION IS**
16 **NECESSARY TO SAVE THE LIFE OF THE PREGNANT WOMAN.**

17 **(B) A PHYSICIAN SHALL USE THE PHYSICIAN'S BEST CLINICAL JUDGMENT**
18 **TO DETERMINE WHETHER OR NOT A FETAL HEARTBEAT IS PRESENT AND THE**
19 **GESTATIONAL AGE OF THE UNBORN CHILD.**

20 **(C) (1) FOR THE PURPOSE OF PROMOTION OF MATERNAL HEALTH AND**
21 **LIFE BY ADDING MEDICAL AND PUBLIC HEALTH KNOWLEDGE THROUGH THE**
22 **COMPILATION OF RELEVANT DATA, AND TO PROMOTE THE STATE'S INTEREST IN**
23 **PROTECTION OF THE UNBORN CHILD, A PHYSICIAN SHALL REPORT EACH ABORTION**
24 **PERFORMED TO THE DEPARTMENT ON A FORM REQUIRED BY THE DEPARTMENT.**

25 **(2) THE FORM REQUIRED UNDER PARAGRAPH (1) OF THIS**
26 **SUBSECTION MAY NOT IDENTIFY THE INDIVIDUAL WHO RECEIVED THE ABORTION BY**
27 **NAME AND SHALL INCLUDE IDENTIFICATION OF:**

28 **(I) THE PHYSICIAN WHO PERFORMED THE ABORTION; AND**

29 **(II) ANY OTHER PHYSICIAN CONSULTED REGARDING OR**
30 **INVOLVED IN ANY OF THE ACTIONS REQUIRED BEFORE PERFORMING AN ABORTION**
31 **OR IN THE PERFORMANCE OF AN ABORTION.**

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