

HOUSE BILL 1317

J1
HB 1075/19 – HGO

2lr2835
CF 2lr3214

By: **Delegates Rose, Krebs, McComas, and Reilly**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Informed Consent**
3 **(Woman’s Right to Know Act)**

4 FOR the purpose of prohibiting a physician from performing an abortion unless the woman
5 provides informed consent; establishing requirements related to the performance of
6 an abortion, including requirements related to the provision of information, record
7 keeping, medical emergencies, and the collection and reporting of information;
8 requiring the Maryland Department of Health to develop and maintain a website to
9 provide information related to pregnancy, childbirth, and the period that a child is
10 dependent; and generally relating to requirements for abortions.

11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 20–207 and 20–209
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2021 Supplement)

16 BY adding to
17 Article – Health – General
18 Section 20–217 through 20–224 to be under the new part “Part V. Procedures and
19 Information Before Abortion”
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2021 Supplement)

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

24 **Article – Health – General**

25 20–207.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) In [Part II of] this subtitle[, the word “physician”] **THE FOLLOWING WORDS**
2 **HAVE THE MEANINGS INDICATED.**

3 (B) **“ABORTION” MEANS THE USE OR PRESCRIPTION OF ANY INSTRUMENT,**
4 **MEDICINE, DRUG, OR ANY OTHER SUBSTANCE OR DEVICE USED TO:**

5 (1) **INTENTIONALLY KILL THE UNBORN CHILD OF A WOMAN KNOWN**
6 **TO BE PREGNANT; OR**

7 (2) **INTENTIONALLY TERMINATE THE PREGNANCY OF A WOMAN**
8 **KNOWN TO BE PREGNANT, WITH AN INTENTION OTHER THAN:**

9 (I) **AFTER VIABILITY TO PRODUCE A LIVE BIRTH AND**
10 **PRESERVE THE LIFE AND HEALTH OF THE CHILD BORN ALIVE; OR**

11 (II) **TO REMOVE A DEAD UNBORN CHILD.**

12 (C) **“ATTEMPT TO PERFORM AN ABORTION” MEANS AN ACT THAT**
13 **CONSTITUTES A SUBSTANTIAL STEP IN A COURSE OF CONDUCT PLANNED TO**
14 **CULMINATE IN THE PERFORMANCE OF AN ABORTION IN THE STATE.**

15 (D) **“CERTIFIED TECHNICIAN” MEANS:**

16 (1) **A REGISTERED DIAGNOSTIC MEDICAL SONOGRAPHER WHO IS**
17 **CERTIFIED IN OBSTETRICS AND GYNECOLOGY BY THE AMERICAN REGISTRY FOR**
18 **DIAGNOSTIC MEDICAL SONOGRAPHY;**

19 (2) **A NURSE LICENSED BY THE STATE BOARD OF NURSING AND**
20 **CERTIFIED AS A NURSE MIDWIFE; OR**

21 (3) **AN ADVANCED PRACTICE NURSE IN OBSTETRICS LICENSED BY**
22 **THE STATE BOARD OF NURSING WITH CERTIFICATION IN OBSTETRICAL**
23 **ULTRASONOGRAPHY.**

24 (E) **“EMBRYONIC OR FETAL HEARTBEAT” MEANS EMBRYONIC OR FETAL**
25 **CARDIAC ACTIVITY OR THE STEADY AND REPETITIVE RHYTHMIC CONTRACTION OF**
26 **THE EMBRYONIC OR FETAL HEART.**

27 (F) **“PHYSICIAN” means any person, including a doctor of osteopathy, licensed to**
28 **practice medicine in the State of Maryland in compliance with the provisions of Title 14 of**
29 **the Health Occupations Article.**

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

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

6 (1) Before the fetus is viable; or

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

8 (i) The termination procedure is necessary to protect the life or
9 health of the woman; or

10 (ii) The fetus is affected by genetic defect or serious deformity or
11 abnormality.

12 (c) The Department may adopt regulations that:

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

15 (2) Are not inconsistent with **THIS SUBTITLE AND** established medical
16 practice.

17 (d) The physician is not liable for civil damages or subject to a criminal penalty
18 for a decision to perform an abortion under this section made in good faith and in the
19 physician’s best medical judgment in accordance with accepted standards of medical
20 practice.

21 **20–215. RESERVED.**

22 **20–216. RESERVED.**

23 **PART V. PROCEDURES AND INFORMATION BEFORE ABORTION.**

24 **20–217.**

25 **(A) A PHYSICIAN MAY NOT PERFORM AN ABORTION UNLESS THE WOMAN ON**
26 **WHOM THE ABORTION MAY BE PERFORMED VOLUNTARILY PROVIDES HER**
27 **INFORMED CONSENT.**

28 **(B) (1) EXCEPT AS PROVIDED IN § 20–219 OF THIS SUBTITLE, CONSENT**
29 **TO AN ABORTION IS VOLUNTARY AND INFORMED IF THE REQUIREMENTS OF THIS**
30 **SUBSECTION ARE MET.**

1 **(2) (I) AT LEAST 24 HOURS BEFORE AN ABORTION IS PERFORMED,**
2 **THE PHYSICIAN WHO WOULD PERFORM THE ABORTION OR THE PHYSICIAN WHO**
3 **REFERS A WOMAN TO ANOTHER PHYSICIAN WHO WOULD PERFORM THE ABORTION**
4 **SHALL INFORM THE WOMAN ON WHOM THE ABORTION MAY BE PERFORMED BY**
5 **TELEPHONE OR IN PERSON OF:**

6 **1. THE NAME OF THE PHYSICIAN PERFORMING THE**
7 **ABORTION;**

8 **2. THE MEDICAL RISKS ASSOCIATED WITH THE**
9 **PROCEDURE THAT WILL BE USED TO PERFORM THE ABORTION INCLUDING, WHEN**
10 **APPROPRIATE, THE RISKS OF INFECTION, HEMORRHAGE, BREAST CANCER, DANGER**
11 **TO SUBSEQUENT PREGNANCIES, AND INFERTILITY;**

12 **3. IN THE JUDGMENT OF THE PHYSICIAN, THE**
13 **PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD AT THE TIME THE ABORTION**
14 **IS TO BE PERFORMED; AND**

15 **4. THE MEDICAL RISKS ASSOCIATED WITH CARRYING**
16 **THE CHILD TO TERM.**

17 **(II) IF THE INFORMATION REQUIRED TO BE PROVIDED UNDER**
18 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IS PROVIDED BY TELEPHONE WITHOUT**
19 **CONDUCTING A PHYSICAL EXAMINATION OF OR TEST ON THE PATIENT, THE**
20 **INFORMATION MAY BE BASED ON FACTS SUPPLIED TO THE PHYSICIAN BY THE**
21 **WOMAN AND ANY OTHER RELEVANT INFORMATION THAT IS REASONABLY**
22 **AVAILABLE TO THE PHYSICIAN.**

23 **(III) THE INFORMATION REQUIRED TO BE PROVIDED UNDER**
24 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE PROVIDED IN A MANNER IN**
25 **WHICH THE PHYSICIAN IS ABLE TO ASK QUESTIONS OF THE WOMAN AND THE WOMAN**
26 **IS ABLE TO ASK QUESTIONS OF THE PHYSICIAN.**

27 **(IV) IF THE PHYSICIAN DETERMINES BASED ON INFORMATION**
28 **AVAILABLE TO THE PHYSICIAN AFTER THE PHYSICIAN PROVIDED THE INFORMATION**
29 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT, IN THE MEDICAL JUDGMENT**
30 **OF THE PHYSICIAN, THE INFORMATION PROVIDED SHOULD BE REVISED, THE**
31 **REVISED INFORMATION MAY BE COMMUNICATED TO THE PATIENT AT ANY TIME**
32 **BEFORE THE PERFORMANCE OF THE ABORTION.**

33 **(V) THIS PARAGRAPH MAY NOT BE CONSTRUED TO PRECLUDE**
34 **PROVIDING ANY REQUIRED INFORMATION IN A LANGUAGE UNDERSTOOD BY THE**
35 **PATIENT THROUGH A TRANSLATOR.**

1 **(3) (I) AT LEAST 24 HOURS BEFORE AN ABORTION IS TO BE**
2 **PERFORMED, THE PHYSICIAN PERFORMING AN ABORTION, THE REFERRING**
3 **PHYSICIAN, OR AN AGENT OF EITHER PHYSICIAN SHALL INFORM THE WOMAN ON**
4 **WHOM THE ABORTION MAY BE PERFORMED BY TELEPHONE OR IN PERSON:**

5 **1. THAT MEDICAL ASSISTANCE BENEFITS MAY BE**
6 **AVAILABLE FOR PRENATAL CARE, CHILDBIRTH, AND NEONATAL CARE;**

7 **2. THAT THE FATHER IS LIABLE TO ASSIST IN THE**
8 **SUPPORT OF THE WOMAN'S CHILD, EVEN IF THE FATHER OFFERED TO PAY FOR THE**
9 **ABORTION; AND**

10 **3. A. THAT THE WOMAN HAS THE RIGHT TO REVIEW**
11 **THE MATERIALS PUBLISHED UNDER § 20-221 OF THIS SUBTITLE;**

12 **B. THAT THE MATERIALS ARE AVAILABLE ON A**
13 **STATE-SPONSORED WEBSITE; AND**

14 **C. OF THE ADDRESS FOR THE STATE-SPONSORED**
15 **WEBSITE.**

16 **(II) THE PHYSICIAN OR THE PHYSICIAN'S AGENT SHALL ORALLY**
17 **INFORM THE WOMAN THAT THE MATERIALS PUBLISHED UNDER § 20-221 OF THIS**
18 **SUBTITLE DESCRIBE THE UNBORN CHILD AND LIST AGENCIES THAT OFFER**
19 **ALTERNATIVES TO ABORTION.**

20 **(III) IF THE WOMAN CHOOSES TO VIEW THE MATERIALS OTHER**
21 **THAN ON THE WEBSITE, THE PHYSICIAN SHALL:**

22 **1. PROVIDE THE MATERIALS TO THE WOMAN AT LEAST**
23 **24 HOURS BEFORE THE ABORTION IS TO BE PERFORMED; OR**

24 **2. MAIL THE MATERIALS TO THE WOMAN AT LEAST 72**
25 **HOURS BEFORE THE ABORTION IS TO BE PERFORMED BY CERTIFIED MAIL AND IN A**
26 **MANNER IN WHICH THE POSTAL SERVICE CAN DELIVER THE MAIL ONLY TO THE**
27 **WOMAN.**

28 **(IV) THE INFORMATION REQUIRED UNDER THIS PARAGRAPH**
29 **MAY BE PROVIDED BY A TAPE RECORDING IF THE METHOD FOR DELIVERING THE**
30 **TAPE RECORDING IS CAPABLE OF REGISTERING WHETHER THE WOMAN DOES OR**
31 **DOES NOT CHOOSE TO HAVE THE PRINTED MATERIALS PROVIDED OR MAILED TO**
32 **HER.**

1 **(4) BEFORE PERFORMING AN ABORTION, THE PHYSICIAN**
2 **PERFORMING THE ABORTION OR THE PHYSICIAN'S AGENT SHALL OBTAIN A WRITTEN**
3 **CERTIFICATION FROM THE WOMAN ON WHOM THE ABORTION MAY BE PERFORMED**
4 **THAT:**

5 **(I) THE INFORMATION DESCRIBED IN PARAGRAPHS (2) AND (3)**
6 **OF THIS SUBSECTION HAS BEEN PROVIDED TO HER; AND**

7 **(II) THE WOMAN HAS BEEN INFORMED OF HER OPPORTUNITY**
8 **TO REVIEW THE MATERIALS PUBLISHED UNDER § 20–221 OF THIS SUBTITLE.**

9 **20–218.**

10 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND §**
11 **20–219 OF THIS SUBTITLE, BEFORE A WOMAN PROVIDES INFORMED CONSENT TO**
12 **HAVING ANY PART OF AN ABORTION PERFORMED OR INDUCED UNDER § 20–217 OF**
13 **THIS SUBTITLE, AND BEFORE THE ADMINISTRATION OF ANY ANESTHESIA OR**
14 **MEDICATION IN PREPARATION FOR THE ABORTION, THE PHYSICIAN PERFORMING**
15 **THE ABORTION OR A QUALIFIED TECHNICIAN SHALL:**

16 **(I) PERFORM AN OBSTETRIC ULTRASOUND ON THE PREGNANT**
17 **WOMAN, USING THE METHOD THAT THE PHYSICIAN AND THE WOMAN AGREE IS BEST**
18 **UNDER THE CIRCUMSTANCES;**

19 **(II) DURING THE ULTRASOUND, PROVIDE A VERBAL**
20 **EXPLANATION OF WHAT THE ULTRASOUND IS DEPICTING, INCLUDING THE**
21 **PRESENCE AND LOCATION OF THE EMBRYO OR FETUS WITHIN THE UTERUS AND THE**
22 **NUMBER OF EMBRYOS OR FETUSES DEPICTED;**

23 **(III) INFORM THE WOMAN IF THE FETUS IS NOT ALIVE;**

24 **(IV) DISPLAY THE ULTRASOUND IMAGES SO THAT THE**
25 **PREGNANT WOMAN MAY VIEW THEM; AND**

26 **(V) PROVIDE A MEDICAL DESCRIPTION OF THE ULTRASOUND**
27 **IMAGES, INCLUDING THE DIMENSIONS OF THE EMBRYO OR FETUS AND THE**
28 **PRESENCE OF EXTERNAL MEMBERS AND INTERNAL ORGANS, IF PRESENT AND**
29 **VISIBLE.**

30 **(2) THE PHYSICIAN PERFORMING THE ABORTION SHALL:**

31 **(I) BEFORE THE ABORTION IS PERFORMED, OBTAIN A WRITTEN**

1 CERTIFICATION FROM THE WOMAN THAT THE REQUIREMENTS OF PARAGRAPH (1)
2 HAVE BEEN MET;

3 (II) PLACE A COPY OF THE WRITTEN CERTIFICATION REQUIRED
4 UNDER ITEM (I) OF THIS PARAGRAPH IN THE WOMAN'S MEDICAL RECORD; AND

5 (III) RETAIN THE WRITTEN CERTIFICATION REQUIRED UNDER
6 ITEM (I) OF THIS PARAGRAPH:

7 1. FOR AT LEAST 7 YEARS; OR

8 2. IF THE WOMAN IS A MINOR, FOR AT LEAST 7 YEARS OR
9 FOR 5 YEARS AFTER THE MINOR REACHES THE AGE OF MAJORITY, WHICHEVER IS
10 GREATER.

11 (B) A PHYSICIAN, A CERTIFIED TECHNICIAN, OR ANOTHER AGENT OF THE
12 PHYSICIAN IS NOT IN VIOLATION OF SUBSECTION (A) OF THIS SECTION IF:

13 (1) THE PHYSICIAN, CERTIFIED TECHNICIAN, OR AGENT HAS
14 ATTEMPTED, CONSISTENT WITH STANDARD MEDICAL PRACTICE, TO MAKE THE
15 EMBRYONIC OR FETAL HEARTBEAT OF THE UNBORN CHILD AUDIBLE FOR THE
16 PREGNANT WOMAN TO HEAR USING A HANDHELD DOPPLER FETAL MONITOR;

17 (2) THE EMBRYONIC OR FETAL HEARTBEAT IS NOT AUDIBLE; AND

18 (3) THE PHYSICIAN HAS OFFERED TO ATTEMPT TO MAKE THE
19 HEARTBEAT AUDIBLE AT A SUBSEQUENT DATE.

20 (C) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT THE PREGNANT
21 WOMAN FROM:

22 (1) AVERTING HER EYES FROM ANY ULTRASOUND IMAGES; OR

23 (2) NOT LISTENING TO THE SOUNDS DETECTED BY A HANDHELD
24 DOPPLER FETAL MONITOR.

25 (D) THE PHYSICIAN AND THE WOMAN ARE NOT SUBJECT TO ANY PENALTY
26 IF THE WOMAN REFUSES TO LOOK AT ANY ULTRASOUND IMAGES OR LISTEN TO ANY
27 SOUNDS DETECTED BY A HANDHELD DOPPLER FETAL MONITOR.

28 20-219.

29 (A) (1) IN THIS SECTION, "MEDICAL EMERGENCY" MEANS A CONDITION

1 THAT, IN REASONABLE MEDICAL JUDGMENT, COMPLICATES THE MEDICAL
2 CONDITION OF THE PREGNANT WOMAN AND:

3 (I) REQUIRES THE IMMEDIATE ABORTION OF HER PREGNANCY
4 TO PREVENT HER DEATH; OR

5 (II) FOR WHICH A DELAY WILL CREATE SERIOUS RISK OF
6 SUBSTANTIAL AND IRREVERSIBLE PHYSICAL IMPAIRMENT OF A MAJOR BODILY
7 FUNCTION, NOT INCLUDING PSYCHOLOGICAL OR EMOTIONAL DAMAGE.

8 (2) "MEDICAL EMERGENCY" DOES NOT INCLUDE A CONDITION BASED
9 ON A CLAIM OR DIAGNOSIS THAT THE WOMAN WILL ENGAGE IN CONDUCT THAT SHE
10 INTENDS TO RESULT IN HER DEATH OR IN SUBSTANTIAL AND IRREVERSIBLE
11 PHYSICAL IMPAIRMENT OF A MAJOR BODILY FUNCTION.

12 (B) A PHYSICIAN MAY PERFORM AN ABORTION WITHOUT MEETING THE
13 REQUIREMENTS OF §§ 20-217 AND 20-218 OF THIS SUBTITLE IF:

14 (1) A MEDICAL EMERGENCY COMPELS THE PERFORMANCE OF AN
15 ABORTION; AND

16 (2) THE PHYSICIAN INFORMS THE WOMAN, BEFORE PERFORMING
17 THE ABORTION, IF POSSIBLE, OF:

18 (I) THE MEDICAL INDICATIONS SUPPORTING THE PHYSICIAN'S
19 JUDGMENT THAT AN ABORTION IS NECESSARY TO AVERT HER DEATH; OR

20 (II) THAT A 24-HOUR DELAY WILL CREATE SERIOUS RISK OF
21 SUBSTANTIAL AND IRREVERSIBLE PHYSICAL IMPAIRMENT OF A MAJOR BODILY
22 FUNCTION, NOT INCLUDING PSYCHOLOGICAL OR EMOTIONAL DAMAGE.

23 20-220.

24 (A) THE DEPARTMENT SHALL DEVELOP AND MAINTAIN A WEBSITE THAT,
25 TO THE EXTENT REASONABLY PRACTICABLE, IS SAFEGUARDED FROM HAVING THE
26 CONTENT OF THE WEBSITE ALTERED OTHER THAN BY THE DEPARTMENT TO
27 PROVIDE THE INFORMATION DESCRIBED UNDER § 20-221 OF THIS SUBTITLE.

28 (B) THE WEBSITE SHALL:

29 (1) USE USER-FRIENDLY SEARCH CAPABILITIES TO ENSURE THAT
30 THE INFORMATION DESCRIBED IN § 20-221 OF THIS SUBTITLE IS EASILY
31 ACCESSIBLE;

1 **(2) BE SEARCHABLE BY KEYWORDS AND PHRASES;**

2 **(3) POPULATE THE MATERIALS PUBLISHED UNDER § 20–221 OF THIS**
3 **SUBTITLE WHEN A USER ENTERS THE TERM “ABORTION”;**

4 **(4) PROVIDE THE MATERIALS PUBLISHED UNDER § 20–221 OF THIS**
5 **SUBTITLE IN A MANNER THAT IS PRINTABLE;**

6 **(5) PROVIDE CLEAR, PROMINENT INSTRUCTIONS ON HOW TO**
7 **RECEIVE THE INFORMATION ON THE WEBSITE IN PRINTED FORM;**

8 **(6) BE ACCESSIBLE TO THE PUBLIC WITHOUT REQUIRING**
9 **REGISTRATION OR A USERNAME, PASSWORD, OR ANOTHER USER IDENTIFICATION;**

10 **(7) BE MAINTAINED AT A MINIMUM RESOLUTION OF 70 DOTS PER**
11 **INCH; AND**

12 **(8) MEET THE FOLLOWING TECHNICAL SPECIFICATIONS:**

13 **(I) ALL PICTURES APPEARING ON THE WEBSITE SHALL BE A**
14 **MINIMUM OF 200 X 300 PIXELS;**

15 **(II) ALL LETTERS SHALL BE A MINIMUM OF 11 POINT FONT; AND**

16 **(III) ALL INFORMATION AND PICTURES SHALL BE ACCESSIBLE**
17 **WITH AN INDUSTRY STANDARD BROWSER REQUIRING NO ADDITIONAL DOWNLOADS**
18 **OR PLUG–INS.**

19 **(C) THE DEPARTMENT MAY NOT COLLECT OR MAINTAIN INFORMATION ON**
20 **WHO ACCESSES THE WEBSITE.**

21 **(D) THE DEPARTMENT SHALL MONITOR THE WEBSITE ON A DAILY BASIS TO**
22 **PREVENT AND CORRECT TAMPERING.**

23 **(E) THE DEPARTMENT SHALL IMMEDIATELY NOTIFY PHYSICIANS KNOWN**
24 **TO PROVIDE ABORTIONS OF ANY CHANGE IN THE LOCATION OF THE MATERIAL ON**
25 **THE WEBSITE.**

26 **20–221.**

27 **ON OR BEFORE JANUARY 1, 2023, THE DEPARTMENT SHALL PUBLISH AND**
28 **POST ON THE WEBSITE ESTABLISHED UNDER § 20–220 OF THIS SUBTITLE IN**

1 ENGLISH AND IN ANY LANGUAGE THAT IS THE PRIMARY LANGUAGE OF 2% OR MORE
2 OF THE STATE'S POPULATION AND IN AN EASILY COMPREHENSIBLE MANNER THE
3 FOLLOWING MATERIALS:

4 (1) GEOGRAPHICALLY INDEXED INFORMATION DESIGNED TO
5 INFORM A WOMAN OF THE PUBLIC AND PRIVATE AGENCIES AND SERVICES
6 AVAILABLE TO ASSIST THE WOMAN THROUGH PREGNANCY, CHILDBIRTH, AND
7 DURING THE PERIOD IN WHICH THE CHILD IS DEPENDENT, INCLUDING:

8 (I) A COMPREHENSIVE LIST OF THE AGENCIES AVAILABLE,
9 INCLUDING ADOPTION AGENCIES, WITH A DESCRIPTION OF THE SERVICES OFFERED
10 AND OF THE MANNER IN WHICH THE AGENCY MAY BE CONTACTED, INCLUDING
11 TELEPHONE NUMBERS; AND

12 (II) AT THE OPTION OF THE DEPARTMENT, A TOLL-FREE
13 TELEPHONE NUMBER AVAILABLE AT ALL TIMES THAT PROVIDES THE LIST OF
14 AGENCIES ESTABLISHED UNDER ITEM (I) OF THIS ITEM AND A DESCRIPTION OF THE
15 AGENCIES IN THE CALLER'S AREA AND THE SERVICES THEY OFFER; AND

16 (2) MATERIALS DESIGNED TO INFORM THE WOMAN OF THE
17 PROBABLE ANATOMICAL AND PHYSIOLOGICAL CHARACTERISTICS OF THE EMBRYO
18 OR FETUS AT 2-WEEK GESTATIONAL INCREMENTS FROM THE TIME WHEN A WOMAN
19 BECOMES PREGNANT TO FULL-TERM PREGNANCY, WHICH SHALL:

20 (I) CONTAIN:

21 1. ANY RELEVANT INFORMATION ON THE POSSIBILITY
22 OF THE EMBRYO'S OR FETUS'S SURVIVAL;

23 2. PICTURES OR REALISTIC DRAWINGS REPRESENTING
24 THE DEVELOPMENT OF AN EMBRYO OR A FETUS AT 2-WEEK GESTATIONAL
25 INCREMENTS, INCLUDING THE DIMENSIONS OF THE FETUS AT THE STAGE OF THE
26 PREGNANCY DEPICTED;

27 3. OBJECTIVE INFORMATION DESCRIBING THE
28 METHODS OF ABORTION PROCEDURES COMMONLY EMPLOYED;

29 4. THE MEDICAL RISKS COMMONLY ASSOCIATED WITH
30 EACH COMMON ABORTION PROCEDURE;

31 5. THE POSSIBLE DETRIMENTAL PSYCHOLOGICAL
32 EFFECTS OF ABORTION; AND

1 **6. THE MEDICAL RISKS COMMONLY ASSOCIATED WITH**
2 **CARRYING A CHILD TO TERM;**

3 **(II) BE OBJECTIVE, NONJUDGMENTAL, AND DESIGNED TO**
4 **CONVEY ONLY ACCURATE SCIENTIFIC INFORMATION ABOUT THE EMBRYO OR FETUS**
5 **AT THE VARIOUS GESTATIONAL AGES;**

6 **(III) BE PRINTED IN A TYPEFACE LARGE ENOUGH TO BE**
7 **CLEARLY LEGIBLE; AND**

8 **(IV) BE AVAILABLE AT NO COST FROM THE DEPARTMENT ON**
9 **REQUEST TO ANY PERSON, HEALTH CARE FACILITY, OR HOSPITAL.**

10 **20-222.**

11 **IF A PHYSICIAN WHO PROVIDES ABORTIONS HAS A WEBSITE, THE PHYSICIAN**
12 **SHALL INCLUDE ON THE WEBSITE HOMEPAGE A LINK TO THE DEPARTMENT'S**
13 **WEBSITE ESTABLISHED UNDER § 20-220 OF THIS SUBTITLE USING AT LEAST TWO**
14 **DIRECT LINKS, ONE OF WHICH IS POSTED PROMINENTLY ON THE WEBSITE.**

15 **20-223.**

16 **(A) ON OR BEFORE JANUARY 1, 2023, THE DEPARTMENT SHALL PREPARE**
17 **A REPORTING FORM FOR PHYSICIANS TO REPORT:**

18 **(1) THE NUMBER OF WOMEN TO WHOM THE PHYSICIAN PROVIDED**
19 **THE INFORMATION DESCRIBED IN § 20-217(B)(2) OF THIS SUBTITLE;**

20 **(2) OF THE NUMBER OF WOMEN WHO WERE PROVIDED THE**
21 **INFORMATION DESCRIBED IN § 20-217(B)(2) OF THIS SUBTITLE, THE NUMBER OF**
22 **WOMEN TO WHOM THE PHYSICIAN PROVIDED THE INFORMATION:**

23 **(I) BY TELEPHONE;**

24 **(II) IN PERSON;**

25 **(III) AS A REFERRING PHYSICIAN; AND**

26 **(IV) AS A PHYSICIAN PERFORMING THE ABORTION;**

27 **(3) THE NUMBER OF WOMEN TO WHOM THE PHYSICIAN OR AN AGENT**
28 **OF THE PHYSICIAN PROVIDED THE INFORMATION DESCRIBED IN § 20-217(B)(3) OF**
29 **THIS SUBTITLE;**

1 **(4) OF THE NUMBER OF WOMEN WHO WERE PROVIDED THE**
2 **INFORMATION DESCRIBED IN § 20–217(B)(3) OF THIS SUBTITLE, THE NUMBER OF**
3 **WOMEN TO WHOM:**

4 **(I) THE PHYSICIAN OR THE PHYSICIAN’S AGENT PROVIDED THE**
5 **INFORMATION BY TELEPHONE;**

6 **(II) THE PHYSICIAN OR THE PHYSICIAN’S AGENT PROVIDED THE**
7 **INFORMATION IN PERSON;**

8 **(III) THE PHYSICIAN OR THE PHYSICIAN’S AGENT PROVIDED THE**
9 **INFORMATION AS A REFERRING PHYSICIAN;**

10 **(IV) THE PHYSICIAN OR THE PHYSICIAN’S AGENT PROVIDED THE**
11 **INFORMATION AS THE PHYSICIAN PERFORMING THE ABORTION;**

12 **(V) THE PHYSICIAN PROVIDED THE INFORMATION; AND**

13 **(VI) AN AGENT OF THE PHYSICIAN PROVIDED THE**
14 **INFORMATION;**

15 **(5) THE NUMBER OF WOMEN WHO REQUESTED A COPY OF THE**
16 **PRINTED INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE, OTHER THAN**
17 **FROM THE DEPARTMENT’S WEBSITE;**

18 **(6) THE NUMBER OF WOMEN WHO DID NOT REQUEST A COPY OF THE**
19 **PRINTED INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE;**

20 **(7) THE NUMBER OF WOMEN WHO, TO THE BEST OF THE REPORTING**
21 **PHYSICIAN’S INFORMATION, HAD AN ABORTION AFTER OBTAINING A COPY OF THE**
22 **PRINTED INFORMATION DESCRIBED IN § 20–221 OF THIS SUBTITLE, OTHER THAN**
23 **FROM THE DEPARTMENT’S WEBSITE;**

24 **(8) THE NUMBER OF ABORTIONS PERFORMED BY THE PHYSICIAN FOR**
25 **WHICH THE INFORMATION REQUIRED TO BE PROVIDED AT LEAST 24 HOURS BEFORE**
26 **THE ABORTION WAS NOT PROVIDED BECAUSE AN IMMEDIATE ABORTION WAS**
27 **NECESSARY TO AVERT THE WOMAN’S DEATH; AND**

28 **(9) THE NUMBER OF ABORTIONS FOR WHICH INFORMATION**
29 **REQUIRED TO BE PROVIDED UNDER THIS SUBTITLE WAS NOT PROVIDED BECAUSE A**
30 **DELAY WOULD HAVE CREATED SERIOUS RISK OF SUBSTANTIAL AND IRREVERSIBLE**
31 **IMPAIRMENT OF A MAJOR BODILY FUNCTION.**

1 **(B) BEGINNING DECEMBER 1, 2023, THE DEPARTMENT SHALL ENSURE**
2 **THAT COPIES OF THE REPORTING FORMS PREPARED IN ACCORDANCE WITH**
3 **SUBSECTION (A) OF THIS SECTION AND A COPY OF THIS SUBTITLE ARE PROVIDED**
4 **TO:**

5 **(1) ALL PHYSICIANS LICENSED BY THE STATE BOARD OF PHYSICIANS**
6 **BY DECEMBER 1 EACH YEAR; AND**

7 **(2) EACH PHYSICIAN WHO OBTAINS A LICENSE FROM THE STATE**
8 **BOARD OF PHYSICIANS TO PRACTICE IN THE STATE AT THE TIME THE LICENSE IS**
9 **ISSUED.**

10 **(C) ON OR BEFORE FEBRUARY 28, 2024, AND EACH FEBRUARY 28**
11 **THEREAFTER, EACH PHYSICIAN WHO PROVIDED OR WHOSE AGENT PROVIDED**
12 **INFORMATION TO ONE OR MORE WOMEN IN ACCORDANCE WITH § 20-217 OR §**
13 **20-220 OF THIS SUBTITLE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR**
14 **SHALL SUBMIT TO THE DEPARTMENT A COPY OF THE FORM PROVIDED UNDER**
15 **SUBSECTION (B) OF THIS SECTION, WITH THE REQUIRED DATA ENTERED**
16 **ACCURATELY AND COMPLETELY TO THE EXTENT ALLOWED BY LAW.**

17 **(D) (1) A PHYSICIAN WHO FAILS TO SUBMIT THE REPORT REQUIRED**
18 **UNDER SUBSECTION (C) OF THIS SECTION WITHIN 30 DAYS AFTER FEBRUARY 28**
19 **MAY BE SUBJECT TO A LATE FEE OF \$500 FOR EACH ADDITIONAL 30-DAY PERIOD OR**
20 **PORTION OF A 30-DAY PERIOD IN WHICH THE REPORT IS OVERDUE.**

21 **(2) A PHYSICIAN REQUIRED TO REPORT IN ACCORDANCE WITH**
22 **SUBSECTION (C) OF THIS SECTION WHO HAS NOT SUBMITTED A REPORT, OR HAS**
23 **SUBMITTED ONLY AN INCOMPLETE REPORT MORE THAN 1 YEAR FOLLOWING THE**
24 **DATE THE REPORT IS DUE, MAY, IN AN ACTION BROUGHT BY THE DEPARTMENT, BE**
25 **DIRECTED BY A COURT OF COMPETENT JURISDICTION TO SUBMIT A COMPLETE**
26 **REPORT WITHIN A PERIOD STATED BY COURT ORDER OR BE SUBJECT TO SANCTIONS**
27 **FOR CIVIL CONTEMPT.**

28 **(E) (1) ON OR BEFORE JUNE 30, 2024, AND EACH JUNE 30 THEREAFTER,**
29 **THE DEPARTMENT SHALL ISSUE A REPORT THAT INCLUDES:**

30 **(I) STATISTICS ON EACH OF THE ITEMS LISTED IN THE FORM**
31 **PROVIDED BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION FOR THE**
32 **IMMEDIATELY PRECEDING CALENDAR YEAR COMPILED FROM ALL THE REPORTS**
33 **SUBMITTED UNDER SUBSECTION (C) OF THIS SECTION; AND**

34 **(II) STATISTICS ON EACH OF THE ITEMS LISTED IN THE FORM**

1 PROVIDED BY THE DEPARTMENT UNDER SUBSECTION (B) OF THIS SECTION FROM
2 ALL PRIOR REPORTS SUBMITTED UNDER THIS SUBSECTION ADJUSTED TO REFLECT
3 ANY ADDITIONAL INFORMATION FROM LATE OR CORRECTED REPORTS.

4 (2) THE DEPARTMENT SHALL ENSURE THAT NONE OF THE
5 INFORMATION INCLUDED IN THE REPORT ISSUED UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION COULD REASONABLY LEAD TO THE IDENTIFICATION OF ANY
7 INDIVIDUAL.

8 (F) THE DEPARTMENT MAY ADOPT REGULATIONS THAT:

9 (1) ALTER THE DATES BY WHICH INFORMATION OR REPORTS SHALL
10 BE SUBMITTED AS REQUIRED IN SUBSECTION (B), (C), OR (E) OF THIS SECTION; OR

11 (2) CONSOLIDATE THE FORMS OR REPORTS IN THIS SECTION WITH
12 OTHER FORMS OR REPORTS IF:

13 (I) THE DEPARTMENT SENDS TO ALL LICENSED PHYSICIANS IN
14 THE STATE THE REPORTING FORMS UNDER SUBSECTION (A) OF THIS SECTION AT
15 LEAST ONCE EVERY YEAR; AND

16 (II) THE DEPARTMENT ISSUED THE REPORT REQUIRED IN
17 SUBSECTION (E) OF THIS SECTION AT LEAST ONCE EVERY YEAR.

18 20–224.

19 (A) A PERSON WHO KNOWINGLY OR RECKLESSLY PERFORMS OR ATTEMPTS
20 TO PERFORM AN ABORTION IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A
21 FELONY.

22 (B) A PHYSICIAN WHO KNOWINGLY OR RECKLESSLY SUBMITS A FALSE
23 REPORT UNDER § 20–223 OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR.

24 (C) A PENALTY MAY NOT BE ASSESSED AGAINST A WOMAN ON WHOM AN
25 ABORTION IS PERFORMED OR ATTEMPTED TO BE PERFORMED IN VIOLATION OF
26 THIS SUBTITLE.

27 (D) A PENALTY MAY NOT BE ASSESSED AGAINST A PERSON AND THE PERSON
28 HAS NO CIVIL LIABILITY FOR FAILURE TO COMPLY WITH § 20–217(B)(3)(i)3 OR
29 (4) OF THIS SUBTITLE UNLESS THE DEPARTMENT HAS MADE THE PRINTED
30 MATERIALS AVAILABLE AT THE TIME THE PHYSICIAN OR THE PHYSICIAN’S AGENT IS
31 REQUIRED TO INFORM THE WOMAN OF HER RIGHT TO REVIEW THEM.

1 **(E) IN ADDITION TO ANY PENALTY ESTABLISHED UNDER THIS SUBTITLE,**
2 **THE FOLLOWING INDIVIDUALS MAY RECOVER ACTUAL AND PUNITIVE DAMAGES**
3 **FROM THE PERSON WHO KNOWINGLY OR RECKLESSLY PERFORMED THE ABORTION**
4 **IN VIOLATION OF THIS SUBTITLE:**

5 **(1) THE WOMAN ON WHOM AN ABORTION WAS PERFORMED IN**
6 **VIOLATION OF THIS SUBTITLE;**

7 **(2) THE FATHER OF THE EMBRYO OR FETUS WHO WAS THE SUBJECT**
8 **OF AN ABORTION IN VIOLATION OF THIS SUBTITLE; OR**

9 **(3) THE GRANDPARENT OF THE EMBRYO OR FETUS WHO WAS THE**
10 **SUBJECT OF AN ABORTION IN VIOLATION OF THIS SUBTITLE.**

11 **(F) A WOMAN ON WHOM AN ABORTION HAS BEEN ATTEMPTED IN VIOLATION**
12 **OF THIS SUBTITLE MAY RECOVER ACTUAL AND PUNITIVE DAMAGES FROM A PERSON**
13 **WHO KNOWINGLY OR RECKLESSLY ATTEMPTED TO PERFORM THE ABORTION IN**
14 **VIOLATION OF THIS SUBTITLE.**

15 **(G) (1) IF THE DEPARTMENT FAILS TO ISSUE THE PUBLIC REPORT**
16 **REQUIRED BY § 20–223 OF THIS SUBTITLE, ANY GROUP OF 10 OR MORE RESIDENTS**
17 **OF THE STATE MAY SEEK AN INJUNCTION IN A COURT OF COMPETENT JURISDICTION**
18 **AGAINST THE SECRETARY REQUIRING THAT A COMPLETE REPORT BE ISSUED**
19 **WITHIN A PERIOD STATED BY COURT ORDER.**

20 **(2) FAILURE TO ABIDE BY AN INJUNCTION ISSUED UNDER**
21 **PARAGRAPH (1) OF THIS SUBSECTION SHALL SUBJECT THE SECRETARY TO**
22 **SANCTIONS FOR CIVIL CONTEMPT.**

23 **(H) (1) IF JUDGMENT IS RENDERED IN FAVOR OF THE PLAINTIFF IN ANY**
24 **ACTION UNDER THIS SECTION, THE COURT SHALL AWARD REASONABLE ATTORNEY’S**
25 **FEES TO THE PLAINTIFF.**

26 **(2) IF JUDGMENT IS RENDERED IN FAVOR OF THE DEFENDANT IN ANY**
27 **ACTION UNDER THIS SECTION AND THE COURT FINDS THAT THE PLAINTIFF’S SUIT**
28 **WAS FRIVOLOUS AND BROUGHT IN BAD FAITH, THE COURT SHALL AWARD**
29 **REASONABLE ATTORNEY’S FEES TO THE DEFENDANT.**

30 **(I) (1) IN EACH PROCEEDING OR ACTION BROUGHT UNDER THIS**
31 **SUBTITLE, THE COURT SHALL, ON MOTION OR SUA SPONTE, RULE ON WHETHER THE**
32 **WOMAN ON WHOM AN ABORTION WAS ALLEGEDLY PERFORMED OR ATTEMPTED IN**
33 **VIOLATION OF THIS SUBTITLE SHALL REMAIN ANONYMOUS.**

1 **(2) (I) IF THE COURT DETERMINES THAT THE WOMAN ON WHOM AN**
2 **ABORTION WAS ALLEGEDLY PERFORMED OR ATTEMPTED IN VIOLATION OF THIS**
3 **SUBTITLE SHALL REMAIN ANONYMOUS, THE COURT SHALL DIRECT THE SEALING OF**
4 **THE RECORD, THE EXCLUSION OF INDIVIDUALS FROM COURTROOMS OR HEARING**
5 **ROOMS TO THE EXTENT NECESSARY, AND ANY OTHER MEASURES TO SAFEGUARD**
6 **THE WOMAN’S IDENTITY FROM PUBLIC DISCLOSURE.**

7 **(II) EACH ORDER UNDER SUBPARAGRAPH (I) OF THIS**
8 **PARAGRAPH SHALL BE ACCOMPANIED BY SPECIFIC WRITTEN FINDINGS**
9 **EXPLAINING:**

10 **1. WHY THE WOMAN’S IDENTITY SHOULD BE PRESERVED**
11 **FROM PUBLIC DISCLOSURE;**

12 **2. HOW THE ORDER IS NARROWLY TAILORED TO SERVE**
13 **THE INTEREST OF PRESERVING THE WOMAN’S IDENTITY FROM PUBLIC DISCLOSURE;**
14 **AND**

15 **3. WHY NO LESS RESTRICTIVE ALTERNATIVE EXISTS.**

16 **(J) AN INDIVIDUAL OTHER THAN A PUBLIC OFFICIAL WHO BRINGS AN**
17 **ACTION UNDER SUBSECTION (A) OF THIS SECTION SHALL BRING THE ACTION UNDER**
18 **A PSEUDONYM UNLESS THE WOMAN ON WHOM AN ABORTION WAS ALLEGEDLY**
19 **PERFORMED OR ATTEMPTED IN VIOLATION OF THIS SUBTITLE PROVIDES WRITTEN**
20 **CONSENT FOR THE INDIVIDUAL TO USE HER NAME.**

21 **(K) THIS SECTION MAY NOT BE CONSTRUED TO CONCEAL THE IDENTITY OF**
22 **THE PLAINTIFF OR OF WITNESSES FROM THE DEFENDANT.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before February 1,
24 2023, the Maryland Department of Health shall provide the form established under §
25 20–223(a) of the Health – General Article, as enacted by Section 1 of this Act, to all
26 physicians licensed by the Maryland Board of Physicians.

27 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
28 the application thereof to any person or circumstance is held invalid for any reason in a
29 court of competent jurisdiction, the invalidity does not affect other provisions or any other
30 application of this Act that can be given effect without the invalid provision or application,
31 and for this purpose the provisions of this Act are declared severable.

32 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2022.