

HOUSE BILL 626

E1, J1

2lr1829
CF 2lr1830

By: **Delegates Williams, Acevero, Amprey, Atterbeary, Bartlett, Boyce, Carr, Charkoudian, Charles, Crutchfield, Cullison, Feldmark, W. Fisher, Foley, Forbes, Guyton, Hill, Ivey, Jalisi, D. Jones, R. Jones, Kelly, Korman, Lehman, J. Lewis, R. Lewis, Lierman, Lopez, Love, Luedtke, McIntosh, Moon, Palakovich Carr, Pena–Melnyk, Qi, Queen, Reznik, Ruth, Shetty, Smith, Solomon, Stein, Stewart, Terrasa, Washington, Wells, Wilkins, and K. Young**

Introduced and read first time: January 31, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Pregnant Person’s Freedom Act of 2022**

3 FOR the purpose of altering certain provisions of law relating to the termination of a
4 pregnancy and investigations of or criminal penalties or civil liabilities for a
5 pregnant person or a person assisting a pregnant person; prohibiting a certain
6 provision of law that requires the termination of a pregnancy by a licensed physician
7 from being construed to apply to a certain pregnant person; and generally relating
8 to the termination of pregnancy.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 2–103
12 Annotated Code of Maryland
13 (2021 Replacement Volume and 2021 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Health – General
16 Section 20–207
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 20–208 and 20–209
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2019 Replacement Volume and 2021 Supplement)

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

Article – Criminal Law

2–103.

(a) For purposes of a prosecution under this title, “viable” has the meaning stated in § 20–209 of the Health – General Article.

(b) Except as provided in subsections (d) through (f) of this section, a prosecution may be instituted for murder or manslaughter of a viable fetus.

(c) A person prosecuted for murder or manslaughter as provided in subsection (b) of this section must have:

(1) intended to cause the death of the viable fetus;

(2) intended to cause serious physical injury to the viable fetus; or

(3) wantonly or recklessly disregarded the likelihood that the person’s actions would cause the death of or serious physical injury to the viable fetus.

(d) Nothing in this section applies to or infringes on a [woman’s] **PREGNANT PERSON’S** right to terminate a pregnancy as stated in § 20–209 of the Health – General Article.

(e) Nothing in this section subjects a physician or other licensed medical professional to liability for fetal death that occurs in the course of administering lawful medical care.

(f) Nothing in this section applies to an act or failure to act of a pregnant [woman] **PERSON** with regard to [her] **THE PERSON’S** own fetus.

(g) Nothing in this section shall be construed to confer personhood or any rights on the fetus.

(H) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE ANY FORM OF INVESTIGATION OR PENALTY FOR A PERSON:

(1) TERMINATING OR ATTEMPTING TO TERMINATE THE PERSON’S OWN PREGNANCY; OR

(2) EXPERIENCING A MISCARRIAGE, PERINATAL DEATH RELATED TO

1 A FAILURE TO ACT, OR STILLBIRTH.

2 (I) A PERSON IS NOT SUBJECT TO CRIMINAL PENALTIES OR CIVIL DAMAGES
3 FOR AIDING, INFORMING, OR IN ANY WAY ASSISTING A PREGNANT PERSON IN
4 TERMINATING OR SEEKING TO TERMINATE THE PERSON'S PREGNANCY.

5 (J) A PERSON MAY BRING A CAUSE OF ACTION FOR DAMAGES IF THE
6 PERSON WAS SUBJECT TO UNLAWFUL ARREST OR CRIMINAL INVESTIGATION FOR A
7 VIOLATION OF THIS SECTION AS A RESULT OF:

8 (1) TERMINATING OR ATTEMPTING TO TERMINATE THE PERSON'S
9 OWN PREGNANCY;

10 (2) EXPERIENCING A MISCARRIAGE, STILLBIRTH, OR PERINATAL
11 DEATH; OR

12 (3) AIDING, INFORMING, OR IN ANY WAY ASSISTING A PREGNANT
13 PERSON IN TERMINATING OR ATTEMPTING TO TERMINATE THE PERSON'S
14 PREGNANCY.

15 **Article – Health – General**

16 20–207.

17 In Part II of this subtitle, the word “physician” means any person, including a doctor
18 of osteopathy, licensed to practice medicine in the State of Maryland in compliance with
19 the provisions of Title 14 of the Health Occupations Article.

20 20–208.

21 (A) An abortion must be performed by a licensed physician.

22 (B) THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO A PREGNANT
23 PERSON WHO TERMINATES THE PERSON'S OWN PREGNANCY UNDER ANY
24 CIRCUMSTANCES.

25 20–209.

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

29 (b) (1) THE STATE MAY NOT INVESTIGATE OR PENALIZE A PREGNANT
30 PERSON FOR TERMINATING THE PERSON'S OWN PREGNANCY UNDER ANY
31 CIRCUMSTANCES.

1 **(2)** Except as otherwise provided in this subtitle, the State may not
2 interfere with the decision of a [woman] **PREGNANT PERSON** to terminate [a] **THE**
3 **PERSON'S OWN** pregnancy:

4 **[(1)] (I)** Before the fetus is viable; or

5 **[(2)] (II)** At any time during the [woman's] **PERSON'S OWN** pregnancy, if:

6 **[(i)] 1.** The termination procedure is necessary to protect the life
7 or health of the [woman] **PERSON**; or

8 **[(ii)] 2.** The fetus is affected by genetic defect or serious deformity
9 or abnormality.

10 (c) The Department may adopt regulations that:

11 (1) Are both necessary and the least intrusive method to protect the life or
12 health of the [woman] **PERSON**; and

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

14 (d) **(1)** The physician is not liable for civil damages or subject to a criminal
15 penalty for a decision to [perform an abortion] **PROVIDE ABORTIVE CARE** under this
16 section made in good faith and in the physician's best medical judgment in accordance with
17 accepted standards of medical practice.

18 **(2) A PREGNANT PERSON IS NOT LIABLE FOR CIVIL DAMAGES OR**
19 **SUBJECT TO A CRIMINAL PENALTY FOR TERMINATING OR ATTEMPTING TO**
20 **TERMINATE THE PERSON'S OWN PREGNANCY UNDER ANY CIRCUMSTANCES.**

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