

HOUSE BILL 1321

J1

0lr0814

By: **Delegates Ciliberti, Cox, and Malone**
Introduced and read first time: February 7, 2020
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Abortion – Ultrasound and Waiting Period**

3 FOR the purpose of prohibiting a physician from performing or inducing an abortion on a
4 pregnant woman within a certain period of time after the woman receives certain
5 ultrasound imaging; requiring the medical professional performing a certain
6 transabdominal ultrasound to have certain training, be working under the
7 supervision of a licensed physician, and take certain actions regarding the
8 performance of the ultrasound; providing that a woman is not required to accept
9 anything offered during certain transabdominal ultrasound imaging; requiring a
10 certain facility to maintain a certain copy of a certain ultrasound image for a certain
11 amount of time; establishing a certain penalty; providing for the application and
12 construction of this Act; making conforming changes; and generally relating to an
13 ultrasound and waiting period before the performance of an abortion.

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 20–209
17 Annotated Code of Maryland
18 (2019 Replacement Volume)

19 BY adding to
20 Article – Health – General
21 Section 20–210
22 Annotated Code of Maryland
23 (2019 Replacement Volume)

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

26 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 20–209.

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

5 (b) Except as **PROVIDED IN § 20–210 OF THIS SUBTITLE OR AS** otherwise
6 provided in this subtitle, the State may not interfere with the decision of a woman to
7 terminate a pregnancy:

8 (1) Before the fetus is viable; or

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

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

12 (ii) The fetus is affected by genetic defect or serious deformity or
13 abnormality.

14 (c) The Department may adopt regulations that:

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

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

18 (d) The physician is not liable for civil damages or subject to a criminal penalty
19 for a decision to perform an abortion under this section made in good faith and in the
20 physician’s best medical judgment in accordance with accepted standards of medical
21 practice **AND § 20–210 OF THIS SUBTITLE.**

22 **20–210.**

23 **(A) THIS SECTION DOES NOT APPLY TO A WOMAN SEEKING AN ABORTION IF:**

24 **(1) THE WOMAN IS THE VICTIM OF AN ALLEGED RAPE OR OF INCEST,**
25 **AS PROHIBITED UNDER § 3–323 OF THE CRIMINAL LAW ARTICLE; AND**

26 **(2) THE INCIDENT OF RAPE OR INCEST IS REPORTED TO LAW**
27 **ENFORCEMENT.**

28 **(B) A PHYSICIAN MAY NOT PERFORM OR INDUCE AN ABORTION ON A**
29 **PREGNANT WOMAN:**

30 **(1) WITHIN 24 HOURS AFTER THE WOMAN RECEIVES**

1 TRANSABDOMINAL ULTRASOUND IMAGING IN ACCORDANCE WITH SUBSECTION (C)
2 OF THIS SECTION; OR

3 (2) IF THE WOMAN RESIDES AT LEAST 100 MILES FROM THE FACILITY
4 IN WHICH THE ABORTION WILL BE PERFORMED, WITHIN 2 HOURS AFTER THE
5 WOMAN RECEIVES TRANSABDOMINAL ULTRASOUND IMAGING IN ACCORDANCE WITH
6 SUBSECTION (C) OF THIS SECTION.

7 (C) THE MEDICAL PROFESSIONAL PERFORMING THE TRANSABDOMINAL
8 ULTRASOUND IMAGING REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MUST:

9 (1) BE TRAINED IN SONOGRAPHY AND WORKING UNDER THE
10 SUPERVISION OF A LICENSED PHYSICIAN;

11 (2) IF POSSIBLE, DETERMINE THE GESTATIONAL AGE OF THE FETUS
12 BASED ON:

13 (I) MEASUREMENT OF THE FETUS IN A MANNER CONSISTENT
14 WITH THE STANDARD OF CARE; OR

15 (II) IF ONLY THE GESTATIONAL SAC IS VISIBLE DURING THE
16 TRANSABDOMINAL ULTRASOUND IMAGING, MEASUREMENT OF THE GESTATIONAL
17 SAC;

18 (3) IF GESTATIONAL AGE CANNOT BE DETERMINED UNDER ITEM (2)
19 OF THIS SUBSECTION, VERBALLY OFFER TO THE WOMAN OTHER ULTRASOUND
20 IMAGING TO DETERMINE GESTATIONAL AGE OF THE FETUS;

21 (4) IF PRESENT AND VIEWABLE, INCLUDE IN THE ULTRASOUND
22 IMAGE:

23 (I) THE DIMENSIONS OF THE FETUS; AND

24 (II) AN ACCURATE PORTRAYAL OF THE PRESENCE OF
25 EXTERNAL MEMBERS AND INTERNAL ORGANS OF THE FETUS;

26 (5) MAKE A PRINT OF THE ULTRASOUND IMAGE TO DOCUMENT ANY
27 MEASUREMENTS TAKEN TO DETERMINE THE GESTATIONAL AGE OF THE FETUS;

28 (6) VERBALLY OFFER TO THE WOMAN DURING THE ABDOMINAL
29 ULTRASOUND IMAGING THE OPTION TO:

30 (I) VIEW THE ULTRASOUND IMAGE;

1 **(II) RECEIVE A PRINTED COPY OF THE ULTRASOUND IMAGE;**
2 **AND**

3 **(III) HEAR THE FETAL HEARTBEAT IN A MANNER CONSISTENT**
4 **WITH THE STANDARD OF CARE; AND**

5 **(7) OBTAIN FROM THE WOMAN WRITTEN CERTIFICATION THAT:**

6 **(I) THE MEDICAL PROFESSIONAL PERFORMING THE**
7 **TRANSABDOMINAL ULTRASOUND IMAGING OFFERED OPTIONS AS REQUIRED UNDER**
8 **ITEM (6) OF THIS SUBSECTION; AND**

9 **(II) IF APPLICABLE, THE WOMAN RESIDES AT LEAST 100 MILES**
10 **FROM THE FACILITY IN WHICH THE ABORTION WILL BE PERFORMED.**

11 **(D) A WOMAN IS NOT REQUIRED TO ACCEPT ANYTHING OFFERED DURING**
12 **TRANSABDOMINAL ULTRASOUND IMAGING PERFORMED IN ACCORDANCE WITH**
13 **SUBSECTION (C) OF THIS SECTION, INCLUDING OFFERS MADE UNDER SUBSECTION**
14 **(C)(3) AND (6) OF THIS SECTION.**

15 **(E) THE FACILITY IN WHICH AN ABORTION IS PERFORMED SHALL MAINTAIN**
16 **A PRINTED COPY OF THE ULTRASOUND IMAGE MADE UNDER SUBSECTION (C)(5) OF**
17 **THIS SECTION FOR THE GREATER OF:**

18 **(1) 7 YEARS; OR**

19 **(2) AN AMOUNT OF TIME AS REQUIRED BY FEDERAL OR STATE LAW.**

20 **(F) A PHYSICIAN WHO VIOLATES THIS SECTION IS SUBJECT TO A PENALTY**
21 **OF UP TO \$2,500.**

22 **(G) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A PHYSICIAN**
23 **FROM USING ULTRASOUND IMAGING THAT THE PHYSICIAN CONSIDERS MEDICALLY**
24 **APPROPRIATE, CONSISTENT WITH THE STANDARD OF CARE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2020.