

HOUSE BILL 973

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HB 1161/22 – HGO

3lr1687

By: **Delegates Ciliberti, McComas, and Rose**
Introduced and read first time: February 10, 2023
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 qualified provider from performing or inducing an
4 abortion on a pregnant woman within a certain period of time after the woman
5 receives certain ultrasound imaging; establishing certain requirements related to
6 the performance of a certain transabdominal ultrasound; providing that a woman is
7 not required to accept anything offered during certain transabdominal ultrasound
8 imaging; and generally relating to an ultrasound and a waiting period before the
9 performance of an abortion.

10 BY repealing and reenacting, without amendments,
11 Article – Health – General
12 Section 20–207
13 Annotated Code of Maryland
14 (2019 Replacement Volume and 2022 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 20–209
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2022 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 20–210
23 Annotated Code of Maryland
24 (2019 Replacement Volume and 2022 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



Article – Health – General

20–207.

In Part II of this subtitle, “qualified provider” means an individual:

(1) Who is licensed, certified, or otherwise authorized by law to practice in the State; and

(2) For whom the performance of an abortion is within the scope of the individual’s license or certification.

20–209.

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

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

(1) Before the fetus is viable; or

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

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

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

(c) The Department may adopt regulations that:

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

(2) Are not inconsistent with established clinical practice.

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

20–210.

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

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

3 (2) THE INCIDENT OF RAPE OR INCEST IS REPORTED TO LAW
4 ENFORCEMENT.

5 (B) A QUALIFIED PROVIDER MAY NOT PERFORM OR INDUCE AN ABORTION
6 ON A PREGNANT WOMAN:

7 (1) WITHIN 24 HOURS AFTER THE WOMAN RECEIVES
8 TRANSABDOMINAL ULTRASOUND IMAGING IN ACCORDANCE WITH SUBSECTION (C)
9 OF THIS SECTION; OR

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

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

16 (1) BE TRAINED IN SONOGRAPHY AND WORKING UNDER THE
17 SUPERVISION OF A QUALIFIED PROVIDER;

18 (2) IF POSSIBLE, DETERMINE THE GESTATIONAL AGE OF THE FETUS
19 BASED ON:

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

22 (II) IF ONLY THE GESTATIONAL SAC IS VISIBLE DURING THE
23 TRANSABDOMINAL ULTRASOUND IMAGING, MEASUREMENT OF THE GESTATIONAL
24 SAC;

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

28 (4) IF PRESENT AND VIEWABLE, INCLUDE IN THE ULTRASOUND
29 IMAGE:

30 (I) THE DIMENSIONS OF THE FETUS; AND

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

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

(6) VERBALLY OFFER TO THE WOMAN DURING THE TRANSABDOMINAL ULTRASOUND IMAGING THE OPTION TO:

(I) VIEW THE ULTRASOUND IMAGE;

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

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

(7) OBTAIN FROM THE WOMAN WRITTEN CERTIFICATION THAT:

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

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

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

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

(1) 7 YEARS; OR

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

(F) A QUALIFIED PROVIDER WHO VIOLATES THIS SECTION IS SUBJECT TO A PENALTY OF UP TO \$2,500.

1 **(G) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A QUALIFIED**
2 **PROVIDER FROM USING ULTRASOUND IMAGING THAT THE QUALIFIED PROVIDER**
3 **CONSIDERS MEDICALLY APPROPRIATE, CONSISTENT WITH THE STANDARD OF CARE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2023.