

SENATE BILL 1008

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9lr3173
CF HB 978

By: **Senators Salling, Carozza, Cassilly, Eckardt, Edwards, Gallion, Hershey,
Hough, Jennings, Reilly, and Serafini**

Introduced and read first time: February 25, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Abortions – Detection of Fetal Heartbeat**
3 **(Keep Our Hearts Beating Act)**

4 FOR the purpose of repealing certain provisions of law that prohibit the State from
5 interfering with the decision of a woman to terminate a pregnancy under certain
6 circumstances, authorize the Maryland Department of Health to adopt certain
7 regulations, and limit the liability for civil damages or criminal penalties for
8 physicians under certain circumstances; prohibiting a physician, except under
9 certain circumstances, from performing or inducing an abortion on a pregnant
10 woman under certain circumstances; requiring a physician to use a certain method
11 for detecting a fetal heartbeat under certain circumstances; requiring a physician to
12 include certain information in a woman's medical record under certain
13 circumstances; establishing certain penalties for a certain violation of this Act;
14 authorizing an individual to recover civil damages from a certain person under
15 certain circumstances; and generally relating to abortions.

16 BY repealing

17 Article – Health – General

18 Section 20–209

19 Annotated Code of Maryland

20 (2015 Replacement Volume and 2018 Supplement)

21 BY adding to

22 Article – Health – General

23 Section 20–209

24 Annotated Code of Maryland

25 (2015 Replacement Volume and 2018 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
27 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

[20–209.

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

(b) Except 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 medical practice.

(d) The physician 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 physician’s best medical judgment in accordance with accepted standards of medical practice.]

20–209.

(A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A PHYSICIAN MAY NOT PERFORM OR INDUCE AN ABORTION ON A PREGNANT WOMAN:

(1) BEFORE DETERMINING WHETHER THE FETUS HAS A DETECTABLE HEARTBEAT; AND

(2) IF THE PHYSICIAN DETERMINES THAT THE FETUS HAS A DETECTABLE HEARTBEAT.

(B) (1) A PHYSICIAN WHO ATTEMPTS TO DETECT A FETAL HEARTBEAT

BEFORE PERFORMING AN ABORTION UNDER SUBSECTION (A) OF THIS SECTION SHALL USE A METHOD CONSISTENT WITH THE STANDARD OF CARE.

(2) A PHYSICIAN WHO ATTEMPTS TO DETECT A FETAL HEARTBEAT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE IN THE WOMAN'S MEDICAL RECORD:

(I) THE METHOD USED TO DETECT THE HEARTBEAT;

(II) THE APPROXIMATE GESTATIONAL AGE OF THE FETUS; AND

(III) WHETHER A FETAL HEARTBEAT WAS DETECTED.

(C) A PHYSICIAN MAY PERFORM OR INDUCE AN ABORTION WITHOUT ATTEMPTING TO DETECT A FETAL HEARTBEAT IF THE PHYSICIAN BELIEVES THAT A MEDICAL EMERGENCY EXISTS.

(D) (1) A PERSON WHO VIOLATES SUBSECTION (A) OF THIS SECTION:

(I) IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 12 MONTHS OR A FINE NOT EXCEEDING \$2,500 OR BOTH; AND

(II) MAY BE SUBJECT TO DISCIPLINARY ACTION BY THE APPROPRIATE LICENSING BOARD.

(2) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION:

(I) IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH; AND

(II) MAY BE SUBJECT TO DISCIPLINARY ACTION BY THE APPROPRIATE LICENSING BOARD.

(3) IN ADDITION TO THE PENALTIES ESTABLISHED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, AN INDIVIDUAL WHO RECEIVED AN ABORTION IN VIOLATION OF THIS SECTION MAY RECOVER CIVIL DAMAGES FROM THE PHYSICIAN WHO PERFORMED THE ABORTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.