

HOUSE BILL 1139

B1, J1

2lr2542

By: **Delegates Adams, Ghrist, Hartman, McKay, Thiam, and Wivell**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Funds – Prohibition on Expenditures for Abortion**
3 **(Abortion Subsidy Prohibition Act)**

4 FOR the purpose of stating the findings of the General Assembly regarding abortion;
5 prohibiting the use of certain funds or assets to directly or indirectly assist in an
6 abortion or training to perform an abortion or related services, subject to certain
7 exceptions; prohibiting certain individuals from paying a certain fee that would be
8 used to fund an abortion; prohibiting certain entities from entering into certain
9 abortion-related contracts, subject to certain exceptions; prohibiting the use of
10 certain grants for research projects involving abortion, human cloning, or prohibited
11 human research; requiring certain projects to maintain certain records; requiring
12 certain audits to make a certain certification; authorizing certain individuals, by
13 joint resolution, to intervene in any case that challenges the constitutionality of this
14 Act; and generally relating to the prohibition on expenditures of public funds for
15 abortions or related services.

16 BY repealing and reenacting, without amendments,
17 Article – General Provisions
18 Section 1–210
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Business Occupations and Professions
23 Section 10–306
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2021 Supplement)

26 BY adding to
27 Article – State Finance and Procurement
28 Section 7–240

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – General Provisions

1–210.

(a) Except as otherwise provided, the provisions of all statutes enacted after July 1, 1973, are severable.

(b) The finding by a court that part of a statute is unconstitutional or void does not affect the validity of the remaining portions of the statute, unless the court finds that the remaining valid provisions alone are incomplete and incapable of being executed in accordance with the legislative intent.

Article – Business Occupations and Professions

10–306.

(A) A lawyer may not use trust money for any purpose other than the purpose for which the trust money is entrusted to the lawyer.

(B) A LAWYER MAY NOT USE TRUST MONEY DIRECTLY OR INDIRECTLY TO:

(1) ADVOCATE FOR A LEGAL RIGHT TO ABORTION;

(2) PROVIDE LEGAL ASSISTANCE WITH RESPECT TO ANY PROCEEDING OR LITIGATION THAT SEEKS TO PROCURE ANY ABORTION OR TO PROCURE PUBLIC FUNDING FOR ANY ABORTION; OR

(3) PROVIDE LEGAL ASSISTANCE WITH RESPECT TO ANY PROCEEDING OR LITIGATION THAT SEEKS TO COMPEL THE PERFORMANCE OR ASSISTANCE IN THE PERFORMANCE OF ANY ABORTION OR THE PROVISION OF FACILITIES FOR THE PERFORMANCE OF ANY ABORTION.

Article – State Finance and Procurement

7–240.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

1 (2) (I) “ABORTION” MEANS THE ACT OF USING OR PRESCRIBING
2 ANY INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR
3 MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE
4 PREGNANCY OF A WOMAN WITH KNOWLEDGE THAT THE TERMINATION BY THOSE
5 MEANS WILL WITH REASONABLE LIKELIHOOD CAUSE THE DEATH OF THE UNBORN
6 CHILD.

7 (II) “ABORTION” DOES NOT INCLUDE A PRESCRIPTION FOR OR
8 ACTS PERFORMED BY A LICENSED PHYSICIAN WITH THE INTENT TO:

9 1. SAVE THE LIFE OR PRESERVE THE HEALTH OF THE
10 UNBORN CHILD;

11 2. REMOVE A DEAD UNBORN CHILD CAUSED BY
12 SPONTANEOUS ABORTION; OR

13 3. REMOVE AN ECTOPIC PREGNANCY.

14 (3) “FACILITY” MEANS ANY PUBLIC OR PRIVATE HOSPITAL, CLINIC,
15 CENTER, MEDICAL SCHOOL, MEDICAL TRAINING INSTITUTION, HEALTH CARE
16 FACILITY, PHYSICIAN’S OFFICE, INFIRMARY, DISPENSARY, AMBULATORY SURGICAL
17 TREATMENT CENTER, DOULA OR MIDWIFERY CENTERS, OR OTHER INSTITUTION OR
18 LOCATION WHERE MEDICAL CARE IS PROVIDED TO ANY PERSON.

19 (4) “HUMAN CLONING” MEANS HUMAN ASEXUAL REPRODUCTION
20 ACCOMPLISHED BY:

21 (I) INTRODUCING THE GENETIC MATERIAL FROM ONE OR
22 MORE HUMAN SOMATIC OR EMBRYONIC CELLS INTO A FERTILIZED OR
23 UNFERTILIZED OOCYTE WHOSE NUCLEAR MATERIAL HAS BEEN REMOVED OR
24 INACTIVATED BEFORE OR AFTER INTRODUCTION, SO AS TO PRODUCE AN ORGANISM
25 AT ANY STAGE OF DEVELOPMENT WITH A HUMAN OR PREDOMINANTLY HUMAN
26 GENETIC CONSTITUTION;

27 (II) ARTIFICIALLY SUBDIVIDING A HUMAN EMBRYO AT ANY TIME
28 FROM THE TWO-CELL STAGE ONWARD, SO THAT MORE THAN ONE HUMAN ORGANISM
29 RESULTS; OR

30 (III) INTRODUCING PLURIPOTENT CELLS FROM ANY SOURCE
31 INTO A HUMAN EMBRYO, NONHUMAN EMBRYO, OR ARTIFICIALLY MANUFACTURED
32 HUMAN EMBRYO OR TROPHOBLAST, UNDER CONDITIONS WHERE THE INTRODUCED
33 CELLS GENERATE ALL OR MOST OF THE BODY TISSUES OF THE DEVELOPING
34 ORGANISM.

(5) "PHYSICIAN" MEANS A DOCTOR OF MEDICINE OR OSTEOPATHY LEGALLY AUTHORIZED TO PRACTICE MEDICINE AND SURGERY BY THE STATE IN WHICH THE DOCTOR PERFORMS THE ACTIVITY OR ANY OTHER INDIVIDUAL LEGALLY AUTHORIZED BY THE STATE TO PERFORM ABORTIONS.

(6) (I) "PROHIBITED HUMAN RESEARCH" MEANS:

1. ANY MEDICAL PROCEDURES, SCIENTIFIC OR LABORATORY RESEARCH, OR OTHER KINDS OF INVESTIGATION THAT KILL OR INJURE THE HUMAN SUBJECT AT ANY STAGE OF DEVELOPMENT; OR

2. ANY SCIENTIFIC OR LABORATORY RESEARCH OR OTHER KINDS OF INVESTIGATION CONDUCTED ON FETAL TISSUE OBTAINED FROM AN ABORTION, UNLESS THE RESEARCH IS DONE TO OBTAIN FORENSIC OR OTHER EVIDENCE IN A RAPE OR INCEST INVESTIGATION.

(II) "PROHIBITED HUMAN RESEARCH" DOES NOT INCLUDE:

1. IN VITRO FERTILIZATION AND ACCOMPANYING EMBRYO TRANSFER TO A WOMAN'S BODY;

2. RESEARCH IN THE USE OF NUCLEAR TRANSFER OR OTHER CLONING TECHNIQUES TO PRODUCE MOLECULES, DEOXYRIBONUCLEIC ACID, OR CELLS OTHER THAN HUMAN EMBRYOS, TISSUES, ORGANS, PLANTS, OR ANIMALS OTHER THAN HUMANS; OR

3. ANY DIAGNOSTIC PROCEDURE THAT BENEFITS THE HUMAN SUBJECT OF SUCH TESTS.

(7) "UNBORN CHILD" MEANS THE OFFSPRING OF A HUMAN BEING FROM CONCEPTION UNTIL BIRTH.

(B) THE GENERAL ASSEMBLY FINDS THAT:

(1) THE DECISION NOT TO FUND ABORTION PLACES NO GOVERNMENTAL OBSTACLE IN THE PATH OF A WOMAN WHO CHOOSES TO TERMINATE HER PREGNANCY; AND

(2) THE GOVERNMENT MAY RATIONALLY DISTINGUISH BETWEEN ABORTION AND OTHER MEDICAL PROCEDURES BECAUSE NO OTHER PROCEDURE INVOLVES THE PURPOSEFUL TERMINATION OF A POTENTIAL LIFE.

(C) THE PURPOSE OF THIS SECTION IS TO:

(1) FURTHER STATE POLICY THAT NORMAL CHILDBIRTH IS TO BE GIVEN PREFERENCE, ENCOURAGEMENT, AND SUPPORT BY LAW AND THROUGH STATE ACTION AND AFFIRMED AS SERVING THE BEST INTERESTS AND COMMON GOOD OF MARYLAND CITIZENS; AND

(2) ENSURE THAT PUBLIC FUNDS ARE NOT USED TO SUBSIDIZE ABORTIONS DIRECTLY OR INDIRECTLY.

(D) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO PUBLIC FUNDS MADE AVAILABLE TO ANY INSTITUTION, BOARD, COMMISSION, DEPARTMENT, AGENCY, OFFICIAL, OR EMPLOYEE OF THE STATE, OR OF ANY LOCAL POLITICAL SUBDIVISION THEREOF, WHETHER THE FUNDS ARE MADE AVAILABLE BY THE GOVERNMENT OF THE UNITED STATES, THE STATE, OR A LOCAL GOVERNMENTAL SUBDIVISION OR FROM ANY OTHER PUBLIC SOURCE, NOR MONEY PAID BY STUDENTS AS PART OF TUITION OR FEES TO A STATE COLLEGE OR UNIVERSITY SHALL BE USED IN ANY WAY FOR, TO ASSIST IN, OR TO PROVIDE FACILITIES FOR AN ABORTION OR FOR TRAINING TO PERFORM AN ABORTION.

(2) IT IS UNLAWFUL FOR ANY PERSON EMPLOYED BY THE STATE OR ANY AGENCY OR POLITICAL SUBDIVISION IN THE STATE, WITHIN THE SCOPE OF THE PERSON'S EMPLOYMENT, OR FOR ANY STATE CONTRACTOR, WITHIN THE SCOPE OF THE PERSON'S CONTRACT, TO PERFORM OR ASSIST IN AN ABORTION.

(3) NO FUND OR COMMITTEE AUTHORIZED BY LAW OR REGULATION FOR THE SPECIAL PROTECTION OF WOMEN OR CHILDREN SHALL BE AUTHORIZED TO USE OR DISTRIBUTE PUBLIC FUNDS FOR THE PAYMENT OF ABORTIONS, WHETHER SURGICAL OR MEDICAL, ABORTION REFERRALS, ABORTION COUNSELING, OR ABORTION-RELATED SERVICES.

(4) NO ORGANIZATION THAT RECEIVES FUNDS AUTHORIZED OR APPROPRIATED BY THE STATE MAY USE THOSE FUNDS TO PERFORM OR PROMOTE ABORTIONS, PROVIDE COUNSELING IN FAVOR OF ABORTION, OR MAKE REFERRALS FOR ABORTIONS.

(5) THE LIMITATIONS IN PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION DO NOT APPLY TO A LICENSED PHYSICIAN WHEN INDUCING EARLY BIRTH WHEN THE LIFE OF THE MOTHER IS ENDANGERED BY A PHYSICAL DISORDER, PHYSICAL ILLNESS, OR PHYSICAL INJURY, INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING FROM THE PREGNANCY ITSELF, PROVIDED THAT ALL REASONABLE MEDICAL EFFORTS ARE MADE TO PRESERVE THE LIFE OF THE FETAL HUMAN BEING OR INFANT.

1 **(E) (1) (I) IT SHALL BE UNLAWFUL FOR ANY PUBLIC INSTITUTION,**
2 **PUBLIC FACILITY, PUBLIC EQUIPMENT, OR OTHER PHYSICAL ASSET OWNED,**
3 **LEASED, OR CONTROLLED BY THE STATE OR ANY AGENCY OR POLITICAL**
4 **SUBDIVISION IN THE STATE TO BE USED FOR THE PURPOSE OF PERFORMING OR**
5 **ASSISTING IN AN ABORTION.**

6 **(II) THIS LIMITATION DOES NOT APPLY TO A LICENSED**
7 **PHYSICIAN WHEN INDUCING EARLY BIRTH WHEN THE LIFE OF THE MOTHER IS**
8 **ENDANGERED BY A PHYSICAL DISORDER, PHYSICAL ILLNESS, OR PHYSICAL INJURY,**
9 **INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING**
10 **FROM THE PREGNANCY ITSELF, PROVIDED THAT ALL REASONABLE MEDICAL**
11 **EFFORTS ARE MADE TO PRESERVE THE LIFE OF THE FETAL HUMAN BEING OR**
12 **INFANT.**

13 **(2) (I) IT SHALL BE UNLAWFUL FOR ANY PUBLIC INSTITUTION OR**
14 **FACILITY TO LEASE, SELL, OR AUTHORIZE THE SUBLEASING OF ITS FACILITIES OR**
15 **PROPERTY TO ANY PHYSICIAN OR HEALTH FACILITY FOR USE IN THE PROVISION,**
16 **INDUCEMENT, OR PERFORMANCE OF AN ABORTION.**

17 **(II) THIS LIMITATION DOES NOT APPLY TO A LICENSED**
18 **PHYSICIAN WHEN INDUCING EARLY BIRTH WHEN THE LIFE OF THE MOTHER IS**
19 **ENDANGERED BY A PHYSICAL DISORDER, PHYSICAL ILLNESS, OR PHYSICAL INJURY,**
20 **INCLUDING A LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING**
21 **FROM THE PREGNANCY ITSELF, PROVIDED THAT ALL REASONABLE MEDICAL**
22 **EFFORTS ARE MADE TO PRESERVE THE LIFE OF THE FETAL HUMAN BEING OR**
23 **INFANT.**

24 **(F) NO APPLICANT, STUDENT, TEACHER, OR EMPLOYEE OF ANY PUBLIC**
25 **SCHOOL OR UNIVERSITY SHALL BE REQUIRED TO PAY ANY FEES THAT WOULD, IN**
26 **WHOLE OR IN PART, FUND AN ABORTION FOR ANY OTHER APPLICANT, STUDENT,**
27 **TEACHER, OR EMPLOYEE OF THAT SCHOOL OR UNIVERSITY.**

28 **(G) (1) NO HOSPITAL, CLINIC, HEALTH FACILITY, OR OTHER COMMUNITY**
29 **PROGRAM OWNED OR OPERATED BY THE STATE OR ANY OTHER GOVERNMENTAL**
30 **ENTITY, INCLUDING THE STATE DEPARTMENT OF EDUCATION, OR LOCAL UNITS**
31 **MAY ENTER INTO ANY CONTRACT WITH ANY PHYSICIAN, NURSE, HEALTH CARE**
32 **WORKER, DOULA, MIDWIFE, HEALTH FACILITY, OR COMMUNITY PROGRAM UNDER**
33 **THE TERMS OF WHICH THE PHYSICIAN, NURSE, HEALTH CARE WORKER, DOULA,**
34 **MIDWIFE, HEALTH FACILITY, OR COMMUNITY PROGRAM AGREES TO PROVIDE,**
35 **INDUCE, OR PERFORM ABORTIONS OR DISTRIBUTE ABORTION-INDUCING DRUGS.**

1 **(2) THIS LIMITATION DOES NOT APPLY TO A LICENSED PHYSICIAN**
2 **WHEN INDUCING EARLY BIRTH WHEN THE LIFE OF THE MOTHER IS ENDANGERED BY**
3 **A PHYSICAL DISORDER, PHYSICAL ILLNESS, OR PHYSICAL INJURY, INCLUDING A**
4 **LIFE-ENDANGERING PHYSICAL CONDITION CAUSED BY OR ARISING FROM THE**
5 **PREGNANCY ITSELF, PROVIDED THAT ALL REASONABLE MEDICAL EFFORTS ARE**
6 **MADE TO PRESERVE THE LIFE OF THE FETAL HUMAN BEING OR INFANT.**

7 **(3) THIS SUBSECTION DOES NOT APPLY TO THE GOVERNMENT OF THE**
8 **UNITED STATES, ANOTHER STATE, OR FOREIGN A NATION.**

9 **(H) (1) PUBLIC FUNDS MAY NOT BE EXPENDED, PAID, OR GRANTED TO OR**
10 **ON BEHALF OF AN EXISTING OR PROPOSED RESEARCH PROJECT THAT INVOLVES**
11 **ABORTION, HUMAN CLONING, OR PROHIBITED HUMAN RESEARCH.**

12 **(2) NO MONEY DERIVED FROM AN AWARD OF PUBLIC FUNDS SHALL**
13 **BE PASSED THROUGH TO ANY OTHER RESEARCH PROJECT, PERSON, OR ENTITY**
14 **THAT INVOLVES ABORTION, HUMAN CLONING, OR PROHIBITED HUMAN RESEARCH.**

15 **(3) A RESEARCH PROJECT THAT RECEIVES AN AWARD OF PUBLIC**
16 **FUNDS SHALL MAINTAIN FINANCIAL RECORDS THAT DEMONSTRATE STRICT**
17 **COMPLIANCE WITH THIS SUBSECTION.**

18 **(4) ANY AUDIT CONDUCTED IN ACCORDANCE WITH ANY GRANT OR**
19 **CONTRACT AWARDING PUBLIC FUNDS SHALL ALSO CERTIFY WHETHER THERE IS**
20 **COMPLIANCE WITH THIS SUBSECTION AND SHALL NOTE ANY NONCOMPLIANCE AS A**
21 **MATERIAL AUDIT FINDING.**

22 **(I) (1) NO FACILITY OPERATED ON PUBLIC SCHOOL PROPERTY OR**
23 **OPERATED BY A PUBLIC SCHOOL DISTRICT, AND NO EMPLOYEE OR CONTRACTOR OF**
24 **ANY FACILITY ACTING WITHIN THE SCOPE OF EMPLOYMENT OR THE CONTRACT,**
25 **SHALL PROVIDE ANY OF THE FOLLOWING SERVICES TO PUBLIC SCHOOL STUDENTS:**

26 **(I) PERFORMANCE OF ABORTIONS;**

27 **(II) COUNSELING IN FAVOR OF ABORTION;**

28 **(III) REFERRALS FOR ABORTION;**

29 **(IV) TRANSPORTATION SERVICES FOR PURPOSES OF OBTAINING**
30 **AN ABORTION;**

31 **(V) TELEHEALTH SERVICES FOR PURPOSES OF OBTAINING AN**
32 **ABORTION; OR**

(VI) DISPENSING DRUGS TO INDUCE ABORTIONS OR OTHERWISE CLASSIFIED AS EMERGENCY CONTRACEPTION BY THE U.S. FOOD AND DRUG ADMINISTRATION.

(2) THE STATE DEPARTMENT OF EDUCATION AND COUNTY BOARDS OF EDUCATION MAY NOT USE STATE FUNDS FOR THE PROCUREMENT OF ABORTIONS OR DISTRIBUTION OF DRUGS INTENDED TO INDUCE ABORTIONS OR OTHERWISE CLASSIFIED AS EMERGENCY CONTRACEPTION BY THE U.S. FOOD AND DRUG ADMINISTRATION.

(J) (1) NO FEDERAL OR STATE FUNDS THAT ARE APPROPRIATED BY THE STATE FOR THE PROVISION OF LEGAL SERVICES BY PRIVATE AGENCIES, AS AUTHORIZED BY STATUTE, MAY BE USED DIRECTLY OR INDIRECTLY TO:

(I) ADVOCATE FOR A LEGAL RIGHT TO ABORTION;

(II) PROVIDE LEGAL ASSISTANCE WITH RESPECT TO ANY PROCEEDING OR LITIGATION THAT SEEKS TO PROCURE ANY ABORTION OR TO PROCURE PUBLIC FUNDING FOR ANY ABORTION; OR

(III) PROVIDE LEGAL ASSISTANCE WITH RESPECT TO ANY PROCEEDING OR LITIGATION THAT SEEKS TO COMPEL THE PERFORMANCE OR ASSISTANCE IN THE PERFORMANCE OF ANY ABORTION OR THE PROVISION OF FACILITIES FOR THE PERFORMANCE OF ANY ABORTION.

(2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO REQUIRE OR PREVENT THE EXPENDITURE OF FUNDS IN ACCORDANCE WITH A COURT ORDER AWARDING FEES FOR ATTORNEY'S SERVICES UNDER THE CIVIL RIGHTS ATTORNEY'S FEES AWARD ACT OF 1976, NOR SHALL THIS SUBSECTION BE CONSTRUED TO PREVENT THE USE OF PUBLIC FUNDS TO PROVIDE COURT-APPOINTED COUNSEL IN ANY PROCEEDING RELATING TO THE MARYLAND PARENTAL NOTIFICATION LAW UNDER § 20-103 OF THE HEALTH - GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be construed as creating or recognizing a right to:

(1) abortion; or

(2) federal or State funds for abortions or family planning services.

SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly, by joint resolution, may appoint one or more of its members who sponsored or cosponsored this

1 Act in the member's official capacity, to intervene as a matter of right in any case in which
2 the constitutionality of this law is challenged.

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