



HB0975 Pain-Capable Unborn Child Protection Act
Presented to the Hon. Shane E. Pendergrass and
Members of the House Health & Government Operations Committee
March 8, 2019, 1:00 p.m.

POSITION: OPPOSE

NARAL Pro-Choice Maryland urges the House Health & Government Operations Committee **an unfavorable report on HB0975**, Pain-Capable Unborn Child Protection Act, sponsored by Delegate Robin Grammer.

Our organization is an advocate for reproductive health, rights, and justice. We work to ensure every childbearing individual has the freedom to decide if, when, and how to form one's family. In doing so, we acknowledge that every pregnancy is unique and honor pregnancy decision-making in all its complexity.

HB0975 prohibits a physician from performing or inducing, or attempting to perform or induce, an abortion procedure if the fetus is 20 or more weeks in development. It stipulates exceptions only in cases of a "medical emergency," or a condition that could result in the woman's death or substantial and irreversible physical impairment to one of her major bodily functions.

The proposed legislation denies child-bearing individuals reproductive freedom in cases of fetal anomaly, which are most commonly diagnosed during the second trimester of pregnancy.ⁱ Later-diagnosed congenital conditions include anencephaly (severe abnormal brain development), heart defects, and missing organs, and are the leading causes of infant mortality.ⁱⁱ With the restrictions proposed in HB0975, a woman could be legally obliged to carry an unhealthy pregnancy to term and ultimately have a child that has no chance of a life or one requiring constant medical intervention or living in chronic pain.ⁱⁱⁱ Further, this legislation threatens the liberty of women who have become pregnant in cases of rape, incest, and intimate partner violence. In addition to its foreseeable harms, HB0975 is blatantly unconstitutional. The Supreme Court has long held that a state may regulate abortion care but may not ban abortions before fetal viability.^{iv} Further, the bill's definition of "medical emergency" explicitly excludes risks to a woman's psychological and emotional health, which has been a protected circumstance for abortion since *Roe v. Wade*.^v Maryland families deserve access to this care.

According to the Centers for Disease Control and Prevention (CDC), only 1.3% of abortions are performed after 20 weeks, a rate reflective of the uniqueness of circumstances under which women typically seek the procedure at this point in development.^{vi} Later abortion care often occurs after discovering medical complications to the life or health of the mother, fetus, or both. During pregnancy, typical diagnostic testing for birth defects occurs just before or at 20 weeks of gestation.^{vii}

Unsurprisingly, HB0975 uses the language “unborn child,” which it defines as “an individual organism of the species homo sapiens from fertilization until live birth.” As an advocate for reproductive rights, we are deeply concerned about passing legislation that *explicitly* establishes personhood for a fertilized egg, embryo, and fetus. This is a direct assault on the fundamental holding of *Roe v. Wade*, and endowing such personhood inescapably diminishes the personhood of the woman, including her rights to liberty, bodily autonomy, and medical decision-making.

HB0975 overlooks critical reasons for later abortion care, undermines women’s constitutional rights, and establishes fetal personhood, threatening the personhood and well-being of any living individual capable of childbearing. As an advocate for reproductive health, rights, and justice, we acknowledge that every pregnancy is unique and work to ensure that every childbearing individual has the freedom to decide if, when, and how to form or add to one’s existing family. It is critical that all Maryland women and girls are able to make decisions based on their unique pregnancies, which can include tragic complications and unexpected medical conditions. Therefore, NARAL Pro-Choice Maryland **urges an unfavorable report on HB0975**. Thank you for your time and thoughtful consideration.

ⁱ Lyus, R. et al. (2013). *Second Trimester Abortion for Fetal Abnormality*. Retrieved from <http://www.bmj.com/content/347/bmj.f4165>

ⁱⁱ Radiopaedia. *Second trimester ultrasound scan*. Retrieved from <https://radiopaedia.org/articles/second-trimester-ultrasound-scan>

ⁱⁱⁱ British Pregnancy Advisory Service. *Termination of pregnancy for fetal anomaly*. Retrieved from <https://www.bpas.org/get-involved/advocacy/briefings/fetal-anomaly/>

^{iv} *Roe v. Wade*, 410 U.S. at 163-64. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

^v Guttmacher Institute. (2017, January). *Evidence You Can Use: Later Abortion*. Retrieved from <https://www.guttmacher.org/evidence-you-can-use/later-abortion>

^{vi} Jatlaoui, T. C. et al. (2017, November 24). *Abortion Surveillance – United States, 2014*. Retrieved from https://www.cdc.gov/mmwr/volumes/66/ss/ss6624a1.htm?s_cid=ss6624a1_w

^{vii} *Diagnostic Tests for Birth Defects*, The American Congress of Obstetricians and Gynecologists, September 2015, <http://www.acog.org/Patients/FAQs/Diagnostic-Tests-for-Birth-Defects> .