2019 Legislative Wrap-Up

NARAL Pro-Choice Maryland
Diana Philip, Executive Director
• ALL 16 anti-choice bills were defeated!
• The legislature passed bills on safeguarding funding for family planning services, expanding insurance enrollment periods for pregnant individuals, protecting the rights of pregnant inmates/detainees, and more!
• The legislature did not pass bills on paid family leave, requiring employers to provide simple accommodations for pregnant or new parenting workers, and others.
Why was this 2019 session different from most?

- Session after an election year
- Late start on setting up communications for legislator offices
- New legislators and staff
- New bill drafting staff
- Bills were dropped late after little time for corrections before filing
- Committee hearing schedules reflected backlog
- The health of the House Speaker and Senate President were in question
- And the usual infighting between chambers
- Sine die came a bit early
Anti-Choice Bills
• Introduced annually in recent years, this bill attempted to ban abortion care at 20 weeks

• This bill contained language such as "unborn child", which could be used to establish fetal personhood and further restrict abortion access

• It stipulated 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

• Del. Grammer later attempted to use HB 0975 as a floor amendment regarding family planning funding-which was also defeated
This bill attempted to mandate consent from at least one parent or legal guardian of a minor seeking abortion care.

- Youth under the age of 18 who are unable or unwilling to have parents involved in the decision to terminate a pregnancy would be required to seek a judicial bypass order through a local court.

- Current law mandates parental notification of at least one parent or legal guardian, but allows for physician bypass of that notification.

- Proponents tried to cast this bill not as anti-choice or pro-choice legislation, but one that asserted parental rights.
This bill attempted to require physicians, hospitals, and facilities to report abortions to the Maryland Department of Health.

Anti-choice groups and individuals could use the information to target and harass patients and providers based on the details offered in such reports.
HB 1075
Health–Informed Consent
(Woman’s Rights to Know Act)
Delegate Rose

DEFEATED

- This bill attempted to mandate that before performing an abortion, physicians must describe in great detail the characteristics of the fetus(es) and determine whether or not the fetus has a detectable heartbeat
- Would have established a burdensome 24-hour waiting period on patients
- Defined “abortion,” using loaded language, as a practice used to “intentionally kill the unborn child of a woman known to be pregnant”
- Del. Rose also introduced a floor amendment to the state budget attempting to eliminate Medicaid coverage for abortion care for patients and allowing it only in instances when it is necessary to prevent the death of a pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of a pregnant woman
This bill attempted to restrict access to early abortion by making Mifepristone, a drug taken in combination with Misoprostol known as medication abortion, much harder for patients to access through their healthcare providers.

Clinics that offer medication abortion do so in compliance with existing federal regulations.

Since federal regulations may change as the field reproductive medicine evolves, it is a waste of resources to codify practices into state law that are subject to change.

Included a reporting requirement, which aimed to stigmatize, burden abortion care providers, and adversely affect the privacy of patients they serve – especially in rural communities.
HB 1151
Health–Abortion–24-Hour Waiting Period
Delegate Cox

- This bill attempted to impose a mandatory 24-hour waiting period on abortion patients
- A mandatory waiting period would disproportionately impact individuals in the more rural parts of our state
- Waiting periods impose extra expenses, by forcing the patient to pay for additional transportation, lodging, and/or childcare for those traveling a distance from home, while losing income from missing work – which all puts low-income women at a heightened disadvantage
This bill attempted to unnecessarily overregulate clinics and facilities where abortion care is provided.

Anti-choice politicians claim pseudo-scientific reasons for the necessity of these regulations, but their goal is to restrict access.

If clinics and medical practices are unable to comply with these new, more expensive, stricter standards, they would be forced to close.

One-third of Maryland counties do not have an abortion provider.
This bill stated that abortion care can only be provided after a fetal heartbeat has been detected if, in the physician’s reasonable medical judgment, the abortion is necessary to prevent the death of a pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of a pregnant woman.

• Denied abortion care access to pregnant people in cases of fetal anomaly
• Unconstitutional under Roe v. Wade
This bill stated that a physician cannot perform an abortion 1) before determining whether a fetus has a detectable heartbeat and 2) if the physician determines that there is a fetal heartbeat.

This bill would also allow for physicians to be charged with a felony and fined up to $2,500 for each act if found in violation.

Denied abortion care access to pregnant people in cases of fetal anomaly.

Unconstitutional under *Roe v. Wade*
HB 0933
Abortion–Detection of Fetal Heartbeat
Delegate Metzger

- This bill attempted to prohibit physicians from providing abortion care if the fetus had a “detectable heartbeat”
- Would have denied individuals reproductive freedom in cases of fetal anomaly (most commonly diagnosed in 2nd trimester)
- Unconstitutional under *Roe v. Wade*
HB 1152

Interstate Human Trafficking of Minors Prohibition Act

Delegate Cox

DEFEATED

- This bill attempted to require an officer, employee, or agent of the state who encounters a pregnant minor to notify the State’s Attorney or face a criminal misdemeanor penalty.
- It was presented as an anti-human trafficking bill and by connecting human trafficking to abortion regulations attempted to conflate and politicize the issue.
- The bill also tried to prohibit the state crime victim compensation funds to cover abortion care for minors from other states trafficked into Maryland, when such funds already do not cover abortion care for rape victims who are state residents of any age.
HB 0757/SB 0561
Criminal Law
Homicide – Fetus
Delegate Kittleman & Senator Ready

- Originally introduced as a fetal personhood bill to establish that an intended or reckless act that resulted in a pregnancy loss at 8 weeks of pregnancy or more could garner a separate murder or manslaughter charge
- The Senate version was amended to create a sentence enhancement of imprisonment up to 10 years in addition to the sentence for the underlying crime if the act was committed against someone that the perpetrator knows is pregnant
- Was amended further by the House to include the language “or believes that the other person is pregnant”
SB 0561
Criminal Law – Crime of Violence Against Pregnant Person – Enhanced Penalty

Senator Ready

- This final version of SB0561 was passed by both chambers and was renamed “Criminal Law – Crime of Violence Against Pregnant Person – Enhanced Penalty”
- The enhanced penalty can be served consecutively or concurrently with the other sentence
- Can be used as a tool for prosecutors for offenses such as domestic violence, gender-based violence, or clinic violence
- No pregnancy loss is required and keeps the focus on the person targeted for being perceived as pregnant
Pregnancy Rights Bills
This bill amends the current insurance law to require small employer and individual health benefit plans to provide a special period during which an individual who has confirmed her pregnancy by a certified health care practitioner.

- Allows enrollment into a health benefit plan within 90 days of the pregnancy confirmation instead of waiting for the next open enrollment period which would delay access to prenatal care and prenatal testing.
This bill establishes the Maryland Prenatal and Infant Care Coordination Services Grant Program Fund, which serves to provide care-coordination services as well as evidence-based support services and interventions to promote health pregnancy outcomes.

- Creates a course of action for the continuance of the fund, as well as outlines how the fund will award grants to applicants.
- Aims to address the health disparities that are associated with infant mortality, which usually occur at higher rates among low-income women.
This bill mandates that reporting requirements for maternal mortality include race as a category for review, as well as other demographic data that had been not easy to access or disseminate.

The maternal mortality rate among Black women in 2009 was 46.7 per 100,000 live births, in comparison to the 15.9 for Non-Hispanic Whites and the 20.6 for the general population.

Black women also saw the highest increase in maternal mortality, from the 46.7 in 2009 to 56.3 in 2014.

The first step toward reducing maternal mortality in Maryland is understanding the issue in full, including from a racial perspective.

PASSED
HB 1107 / SB 0518

Discrimination in Employment – Pregnancy and Childbirth

Delegate Valderrama & Senator Feldman

This bill clarifies that employers are required to give reasonable accommodations to a pregnant employee upon request to maintain a healthy pregnancy, not just to an employee who needs accommodations as a result of pregnancy complications.

While many women will work through their pregnancies without any need for accommodations, some women will need temporary adjustments to their job duties to continue working safely during pregnancy.

Often employers have denied these requests, and employees left uncertain of how to respond may find themselves denied advancement opportunities, forced to take paid or unpaid leave, or pushed out of their jobs.
HB 1201 / SB 0972

Task Force on Educational Outcomes of Pregnant and Parenting Student in High School and GED Programs

Delegate Cain & Senator Ellis

- This bill aimed to establish a two-year task force to assist school districts in determining the most appropriate methodology to collect data on educational outcomes and identify barriers for diploma-seeking pregnant and parenting students.
- Aim is to inform future policy to support pregnant and parenting students in attaining both their parenting and educational goals.
- Looking forward: planning meetings are being scheduled for the interim and we intend to reintroduce the bill in 2020.
- Nationally, approximately 60% of secondary school students who become pregnant drop out or are pushed out of school.

*FAILED*
HB 0116 / SB 0846: Correctional Services: Opioid Use Disorder Examinations and Treatment
Delegate Barron & Senator West

- The goal of this bill was to ensure that inmates and detainees diagnosed with opioid use disorder be offered treatment within 24 hours after proper assessment, and also extends to those about to be released to promote successful recovery.
- As 65% of those incarcerated meet the criteria for some form of substance use disorder, this bill has the potential of benefiting a very large number of returning citizens.
- We successfully advocated for an amendment concerning pregnant inmates so that facilities will conduct an immediate assessment upon intake and offer but not force treatment, rather than assuming immediate withdrawal is the only response – which risks miscarriage.

PASSED
Congratulations!

Maryland is the first state in the nation to pass a law protecting pregnant inmates from forced solitary confinement!

REPRODUCTIVE JUSTICE INSIDE

rjinside.org
SHB 0745/SB 0809: Correctional Facilities – Restrictive Housing – Pregnant Inmates
Delegate W. Fisher & Senator Lee

- Prohibits the use of forced restrictive housing or medical isolation ("solitary confinement") for pregnant individuals as well as those in the post-pregnancy recovery period for any type of correctional or detention center in the state for adults and juveniles
- The U.N. Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders absolutely prohibit the placement of pregnant women in restrictive housing
- Forced restrictive housing has been shown to produce serious harmful outcomes for mental and physical health, and risks poor pregnancy outcomes
Restrictive housing stops a pregnant woman from engaging in exercise to keep her pregnancy healthy, participating in job training and education, and communicating with family members and others in her support network.

Restrictive housing used for medical isolation in MCIW results in a significant physical separation from supervision, so correctional officers and medical staff would not be able to hear a pregnant woman scream or cry out if she needed help.

Not only does restrictive housing make it difficult for a pregnant inmate to receive timely pregnancy-related medical attention, but it can be used as a form of punishment to obstruct a woman’s constitutional right to terminate her pregnancy or keep her silent about a pregnancy resulting from unwanted sexual contact inside.
Reproductive Justice Bills
This bill would have repealed provisions allowing 16 and 17 year-olds to marry under certain circumstances, including forming new families while pregnant or having given birth, and established that individuals under the age of 18 may not marry with absolutely no exceptions.

As Maryland does not have an emancipation statute and the current marriage law lacks judicial review, the mature youth seeking marriage would be denied legal relief to demonstrate best interests in applying for a marriage license.

16 years is the age of consent to sex.

There are various reasons why a pregnant or parenting minor would seek the benefits of legal marriage in forming and caring for one’s new family.
HB01147:

Family Law – Minors – Emancipation

Delegate Atterbeary

• Introduced as a compromise to the bill seeking to ban marriage for 16 and 17 year-olds without exceptions, this legislation sought to create a way for a minor of at least 16 years of age to petition the court for the right to emancipate from parents or legal guardians

• The petitioner would have to prove financial self-sufficiency and the ability to independently manage one’s own affairs and meet basic needs

• The bill passed out of the House and was amended in Senate committee to affect only those seeking to marry under current law or through a judicial review proceeding, allowing 16 and 17 year-olds the same rights as 18 year-olds, which includes the right to contract, and hire an attorney for a divorce if needed

• Passed out of Senate chamber, but did not move in House on sine die
This bill aims to prohibit private schools that receive certain public funding from discriminating against students and staff members in protected classes such as sex, which includes pregnancy.

Under Title IX, “school pushout” tactics can involve practices such as lack of accommodations for childcare and lactation, stigmatization and harassment from peers and staff, and forced involuntary leave from school.

Institutes additional protections for students and employees that are not already covered by federal law including prohibitions of discriminatory practices on the basis of sexual orientation, gender identity, national origin, and marital status.
This bill redefines parentage to include children born from of assisted reproductive methods or added to a family via adoption, and also applies to those who co-parent, but have not participated in legal marriage.

- It is an essential part of reproductive freedom for any Marylander, regardless of sexual orientation or gender identity, be able to form and support their families in ways that best fit their needs.
Maryland law currently does not prohibit minors from consenting to emergency shelter, and several federally funded emergency shelters for unaccompanied homeless minors have operated successfully in the state for years.

However, because Maryland law does not affirmatively establish that minors have legal capacity to consent to shelter admission, many nonprofit organizations that wish to support unaccompanied homeless minors choose not to provide shelter because it is unclear whether and how they can do so lawfully.

The bill was amended into a workgroup.

By providing clarity in the law, this legislation has the potential to result in the creation of more emergency shelter options for these youth.

Pregnant and parenting youth forced from their homes or without their own parents can benefit in accessing emergency shelter.
HB 0827/SB 0688

Juvenile Law – Sex Trafficking – Immunity, Services, and Investigations (Child Sex Trafficking Screening and Services Act of 2019)

Delegate Lierman & Senator Lee

- This bill requires a law enforcement officer who has reason to believe that a certain child is a victim of sex trafficking to notify a regional direct service agency to provide the immediate, expert care that the youth deserves
- Each community-based victim services agency shall be comprised of trained professionals that know that a minor who is reasonably believed to have engaged in prostitution should be considered a crime victim of sexual abuse and that the youth shall have access to immediate child centered and trauma-informed services, including access to timely sexual and reproductive healthcare
- This is a bill allowing local regions to apply for grant funds to create these centers

PASSED
HB 0145 / SB 0301:

Hospitals – Patient Bill of Rights

Delegate Pendergrass & Senator Kelley

- This bill requires hospitals to provide patients with a bill of rights and post them prominently onsite.
- These patient’s rights include, but are not limited to, safe care environments; being free from restraints, seclusion, and discrimination; and receiving consideration, respectful, and compassionate care.
- Will promote maximum care and information sharing with patients, and improve family planning and healthy pregnancy outcomes by allowing patients to determine their own care.
This bill allows for a minor to have the same capacity as an adult to consent to treatment for the prevention of human immunodeficiency virus (HIV).

The right to self-consent protects minors from the possibility of punishment or abuse from their parents for being sexually active, or risking exposure to HIV.

This legislation supports the rights of minors in taking control of their own sexual and reproductive health.

Where this statute exists also has language about minor’s access to abortion care and parental rights – which the antis uses in the attempt to get discussion on the both the House and Senate floor about how parents need more rights and control about the sexual lives of their children.
HB 1273/SB 0599:


Delegate Wilkins & Senator Nathan-Pulliam

- This legislation sought to clarify the parameters of state and local participation in federal civil immigration enforcement efforts on certain premises through the guidance of the state attorney general.

- We were particularly supportive of this bill calling for state and local governments to create and institute policies at hospitals to ensure accessibility to the public good regardless of immigration status.

- Without clear assurances, child-bearing individuals may delay or simply not seek urgent pregnancy-related medical services at hospitals for fear of being turned into the authorities.

- Women will not receive timely prenatal testing, miscarriage management, and hospital deliveries – that could lead to maternal or infant mortality, as well as infertility.

- Without assurances, undocumented families will fear that giving birth in hospitals means risking mothers and infants being deported, leaving behind other children that would be motherless.
HB 1272 / SB 0904

Maryland Department of Health – Family Planning Program Funding

Delegate Pendergrass & Senator Kelley

- This bill prevents Maryland from seeking Title X federal funds should those funds exclude any family planning providers and not require recipient clinics to provide information and referrals to the full range of acceptable and effective medically approved family planning methods and services available

- This legislation responds to the Trump/Pence Administration’s domestic gag rule on information and referral about abortion care, and ensures coverage of care for low-income Marylanders that would have been eligible for Title X throughout the state

- Amendments to this bill sought to eliminate the prohibition or allow the funds to be redirected to anti-choice crisis pregnancy centers the were defeated

- Amendments were introduced by Delegate Grammer and Senator Simonaire
This bill establishes the Maryland Easy Enrollment Health Insurance Program to improve data collection on uninsured individuals and to maximize enrollment of eligible uninsured individuals in affordable insurance programs.

It also requires the Maryland Health Benefit Exchange to establish a Maryland Easy Enrollment Health Insurance Program Advisory Workgroup, and requires the Comptroller to include a checkoff to indicate whether an individual is interested in obtaining minimum essential health coverage on certain state income tax forms.
Other Bills: Economic Security

- HB0166 – Labor and Employment - Payment of Wages – Minimum Wage and Enforcement (Fight for 15) – **Passed**
- HB0341/SB0500- Labor and Employment- Family and Medical Leave Insurance Program – Establishment (Time to Care Act of 2019) – **Failed**
- HB0634/SB0738 – Labor and Employment – Wage History and Wage Range – **Failed**
- HB0248/SB0181 – Education – Child Care Subsidies – Mandatory Funding Level - **Passed**
Other Bills: Sexual Violence

- HB0633/SB0396 Higher Education - Legal Representation Fund for Title IX Proceedings – Established - Passed
- HB1268/SB0569 Public Safety - Rape Kit Testing Grant Fund – Established - Passed
- HB1249/SB0657 Pilot Program - Alleged Rape Sexual Offense, or Child Sexual Abuse - HIV Postexposure Prophylaxis - Passed
- HB1096 /SB0767 - Criminal Procedure - Sexual Assault Evidence Collection Kits – Analysis – Passed
- HB0364/SB0909 – Health Care Practitioners – Medical Examinations on Anesthetized or Unconscious Patients - Passed
Other bills: Systems-Involved Women and Girls

- HB0782 / SB0691 – Criminal Procedure – Motion to Vacate Judgement – Human Trafficking (True Freedom Act of 2019) – Failed
- HB0871 / SB0690 – Criminal Law – Human Trafficking and Prostitution Offenses - Passed
- HB0710 / SB0821 – Correctional Services – Prerelease Unit – RENAMED Correctional Services – Prerelease Study and Report – Passed
- HB1001 / SB0774 – Correctional Services – Restrictive Housing – Reporting by Correctional Units and Requirements Relating to Minors - Passed
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- Donate to support our work: https://prochoicemd.org/fund-the-movement/
- Join our email list, our legislative rapid response list, and our volunteer list to learn more about our work and how to get more involved: http://bit.ly/choiceactionnetwork
- Want to host an event in your area? Email me: diana@prochoicemd.org