



## **HB0793 Public Health – Unborn Child Protection From Dismemberment Abortion Act**

Presented to the Hon. Shane Pendergrass and Members of the Health & Government Operations Committee

March 13, 2020 1:00 p.m.

---

### **POSITION: OPPOSE**

NARAL Pro-Choice Maryland urges the House Health and Government Operations committee **an unfavorable report on HB0793 - Public Health – Unborn Child Protection from Dismemberment Abortion Act**, sponsored by Delegate Wivell.

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 their families. In doing so, we acknowledge that every pregnancy is unique and honor pregnancy decision-making in all its complexity. SB0793 prohibits a physician from performing or inducing, or attempting to perform or induce, an abortion procedure in later pregnancy. 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 childbearing individuals reproductive freedom in cases [of fetal anomalies, which are most commonly diagnosed during the second trimester of pregnancy](#).<sup>i</sup> Later-diagnosed congenital conditions, including anencephaly (severe abnormal brain development), heart defects, and missing organs, are the leading causes of [infant mortality](#).<sup>ii</sup> With the restrictions proposed in HB0793, 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.<sup>iii</sup> 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, HB0793 is blatantly unconstitutional. The Supreme Court has long held that a state may regulate abortion care but may not ban abortions before fetal viability.<sup>iv</sup> 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*.<sup>v</sup> Maryland families deserve access to this care.

The World Health Organization recommends dilation and evacuation (D&E) as the safest and most effective surgical technique for abortions performed after 12 to 14 weeks of pregnancy.<sup>1</sup> D&E is a form of second-trimester abortion care in which a physician dilates the patient’s cervix and removes the fetus using surgical instruments. Its safety and efficacy have been documented since the 1970s.<sup>2</sup> According to the American College

---

<sup>1</sup> World Health Organization, ed. *Safe Abortion: Technical and Policy Guidance for Health Systems*. 2nd ed. Geneva: World Health Organization, 2012. [https://apps.who.int/iris/bitstream/handle/10665/70914/9789241548434\\_eng.pdf?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/70914/9789241548434_eng.pdf?sequence=1).

<sup>2</sup> Grimes, D. A., K. F. Schulz, W. Cates, and C. W. Tyler. “Mid-Trimester Abortion by Dilatation and Evacuation: A Safe and Practical Alternative.” *The New England Journal of Medicine* 296, no. 20 (May 19, 1977): 1141–45. <https://doi.org/10.1056/NEJM197705192962004>.

of Obstetricians and Gynecologists, 95 percent of second-trimester abortions are D&E procedures, and complications are extremely rare.<sup>3</sup> 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.<sup>vi</sup> 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](#).<sup>vii</sup>

Unsurprisingly, HB0793 uses the language “unborn child,” which it defines as “an individual organism of the species homo sapiens from fertilization until live birth.” Our organization is 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.

HB0793’s ban on abortion methods that involve “dismemberment abortion” would prohibit physicians from performing this common and safe abortion procedure, effectively denying abortion access to patients for whom other forms of abortions are unsafe or unavailable. HB0793 seeks to stigmatize and deny patients access to this common abortion procedure and undermines their fundamental, constitutional right to abortion care access. For these reasons, NARAL Pro-Choice Maryland **urges an unfavorable committee report on HB0793**. Thank you for your time and consideration.

---

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

<sup>ii</sup> Centers for Disease Control and Prevention. *Infant Mortality*. Retrieved from <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/infantmortality.htm>

<sup>iii</sup> Chistensen, Erika. *New York Forces Women Like Me to Carry Nonviable Pregnancies to Term*. Retrieved from <https://rewire.news/article/2017/05/23/new-york-forces-women-like-carry-nonviable-pregnancies-term/>

<sup>iv</sup> *Roe v. Wade*, 410 U.S. at 163-64. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

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

<sup>vi</sup> 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](https://www.cdc.gov/mmwr/volumes/66/ss/ss6624a1.htm?s_cid=ss6624a1_w)

<sup>vii</sup> *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> .

---

<sup>3</sup> Steinauer, Jody, Andrea Jackson, and Daniel Grossman. “Second Trimester Abortion.” *Practice Bulletin: Clinical Management Guidelines for Obstetrician-Gynecologists*, no. 135 (June 2013). <https://www.acog.org/-/media/Practice-Bulletins/Committee-on-Practice-Bulletins---Gynecology/Public/pb135.pdf?dmc=1&ts=20200310T1539544851>.