

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1401
Health

(Delegate McComas, *et al.*)

Public Health - Abortion - Informed Consent

This bill requires a qualified provider, before performing a procedure to terminate a pregnancy, to (1) inform the patient of the nature of the procedure and the potential risks associated with it, including the risks of depression, infection, hemorrhage, breast cancer, danger to subsequent pregnancies, infertility, and regret and (2) obtain the patient’s signed, written informed consent. The qualified provider must place a copy of the signed document in the patient’s medical record. The bill also renames Title 20, Subtitle 2, Part I of the Health-General Article to be Abortion Services rather than Abortion Referral Services.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: “Qualified provider” means an individual who is licensed, certified, or otherwise authorized by law to practice in the State; and for whom the performance of an abortion is within the scope of the individual’s license or certification.

For a detailed discussion of both federal and State abortion laws, please see **Appendix – Legal Developments Regarding Abortion.**

Small Business Effect: Small business qualified providers whose practices currently encompass performing abortions must comply with the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2026
jg/jc

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Appendix – Legal Developments Regarding Abortion

Status of Federal Abortion Law

In June 2022, the U.S. Supreme Court overturned precedent regarding abortion access in *Dobbs v. Jackson Women’s Health Organization*. Before this decision, abortions prior to viability were constitutionally protected based on *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*. The petitioners in *Dobbs* sought to overturn the invalidation of Mississippi’s Gestational Age Act, which prohibited abortions after 15 weeks gestation except for medical emergencies or severe fetal abnormalities. The U.S. Supreme Court upheld the Mississippi law by overturning *Roe* and *Casey*, holding that there is no constitutionally protected right to an abortion as it is not a right explicitly granted by the Constitution or a right “deeply rooted” in the country’s history and tradition. The *Dobbs* decision leaves states to decide how to regulate abortion access, resulting in a patchwork of state laws with varying degrees of access to abortion care.

Maryland Abortion Law

Roe and *Casey* were codified in Maryland law before the *Dobbs* decision, thereby limiting its impact in the State. Section 20-209 of the Health-General Article prohibits the State from interfering with an abortion conducted (1) before viability or (2) at any point, if the procedure is necessary to protect the health or life of the woman or in cases of fetal defect, deformity, or abnormality. The Maryland Department of Health (MDH) may also adopt regulations consistent with established clinical practice if they are necessary and the least intrusive method to protect the life and health of the woman.

Chapter 56 of 2022 expanded beyond physicians the types of health care providers who may provide abortions to include nurse practitioners, nurse-midwives, licensed certified midwives, physician assistants, and other qualified licensed health care providers. The Act also established the Abortion Care Clinical Training Program to (1) ensure there are enough health care professionals to provide abortion services in the State and (2) require health insurers and Maryland Medicaid to cover abortion services without a deductible, coinsurance, copayment, or other cost-sharing requirement. Chapters 248 and 249 of 2023 require certain health insurers that provide labor and delivery coverage to also cover abortion care services, with limited exceptions.

Chapters 244 and 245 of 2023 proposed a constitutional amendment to (1) establish an individual’s fundamental right to reproductive freedom, including but not limited to the ability to make and effectuate decisions to prevent, continue, or end one’s own pregnancy and (2) prohibit the State from directly or indirectly denying, burdening, or abridging the

right unless justified by a compelling State interest achieved by the least restrictive means. In November 2024, Maryland voters approved this constitutional amendment through a ballot referendum.

Chapters 435 and 436 of 2025 established the Public Health Abortion Grant Program. The program was intended to transfer excess funds from carriers' segregated accounts, which are required under the federal Patient Protection and Affordable Care Act (ACA), to a separate fund under MDH to provide grants to improve access to abortion care clinical services for individuals without sufficient resources. Uncodified language in the Acts specified that the bills must terminate if the federal Centers for Medicare and Medicaid Services (CMS) advised that the bills violate the ACA. On December 9, 2025, CMS issued new guidance about the use of carriers' segregated funds. CMS subsequently notified the Maryland Insurance Administration that, in accordance with the guidance, the Acts exceed the permissible uses of the segregated funds under Section 1303 of the ACA. Therefore, the Acts must terminate.

Maryland Shield Laws

Chapters 248 and 249 generally prohibit the disclosure of mifepristone data or the diagnosis, procedure, medication, or related codes for abortion care and other sensitive health services (including reproductive health services other than abortion care) by a health information exchange, electronic health network, or health care provider. The Acts also define "legally protected health care" to mean all reproductive health services, medications, and supplies related to the provision of abortion care and other sensitive health services as determined by the Secretary of Health based on the recommendation of the Protected Health Care Commission.

Chapters 246 and 247 of 2023 generally (1) establish additional protections for information related to "legally protected health care" when that information is sought by another state; (2) prohibit a health occupations board from taking specified disciplinary actions related to the provision of legally protected health care; (3) prohibit a medical professional liability insurer from taking "adverse actions" against a practitioner related to the practice of legally protected health care; and (4) prohibit specified State entities, agents, and employees from participating in any interstate investigation seeking to impose specified liabilities or sanctions against a person for activity related to legally protected health care (with limited exception). Data related to legally protected health care is also generally protected from other states.

State Actions Following the Dobbs Decision

As of December 2025, 41 states have some type of abortion ban or gestational limit in place with limited exceptions. Thirteen states (Alabama, Arkansas, Idaho, Indiana, Kentucky,

Louisiana, Mississippi, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia) have implemented total abortion bans. Twenty-eight states have abortion restrictions based on gestational duration, including seven states that ban abortion at or before 18 weeks gestation and 21 states that ban abortion at some point after 18 weeks. All 41 states have an exception for a threat to the mother's life; 22 states have exceptions for a threat to the physical health of the mother; and 13 states have exceptions for a threat to the general health of the mother. Several states also have limited exceptions for rape (9 states), incest (8 states), or lethal fetal anomalies (13 states).