

## Testimony against SB 798 “Declaration of Rights – Right to Reproductive Freedom”

by Michael J. New Ph.D.

I appreciate this opportunity to offer testimony in opposition to SB 798 “Declaration of Rights – Right to Reproductive Freedom.” I am a resident of Hyattsville, MD and testifying in my capacity as a concerned citizen. I am also an Assistant Professor of Practice at The Busch School of Business at The Catholic University of America. I am also an Associate Scholar at the Charlotte Lozier Institute, the research and education arm of the Susan B. Anthony List in Shirlington, VA. I have a Ph.D. in Political Science and a Master’s Degree in Statistics, both from Stanford University. I have authored 11 articles which have appeared in various peer-reviewed journals, four of which have been on the topic of the impact of state-level pro-life legislation. Two articles of mine on this topic were published in *State Politics and Policy Quarterly* (New 2011, 2014) which is the top state politics journal in the country.

During my testimony, I would like to make three points.

**1) This piece of legislation would enshrine constitutional right to an abortion for all nine months of pregnancy in the state constitution. This is a policy outcome that is very unpopular in the United States and in the state of Maryland**

There is a considerable body of polling data which shows that supermajorities of Americans reject late term abortions. Seven Gallup polls since July 1996 have included a question about whether abortion should be “generally legal” “or “generally illegal” in the last three months of pregnancy. On average, only 12.57 percent of respondents said third trimester abortions should be “generally legal”, while a strong supermajority – 81.43 percent – said that third trimester abortions should be “generally illegal.”

<sup>1</sup>Similarly, a June 2021 Associated Press/NORC Center for Public Affairs Research poll found that only 19 percent thought that abortion should be either legal in all cases or legal in most cases during the last trimester. Conversely 80 percent thought that third trimester abortions should either be “illegal in most cases” or “illegal in all cases.”<sup>2</sup>

HB 705 would enshrine an extremely unpopular public policy position in the Maryland state constitution where it would be difficult to change.

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<sup>1</sup> <https://news.gallup.com/poll/1576/abortion.aspx>

<sup>2</sup> <https://apnews.com/article/only-on-ap-us-supreme-court-abortion-religion-health-2c569aa7934233af8e00bef4520a8fa8>

**2) Making abortion a fundamental right would requires Maryland taxpayers to pay for abortion.  
HB 704 represents a massive abortion tax increase**

SB 798 would not only legalize abortion, but place a fundamental right to an abortion in the Maryland's state constitution. Many legal analysts have concluded that a fundamental right to an abortion requires taxpayers to pay for abortions.

In Alaska, where the state constitution recognizes abortion is a fundamental right, the state Medicaid program was required to pay for all elective abortions starting in 2001 (*State v. Planned Parenthood of Alaska, Inc.*).<sup>3</sup>

In Minnesota, the state Supreme Court has recognized that multiple provisions in the Minnesota Constitution protect abortion as a privacy right more broadly than the U.S. Constitution. As such, by a 1995 court ruling (*Women of Minnesota v. Gomez*), Minnesota's Medicaid program was required to cover elective abortions.<sup>4</sup>

Right now, the Maryland Medicaid program covers abortion in one of five specific circumstances.<sup>5</sup>

- 1) Risk to life of the mother
- 2) Risk to mother's current or future somatic health
- 3) Risk to mother's current or future mental health
- 4) Fetal genetic defect or serious deformity or abnormality
- 5) Mother was a victim of rape or incest

These are broad circumstances, but still limited circumstances. According to the most recent data from the Guttmacher Institute, Maryland taxpayers paid \$5,000,000 for 6,866 abortions in 2015.<sup>6</sup> That represents about 23 percent of the total.<sup>7</sup>

Taxpayers typically pay for a much larger fraction of abortions in states where the Medicaid program covers (or is required to cover) all elective abortions. This figure is often around 40 percent and can be even higher.

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<sup>3</sup> <https://reproductiverights.org/wp-content/uploads/2022/07/State-Constitutions-Report-July-2022.pdf>

<sup>4</sup> <https://reproductiverights.org/wp-content/uploads/2022/07/State-Constitutions-Report-July-2022.pdf>

<sup>5</sup> [https://health.maryland.gov/mmcp/Documents/Factsheet6\\_Abortion%20Services.pdf](https://health.maryland.gov/mmcp/Documents/Factsheet6_Abortion%20Services.pdf)

<sup>6</sup> [https://www.guttmacher.org/sites/default/files/report\\_pdf/public-funding-family-planning-abortion-services-fy-1980-2015.pdf](https://www.guttmacher.org/sites/default/files/report_pdf/public-funding-family-planning-abortion-services-fy-1980-2015.pdf)

<sup>7</sup> Maryland Abortion totals for 2015 estimated from Guttmacher Institute data from 2014 and 2016.

In Alaska, where the court required the Medicaid program to pay for all elective abortions, taxpayers paid for approximately 43 percent of the abortions performed in 2015.<sup>8</sup>

In Minnesota, where the court required the state Medicaid program to pay for all elective abortions, taxpayers paid for approximately 40 percent of the abortions performed in 2015.<sup>9</sup>

If the percentage of abortions paid for by Maryland taxpayers increased from 23 percent to 40 percent, that would represent a tax increase of over \$3.6 million dollars on already overburdened Maryland taxpayers.<sup>10</sup>

Keep in mind, this is a conservative estimate. Abortion costs have likely increased since 2015. The number of abortions performed in Maryland has also likely increased since 2015. Furthermore, a substantial body of public health and economics research shows that when abortions are subsidized or paid for by taxpayers, abortion rates increase. Overall, SB 798 represents a tax increase of more than tens of millions of dollars for hardworking Maryland taxpayers.

### **3) A strong body of research shows that late-term abortions pose serious health risks to women**

Multiple studies show that second and third trimester abortions have higher maternal mortality rates than first trimester abortions. One CDC study found that the risk of maternal mortality increases by 38 percent for each week an abortion is performed after eight weeks, reaching a 15-fold increase early in the second trimester, 30-fold increase in the mid-second trimester, and 76-fold increase after viability.<sup>11</sup> Similarly, another Centers for Disease Control (CDC) study found a 2.5-fold increase in mortality risk beyond 18 weeks' gestation compared with an earlier dilation and extraction abortion.<sup>12</sup>

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<sup>8</sup> [https://www.guttmacher.org/sites/default/files/report\\_pdf/public-funding-family-planning-abortion-services-fy-1980-2015.pdf](https://www.guttmacher.org/sites/default/files/report_pdf/public-funding-family-planning-abortion-services-fy-1980-2015.pdf) (Calculation by author)

<sup>9</sup> [https://www.guttmacher.org/sites/default/files/report\\_pdf/public-funding-family-planning-abortion-services-fy-1980-2015.pdf](https://www.guttmacher.org/sites/default/files/report_pdf/public-funding-family-planning-abortion-services-fy-1980-2015.pdf) (Calculation by author)

<sup>10</sup> Calculation by author using 2015 data.

<sup>11</sup> Linda Bartlett et al., "Risk Factors for Legal Induced Abortion-Related Mortality in the United States," *Obstetrics and Gynecology* 103, no. 4 (2004): 729-37, doi: 10.1097/01.AOG.0000116260.81570.60.

<sup>12</sup> Suzanne Zane et al., "Abortion-Related Mortality in the United States: 1998-2010," *Obstetrics and Gynecology* 126, no. 2 (2015): 258-265

Furthermore, one study that supporters of legal abortion claim debunks the abortion breast cancer link, actually shows that abortions that are performed after 18 weeks gestation result in a statistically significant increase in the risk of breast cancer.<sup>13</sup>

Overall, placing a legal right to an abortion throughout all nine months of pregnancy will be fatal to countless preborn children, but also adversely affect the health of many Maryland women.

## **Conclusion**

In conclusion, SB 798 “Declaration of Rights – Right to Reproductive Freedom.” would place a right to an abortion throughout all 9 months of pregnancy in the Maryland state constitution. Such a policy would be very unpopular. Multiple polls conducted by reputable polling organizations find that strong supermajorities of Americans reject late-term abortions. Additionally, placing a fundamental right to an abortion in the state constitution would require Maryland taxpayers to pay for abortions and represent a tax increase of millions of dollars on hardworking Maryland taxpayers. Finally, a body of academic research shows that late term abortions pose significantly greater health risks than earlier abortions. In particular second and third trimester abortions have much higher maternal mortality rate than first trimester abortions.

As such, I encourage you to vote against SB 798 “Declaration of Rights – Right to Reproductive Freedom.”

Thank you for your consideration.

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<sup>13</sup> <https://www.nejm.org/doi/full/10.1056/nejm199701093360201>