

**A013-0405**

10 **AN ACT CONCERNING**

20 **CRIMINAL LAW-MAKING THIRD TRIMESTER ABORTIONS A**  
30 **CRIMINAL OFFENSE WITH EXCEPTIONS**

40 FOR the purpose of making third trimester abortions illegal in the State of  
50 Maryland except for cases of physical endangerment of the mother, physical endangerment to  
60 the fetus, or where the fetus cannot survive outside the womb less than a year after birth.

70 BY adding to  
80 Article-Criminal Law  
90 Section 2  
100 Annotated Code of Maryland  
110 (2003 Replacement Volume)

130 AND repealing and reenacting, with amendments,  
140 Article-Health General  
150 Section 20-209  
160 Annotated Code of Maryland  
170 (2003 Replacement Volume)

180 **SECTION 1. BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE,**  
190 that the laws of Maryland read as follows:

200 **Article - Criminal Law**

210 § 2-210

220 (A) *“ABORTION” DEFINED.* – IN THIS SECTION, “ABORTION” SHALL BE DEFINED AS THE  
230 TERMINATION OF A PREGNANCY AFTER, ACCOMPANIED BY, RESULTING IN, OR  
240 CLOSELY FOLLOWED BY THE DEATH OF THE FETUS.

250 (B) *“THIRD TRIMESTER” DEFINED* – IN THIS SECTION, “THIRD TRIMESTER” SHALL BE  
260 DEFINED AS THE TWENTY-EIGHTH WEEK OF GESTATION OF THE FETUS  
270 UNTIL THE LIVE BIRTH OF THE FETUS.

280 (C) *“BIRTH MOTHER” DEFINED* – IN THIS SECTION, “BIRTH MOTHER” SHALL BE  
290 DEFINED AS THE FEMALE WHO IS BEARING IN THEIR UTERUS A FETUS.

300 (D) IN *GENERAL* - A MURDER IS IN THE THIRD DEGREE IF IT IS:

310 (1) AN ABORTION DELIBERATELY PERFORMED ON A FETUS BEING IN THE THIRD  
320 TRIMESTER; OR

330 (2) A DELIBERATE ATTEMPT TO PERFORM AN ABORTION ON A FETUS BEING IN THE  
340 THIRD TRIMESTER; OR

350 (3) AN ABORTION WHICH OCCURS DURING OR AN ATTEMPT TO PERPETRATE:

360 (I) ARSON IN THE FIRST DEGREE; OR

370 (II) BURNING A BARN, STABLE, TOBACCO HOUSE, WAREHOUSE, OR OTHER

380 OUTBUILDING THAT:

390 1. IS NOT PARCEL TO A DWELLING; AND

400 2. CONTAINS CATTLE, GOODS, WARES, MERCHANDISE, HORSES, GRAIN, HAY, OR  
410 TOBACCO;

420 (III) BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE;

430 (IV) CARJACKING OR ARMED CARJACKING;

440 (V) ESCAPE IN THE FIRST DEGREE FROM A STATE CORRECTIONAL FACILITY OR A  
450 LOCAL CORRECTIONAL FACILITY;

460 (VI) KIDNAPPING UNDER § 3-502 OR § 3-503(A)(2) OF THE MARYLAND CRIMINAL CODE;

470 (VII) MAYHEM;

480 (VIII) RAPE;

490 (IX) ROBBERY UNDER § 3-402 OR § 3-403 OF THE MARYLAND CRIMINAL CODE;

500 (X) SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE;

510 (XI) SODOMY; OR

520 (XII) A VIOLATION OF § 4-503 OF THE MARYLAND CRIMINAL CODE.

530 (E) *PENALTY* –

540 1. A PERSON WHO COMMITS A MURDER IN THE THIRD DEGREE UNDER ITEM (D)(1) OR  
550 ITEM (D)(2) OF THIS SECTION IS GUILTY OF A  
560 MISDEMEANOR AND ON CONVICTION SHALL BE SENTENCED TO:

570 (I) NOT MORE THEN ONE YEAR IN A MARYLAND STATE CORRECTIONAL FACILITY OR  
580 A LOCAL CORRECTIONAL FACILITY; AND

590 (II) A FINANCIAL PENALTY OF NOT MORE THAN \$1,000.

600 2. A PERSON WHO COMMITS A MURDER IN THE THIRD DEGREE UNDER ITEM (D)(3)  
610 OF THIS SUBSECTION IS GUILY OF A FELONY AND ON CONVICTION SHALL BE  
620 SENTENCED TO:

630 (I) NOT MORE THEN 10 YEARS IN A MARYLAND STATE CORRECTIONAL FACILITY  
640 OR A LOCAL CORRECTIONAL FACILITY; AND

650 (II) A FINANCIAL PENALTY OF NOT MORE THAN \$50,000.

660 (F) *LIMITATIONS*:-

670 (1) A DEFENDANT MAY NOT BE PROSECUTED UNDER THIS SECTION IF:

680 (I) THE ABORTION OCCURRED OR WAS ATTEMPTED BECAUSE OF THE PHYSICAL  
690 ENDANGEREMENT OF THE MOTHER; OR,

700 (II) THE ABORTION OCCURRED OR WAS ATTEMPTED BECAUSE THE

710 FETUS HAD A LIFE EXPECTANCY OF LESS THEN ONE YEAR SUBSEQUENT TO  
720 THE BIRTH OF THE FETUS AS DETERMINED BY THE BEST JUDGEMENT OF THE  
730 ATTENDING PHYSICIAN; OR

740 (III) THE DEFENDANT WAS THE BIRTH MOTHER OF THE ABORTED FETUS.

750 **Article – Health General**

760 § 20-209

770 ~~(a) *Definition.* In this section, "viable" means that stage when, in the best medical judgment of the~~  
780 ~~attending physician based on the particular facts of the case before the physician, there is a reasonable~~  
790 ~~likelihood of the fetus's sustained survival outside the womb.~~

800 ~~(b) (A) *State intervention.* - Except as otherwise provided in this subtitle, the State may not interfere~~  
810 ~~with the decision of a woman to terminate a pregnancy BEFORE THE TWENTY-EIGHTH WEEK OF~~  
820 ~~GESTATION OF THE FETUS.~~

830 ~~(1) Before the fetus is viable; or~~

840 ~~(2) At any time during the woman's pregnancy, if-~~

850 ~~(1) The termination procedure is necessary to protect the life or health of the woman; or~~

860 ~~(ii) The fetus is affected by genetic defect or serious deformity or abnormality.~~

870 ~~(c) (B) *Regulations.* - The Department may adopt regulations that:~~

880 ~~(1) Are both necessary and the least intrusive method to protect the life or health of the woman; and~~

890 ~~(2) Are not inconsistent with established medical practice.~~

900 ~~(d) *Liability.* - The physician is not liable for civil damages or subject to a criminal penalty for a~~  
910 ~~decision to perform an abortion under this section made in good faith and in the physician's best~~  
920 ~~medical judgment in accordance with accepted standards of medical practice.~~

930 **SECTION 2. AND BE IT FURTHER ENACTED,** That this act shall take effect on July  
940 1, 2005.

950 **MANDATES:** Governor Robert L. Ehrlich Jr.  
960 Lt. Governor Michael S. Steele  
970 Attorney General J. Joseph Curran, Jr.  
980 Senate President Thomas V. "Mike" Miller, Jr.  
990 Speaker of the House of Delegates Michael E. Busch  
1000 Senate Minority Leader J. Lowell Stoltzfus  
1100 House Minority Whip Anthony O'Donnell

**SPONSOR:**

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