HOUSE BILL 1179

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By: **Delegate Cox**
Introduced and read first time: February 7, 2020
Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Public Health – Unborn Human Beings and Infants
(Humane Disposition of Human Remains Act)

FOR the purpose of requiring a certain health care facility or abortion clinic to disclose, provide, and inform a parent of certain information within a certain period of time except under certain circumstances; requiring a parent to authorize the final disposition of bodily remains in a certain manner after receiving a certain notification and information and before a certain time; authorizing a parent to authorize a certain final disposition to be overseen by certain individuals; requiring a certain abortion clinic or health care facility to provide certain information to a certain minor's parent or legal guardian and authorizing the parent or legal guardian to make a certain determination and authorization under certain circumstances; providing that a certain parent shall or may be responsible for the costs of a certain final disposition under certain circumstances; requiring a certain individual to ensure that certain bodily remains are humanely disposed by taking certain actions and that certain disclosures or written authorizations are provided on a certain form; prohibiting certain bodily remains from being disposed of in a certain manner; requiring a health care facility or abortion clinic to document a certain decision and maintain certain records for a certain amount of time; authorizing a certain final disposition to occur in a certain manner; authorizing a certain local health officer to issue a certain permit under certain circumstances; requiring a certain burial–transit permit to transfer or relocate certain bodily remains; providing that a person is not required to designate a certain name on a certain form; providing that certain information shall be treated in a certain manner; providing that a certain permit is a certain authorization; providing that a certain person may take certain actions only in accordance with certain provisions of this Act; prohibiting a person from taking certain actions under certain circumstances; establishing penalties for certain violations of this Act; providing that certain persons may use a certain final disposition as a basis for recovery in a civil action; authorizing a certain health occupations board to use a certain violation as a basis for disciplinary action; requiring a certain health occupations board to take certain actions under certain

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

circumstances; establishing a certain short title; defining certain terms; providing for the application of certain provisions of this Act; providing for the construction of this Act; making the provisions of this Act severable; providing for a delayed effective date; and generally relating to unborn human beings and infants.

BY repealing and reenacting, without amendments,
Article – Economic Development
Section 10–440
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 4–215 and 20–103
Annotated Code of Maryland
(2019 Replacement Volume)

BY adding to
Article – Health – General
Section 20–2001 through 20–2007 to be under the new subtitle "Subtitle 20. Humane Disposition of Human Remains Act"
Annotated Code of Maryland
(2019 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Economic Development

10–440.

(a) A person may not conduct or attempt to conduct human cloning.

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $200,000 or both.

Article – Health – General

4–215.

(a) In this section, "cemetery" includes a crematory or other place for final disposition.

(b) (1) Within 72 hours after death or after delivery in a fetal death and before final disposition or removal of the body or fetus from this State, the mortician who first takes custody of the body or fetus shall obtain a burial–transit permit.

(2) If the death or fetal death certificate is on a multicopy form, one copy of which is designated specifically as a "burial–transit permit" and is signed by the attending physician or medical examiner, that copy shall provide for the later entry of final disposition information and serves as a burial–transit permit.

(c) (1) A person in charge of a cemetery may not permit the final disposition of a body or fetus unless it is accompanied by a burial–transit permit.

(2) The person in charge of a cemetery shall:

(i) Write on the permit the date of final disposition;

(ii) Sign the permit; and

(iii) Within 10 days after final disposition, return the permit to the Secretary.

(3) If there is no person in charge of the cemetery, the mortician shall fill out the burial–transit permit.

(d) A burial–transit permit issued by any state or a foreign country is sufficient authority for transit through this State or final disposition in any cemetery in this State.

(e) (1) A permit for disinterment and reinterment is required before the disinterment of human remains if reinterment is not to be made in the same cemetery. The Secretary or a health officer shall issue the permit after receipt of an application on the form that the Secretary requires.

(2) If all human remains in a cemetery are to be disinterred for purposes of relocation or abandonment of the cemetery, one application is sufficient for that purpose.

(3) The Department shall keep a record of each permit issued for the disinterment and reinterment of human remains.

(4) Except as provided in paragraph (5) of this subsection, the Department may not disclose or allow public inspection of information in a permit record about the location of the site of a disinterment or reinterment if a local burial sites advisory board or the Director of the Maryland Historical Trust determines that:

(i) The site is historic property, as defined in § 5A–301 of the State Finance and Procurement Article; and

(ii) Disclosure would create a substantial risk of harm, theft, or destruction to the site.

(5) The Department may not deny inspection of a permit record to:

(i) The owner of the site of the disinterment or reinterment;

(ii) A governmental entity that has the power of eminent domain; or

(iii) The spouse, domestic partner, next of kin, or appointed personal representative of the deceased whose human remains have been disinterred or reinterred.

20–103.

(a) Except as provided in subsections (b) and (c) of this section, a physician may not perform an abortion on an unmarried minor unless the physician first gives notice to a parent or guardian of the minor.

(b) The physician may perform the abortion without notice to a parent or guardian if:

(1) The minor does not live with a parent or guardian; and

(2) A reasonable effort to give notice to a parent or guardian is unsuccessful.

(c) (1) The physician may perform the abortion, without notice to a parent or guardian of a minor if, in the professional judgment of the physician:

(i) Notice to the parent or guardian may lead to physical or emotional abuse of the minor;

(ii) The minor is mature and capable of giving informed consent to an abortion; or

(iii) Notification would not be in the best interest of the minor.

(2) The physician is not liable for civil damages or subject to a criminal penalty for a decision under this subsection not to give notice.

(d) The postal receipt that shows an article of mail was sent by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice letter that was sent in that article of mail shall be conclusive evidence of notice or a reasonable effort to give notice, as the case may be.

(e) A physician may not provide notice to a parent or guardian if the minor decides not to have the abortion.

SUBTITLE 20. HUMANE DISPOSITION OF HUMAN REMAINS ACT.

20–2001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ABORTED" MEANS THE TERMINATION OF A HUMAN PREGNANCY WITH AN INTENTION OTHER THAN TO PRODUCE A LIVE BIRTH OR TO REMOVE A DEAD UNBORN HUMAN BEING, INCLUDING THROUGH AN ABORTION BY SURGICAL PROCEDURE OR INDUCED BY DRUGS.

(C) (1) "ABORTION" MEANS THE ACT OF USING OR PRESCRIBING ANY INSTRUMENT, MEDICINE, DRUG, OR ANY OTHER SUBSTANCE, DEVICE, OR MEANS WITH THE INTENT TO TERMINATE THE CLINICALLY DIAGNOSABLE PREGNANCY OF A WOMAN KNOWING THAT IT IS REASONABLY LIKELY THAT TAKING THE ACTION WILL CAUSE THE DEATH OF THE UNBORN HUMAN BEING.

(2) "ABORTION" DOES NOT INCLUDE ACTS PERFORMED WITH THE INTENT TO:

(I) SAVE THE LIFE OR PRESERVE THE HEALTH OF THE UNBORN HUMAN BEING;

(II) REMOVE A DECEASED UNBORN HUMAN BEING CAUSED BY SPONTANEOUS ABORTION; OR

(III) REMOVE AN ECTOPIC PREGNANCY.

(D) "ABORTION CLINIC" MEANS A HEALTH CARE FACILITY THAT:

(1) PERFORMS SURGICAL ABORTION PROCEDURES; OR

(2) PROVIDES AN ABORTION INDUCING DRUG FOR THE PURPOSE OF INDUCING AN ABORTION.

(E) "AUTHORIZING AGENT" MEANS AN INDIVIDUAL WHO HAS LEGAL AUTHORITY TO ARRANGE FOR AND MAKE DECISIONS REGARDING THE FINAL DISPOSITION OF A DECEASED HUMAN BODY, INCLUDING BY CREMATION.

(F) "BODILY REMAINS" MEANS THE PHYSICAL REMAINS, CORPSE, BODY, OR BODY PARTS OF A DECEASED UNBORN HUMAN BEING, AS INDICATED BY THE FACT THAT THE UNBORN HUMAN BEING DOES NOT BREATHE OR SHOW ANY OTHER EVIDENCE OF LIFE SUCH AS BEATING OF THE HEART, PULSATION OF THE UMBILICAL CORD, OR DEFINITE MOVEMENT OF VOLUNTARY MUSCLES, WHO HAS BEEN EXPELLED OR EXTRACTED FROM HIS OR HER MOTHER, REGARDLESS OF THE MEANS

OF EXPULSION OR EXTRACTION.

(G) "BODY" INCLUDES THE BODY OF A DECEASED UNBORN HUMAN BEING.

(H) "BORN ALIVE" OR "LIVE BIRTH" MEANS AFTER THE COMPLETE EXPULSION OR EXTRACTION OF A HUMAN BEING, REGARDLESS OF GESTATIONAL DEVELOPMENT OF THE HUMAN BEING, FROM THE MOTHER, THE HUMAN BEING SHOWS EVIDENCE OF LIFE INCLUDING BREATHING, A HEARTBEAT, UMBILICAL CORD PULSATION, AND DEFINITE MOVEMENT OF VOLUNTARY MUSCLES:

(1) WHETHER OR NOT THE UMBILICAL CORD WAS CUT OR THE PLACENTA WAS ATTACHED AT THE TIME OF EXPULSION OR EXTRACTION; AND

(2) WHETHER THE EXPULSION OR EXTRACTION OCCURRED AS A RESULT OF NATURAL OR INDUCED LABOR, CESAREAN SECTION, OR INDUCED ABORTION.

(I) "CREMATION" MEANS THE DISPOSITION OF A DECEASED HUMAN BODY BY MEANS OF INCINERATION.

(J) "DEATH OF AN UNBORN HUMAN BEING" MEANS DEATH OF AN UNBORN HUMAN BEING BEFORE EXPULSION OR EXTRACTION FROM THE MOTHER AS INDICATED BY THE FACT THAT, AFTER EXPULSION OR EXTRACTION, THE UNBORN HUMAN BEING DOES NOT BREATHE OR SHOW ANY OTHER SIGNS OF LIFE SUCH AS A BEATING HEART, PULSATION OF THE UMBILICAL CORD, OR DEFINITE MOVEMENT OF VOLUNTARY MUSCLES.

(K) (1) "EXPERIMENT" OR "EXPERIMENTATION" MEANS USING A HUMAN BEING OR BODILY REMAINS OF A DECEASED UNBORN HUMAN BEING IN ANY TRIAL, TEST, PROCEDURE, OR OBSERVATION CARRIED OUT WITH THE GOAL OF VERIFYING, REFUTING, OR ESTABLISHING THE VALIDITY OF A HYPOTHESIS.

(2) "EXPERIMENT" OR "EXPERIMENTATION" DOES NOT INCLUDE:

(I) THE EXAMINATION OF BODY TISSUE FOR DIAGNOSTIC OR FORENSIC PURPOSES AND ANY RELATED ACTIVITIES NECESSARY TO PERFORM A DIAGNOSTIC OR FORENSIC STUDY, INCLUDING ANY STUDY OR TEST, GENETIC OR OTHERWISE, TO DETERMINE PATERNITY OR THE CAUSE OF DEATH; OR

(II) ANY TREATMENT, MEDICATION, DIAGNOSTIC OR REMEDIAL TESTS, PROCEDURES, OR OBSERVATIONS THAT HAVE THE PURPOSE OF DETERMINING THE HEALTH OF THE HUMAN BEING OR UNBORN HUMAN BEING OR PRESERVING THE LIFE OR HEALTH OF THE HUMAN BEING, THE UNBORN HUMAN

BEING, OR THE HUMAN BEING'S MOTHER.

(L) "FINAL DISPOSITION" MEANS THE BURIAL, INTERMENT, CREMATION, OR OTHER LEGAL DISPOSITION OF A DECEASED UNBORN HUMAN BEING.

(M) "INFANT" MEANS A HUMAN CHILD WHO HAS BEEN COMPLETELY EXPELLED OR EXTRACTED FROM THE MOTHER, REGARDLESS OF THE STATE OF THE CHILD'S DEVELOPMENT, DURING THE PERIOD FROM BIRTH UNTIL 30 DAYS AFTER BIRTH.

(N) (1) "INFECTIOUS OR MEDICAL WASTE" MEANS DISCARDED WASTE OR OTHER BIOLOGIC PRODUCTS, INCLUDING:

(I) BLOOD, TISSUE, OR BODY PARTS REMOVED FROM MEDICAL FACILITIES;

(II) BEDDING, BANDAGES, SYRINGES, AND SIMILAR MATERIALS THAT HAVE BEEN USED IN TREATING PATIENTS; AND

(III) MATERIALS THAT EPIDEMIOLOGIC EVIDENCE INDICATES IS CAPABLE OF TRANSMITTING A DANGEROUS COMMUNICABLE DISEASE.

(2) "INFECTIOUS OR MEDICAL WASTE" DOES NOT INCLUDE AN ABORTED OR MISCARRIED UNBORN HUMAN BEING.

(O) "INTERMENT" MEANS ALL FINAL DISPOSITION OF BODILY REMAINS, INCLUDING:

(1) EARTH BURIAL;

(2) MAUSOLEUM ENTOMBMENT; AND

(3) NICHE OR COLUMBARIUM INTERMENT.

(P) "PARENT" MEANS A BIOLOGICAL PARENT OF HUMAN OFFSPRING, SPECIFICALLY ONE OF THE INDIVIDUALS WHOSE GAMETES RESULTED IN A CHILD.

(Q) "PHYSICIAN" MEANS ANY INDIVIDUAL LICENSED TO PRACTICE MEDICINE IN THIS STATE, INCLUDING MEDICAL DOCTORS AND DOCTORS OF OSTEOPATHY.

(R) "PREGNANT" OR "PREGNANCY" MEANS THE FEMALE REPRODUCTIVE CONDITION OF HAVING AN UNBORN HUMAN BEING IN THE WOMAN'S UTERUS.

(S) "UNBORN HUMAN BEING" MEANS THE OFFSPRING OF HUMAN BEINGS FROM CONCEPTION UNTIL BIRTH.

20–2002.

(A) THIS SECTION APPLIES TO THE DEATH OF AN UNBORN HUMAN BEING, REGARDLESS OF THE GESTATIONAL AGE OR CAUSE OF DEATH OF THE UNBORN HUMAN BEING, AT A HEALTH CARE FACILITY OR AN ABORTION CLINIC.

(B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A HEALTH CARE FACILITY OR AN ABORTION CLINIC AT WHICH THE DEATH OF AN UNBORN HUMAN BEING OCCURS, BEFORE OR WITHIN A REASONABLE TIME AFTER THE BODILY REMAINS OF A DECEASED UNBORN HUMAN BEING ARE EXPELLED OR EXTRACTED FROM THE MOTHER SHALL:

(1) DISCLOSE, BOTH ORALLY AND IN WRITING, TO A PARENT OF THE UNBORN HUMAN BEING THE PARENT'S RIGHT TO DETERMINE THE FINAL DISPOSITION OF THE BODILY REMAINS;

(2) PROVIDE THE PARENT WITH WRITTEN INFORMATION ON A FORM PRESCRIBED BY THE DEPARTMENT CONCERNING THE AVAILABLE OPTIONS FOR FINAL DISPOSITION OF THE BODILY REMAINS; AND

(3) INFORM THE PARENT OF COUNSELING THAT MAY BE AVAILABLE CONCERNING THE DEATH OF THE UNBORN HUMAN BEING.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PARENT OF THE DECEASED UNBORN HUMAN BEING SHALL AUTHORIZE THE FINAL DISPOSITION OF THE BODILY REMAINS, INCLUDING THE METHOD OF FINAL DISPOSITION, IN WRITING AND ON A FORM PRESCRIBED BY THE DEPARTMENT:

(I) AFTER RECEIVING THE NOTIFICATION AND INFORMATION UNDER SUBSECTION (A) OF THIS SECTION; AND

(II) BEFORE EITHER OF THE FOLLOWING ARE DISCHARGED FROM THE HEALTH CARE FACILITY OR THE ABORTION CLINIC:

1. THE BODILY REMAINS OF THE DECEASED UNBORN HUMAN BEING; AND

2. THE MOTHER OF THE DECEASED UNBORN HUMAN BEING.

(2) IN AUTHORIZING THE FINAL DISPOSITION OF THE BODILY REMAINS UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PARENT MAY AUTHORIZE THE FINAL DISPOSITION TO BE OVERSEEN BY:

(I) A FUNERAL DIRECTOR; OR

(II) THE INDIVIDUAL IN CHARGE OF THE HEALTH CARE FACILITY OR ABORTION CLINIC WHERE THE REMAINS OF THE DECEASED UNBORN HUMAN BEING WERE EXPELLED OR EXTRACTED.

(D) IF THE MOTHER OF A DECEASED UNBORN HUMAN BEING WHO DIED AT A HEALTH CARE FACILITY OR AN ABORTION CLINIC IS A MINOR AND THE MINOR HAS NOT RECEIVED A WAIVER OF PARENTAL CONSENT UNDER § 20–103 OF THIS ARTICLE:

(1) THE ABORTION CLINIC OR THE HEALTH CARE FACILITY SHALL PROVIDE THE INFORMATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO THE MINOR'S PARENT OR LEGAL GUARDIAN; AND

(2) THE MINOR'S PARENT OR LEGAL GUARDIAN SHALL DETERMINE AND AUTHORIZE THE FINAL DISPOSITION OF THE BODILY REMAINS OF THE UNBORN HUMAN BEING UNDER SUBSECTION (B) OF THIS SECTION.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PARENT OF THE UNBORN HUMAN BEING SHALL BE RESPONSIBLE FOR THE COSTS RELATED TO THE FINAL DISPOSITION OF THE BODILY REMAINS IN THE MANNER AND LOCATION CHOSEN UNDER THIS SECTION.

(2) THE PARENT OF THE UNBORN HUMAN BEING MAY BE RESPONSIBLE FOR THE COSTS RELATED TO THE FINAL DISPOSITION OF THE BODILY REMAINS IF:

(I) THE MANNER OR LOCATION OF THE FINAL DISPOSITION OF THE BODILY REMAINS IS REQUIRED BY LAW; OR

(II) THE PARENT CHOOSES THE LOCATION OF FINAL DISPOSITION THAT IS USUAL AND CUSTOMARY FOR THE HEALTH CARE FACILITY OR ABORTION CLINIC.

(F) THE INDIVIDUAL IN CHARGE OF THE HEALTH CARE FACILITY OR ABORTION CLINIC IN WHICH THE DEATH OF THE UNBORN HUMAN BEING OCCURRED SHALL ENSURE THAT:

(1) WITHIN 10 BUSINESS DAYS AFTER THE BODILY REMAINS OF A DECEASED UNBORN HUMAN BEING WERE EXPELLED OR EXTRACTED FROM THE MOTHER, THE BODILY REMAINS ARE HUMANELY DISPOSED BY:

(I) ENSURING THAT THE FINAL DISPOSITION OF THE UNBORN HUMAN BEING OCCURS IN ACCORDANCE WITH THIS SUBTITLE AS AUTHORIZED BY A PARENT OR LEGAL GUARDIAN UNDER SUBSECTION (C) OR (D) OF THIS SECTION, AS APPLICABLE; OR

(II) ENSURING THAT THE UNBORN HUMAN BEING IS PRESERVED UNTIL THE TIME AT WHICH A PARENT OR THE PARENT'S AUTHORIZED AGENT AUTHORIZES FINAL DISPOSITION; AND

(2) ANY DISCLOSURE OR WRITTEN AUTHORIZATION REQUIRED UNDER THIS SUBTITLE FOR FINAL DISPOSITION OF BODILY REMAINS UNDER SUBSECTION (C) OR (D) OF THIS SECTION IS MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.

(G) THE BODILY REMAINS OF AN UNBORN HUMAN BEING MAY NOT BE DISPOSED OF AS OR IN COMBINATION WITH INFECTIOUS OR MEDICAL WASTE.

(H) THE HEALTH CARE FACILITY OR ABORTION CLINIC SHALL DOCUMENT THE DECISION ON THE FINAL DISPOSITION OF THE DECEASED UNBORN HUMAN BEING IN THE MOTHER'S MEDICAL RECORD AND MAINTAIN THE RECORD AND ANY OTHER DOCUMENTS PROVIDED BY OR GIVEN TO A PARENT OF THE DECEASED UNBORN HUMAN BEING IN ACCORDANCE WITH THIS SECTION FOR AT LEAST 7 YEARS AFTER THE FINAL DISPOSAL OCCURRED.

20–2003.

(A) THIS SECTION APPLIES TO THE DEATH OF AN UNBORN HUMAN BEING, REGARDLESS OF THE GESTATIONAL AGE OR CAUSE OF DEATH OF THE UNBORN HUMAN BEING, IN WHICH THE BODILY REMAINS OF THE UNBORN HUMAN BEING WERE EXPELLED OR EXTRACTED FROM THE MOTHER AT A HEALTH CARE FACILITY OR AN ABORTION CLINIC.

(B) (1) THE FINAL DISPOSITION OF THE BODILY REMAINS OF THE DECEASED UNBORN HUMAN BEING MAY OCCUR BY:

(I) INTERMENT;

(II) CREMATION, IF THE MEDICAL EXAMINER OF THE COUNTY

IN WHICH THE DEATH OF THE UNBORN HUMAN BEING OCCURRED SIGNED THE AUTHORIZATION FOR FINAL DISPOSITION; OR

(III) DONATION, IF:

1. THE DONATION COMPLIES WITH THE MARYLAND REVISED UNIFORM ANATOMICAL GIFT ACT;

2. THE BODILY REMAINS ARE THE RESULT OF A MISCARRIAGE OR STILL BIRTH THAT WAS NOT MEDICALLY INDUCED; AND

3. THE PARENT OF THE UNBORN HUMAN BEING OR THE AUTHORIZING AGENT OF THE PARENT AUTHORIZED THE DONATION.

(2) IF THE FINAL DISPOSITION UNDER PARAGRAPH (1) OF THIS SUBSECTION IS BY INTERMENT, THE LOCAL HEALTH OFFICER IN THE COUNTY IN WHICH THE DEATH OF THE UNBORN HUMAN BEING OCCURRED MAY ISSUE A PERMIT FOR THE DISPOSITION OF THE BODILY REMAINS OF THE UNBORN HUMAN BEING TO THE APPROPRIATE PERSON IN CHARGE OF INTERMENT.

(C) THE INDIVIDUAL IN CHARGE OF THE HEALTH CARE FACILITY OR ABORTION CLINIC IN WHICH THE DEATH OF THE UNBORN HUMAN BEING OCCURRED SHALL RELEASE TO THE PARENT OR THE AUTHORIZING AGENT OF THE PARENT THE BODILY REMAINS FOR FINAL DISPOSITION IF THE REQUIREMENTS OF THIS SUBTITLE ARE MET.

(D) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A BURIAL–TRANSIT PERMIT UNDER § 4–215 OF THIS ARTICLE IS REQUIRED TO TRANSFER OR RELOCATE THE BODILY REMAINS OF AN UNBORN HUMAN BEING FOR FINAL DISPOSITION UNDER THIS SUBTITLE.

(II) A PERSON IS NOT REQUIRED TO DESIGNATE A NAME FOR AN UNBORN HUMAN BEING ON THE BURIAL TRANSIT–PERMIT UNDER THIS PARAGRAPH AND THE SPACE FOR A NAME ON THE PERMIT MAY REMAIN BLANK.

(III) ANY INFORMATION SUBMITTED UNDER THIS PARAGRAPH THAT MAY IDENTIFY THE PARENT OF AN UNBORN HUMAN BEING FOR WHOM THE BURIAL–TRANSIT PERMIT WAS ISSUED SHALL BE TREATED AS CONFIDENTIAL AND BE REDACTED FROM ANY PUBLIC RECORDS.

(2) A PERMIT FOR FINAL DISPOSITION ISSUED UNDER THE LAWS OF ANOTHER STATE THAT ACCOMPANIES BODILY REMAINS BROUGHT INTO THE STATE IS AUTHORIZATION FOR FINAL DISPOSITION OF THE BODILY REMAINS IN THE STATE.

(E) A PERSON MAY TRANSFER, DISTRIBUTE, GIVE AWAY, OR ACCEPT THE BODILY REMAINS OF AN UNBORN HUMAN BEING FOR THE PURPOSE OF HUMANE DISPOSITION OF BODILY REMAINS ONLY IN ACCORDANCE WITH THIS SUBTITLE.

20–2004.

A PERSON MAY NOT:

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, SELL, TRANSFER, DISTRIBUTE, GIVE AWAY, ACCEPT, USE, ATTEMPT TO USE, OR SOLICIT THE USE OF AN INFANT BORN ALIVE IN THE COURSE OF AN ABORTION PROCEDURE OR THE BODILY REMAINS OF AN UNBORN HUMAN BEING;

(2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AID OR ABET A SALE, TRANSFER, DISTRIBUTION, ACCEPTANCE, USE, ATTEMPTED USE, OR OTHER UNLAWFUL DISPOSITION OF AN INFANT BORN ALIVE IN THE COURSE OF AN ABORTION PROCEDURE OR THE BODILY REMAINS OF AN ABORTED UNBORN HUMAN BEING;

(3) USE AN INFANT BORN ALIVE IN THE COURSE OF AN ABORTION PROCEDURE OR THE BODILY REMAINS OF AN ABORTED UNBORN HUMAN BEING IN ANY ANIMAL OR HUMAN RESEARCH, EXPERIMENTATION, OR STUDY OR FOR TRANSPLANTATION, EXCEPT:

(I) FOR DIAGNOSTIC OR REMEDIAL TESTS, PROCEDURES, OR OBSERVATIONS MADE FOR THE PURPOSE OF DETERMINING THE HEALTH OF THE INFANT OR UNBORN HUMAN BEING OR PRESERVING THE LIFE OR HEALTH OF THE INFANT, UNBORN HUMAN BEING, OR THE INFANT OR UNBORN HUMAN BEING'S PARENT;

(II) FOR THE EXAMINATION OF BODY TISSUE FOR DIAGNOSTIC OR FORENSIC PURPOSES AND ANY NECESSARY RELATED ACTIVITIES, INCLUDING ANY STUDY OR TEST, GENETIC OR OTHERWISE, TO DETERMINE PATERNITY OR THE CAUSE OF DEATH; OR

(III) WHEN:

1. THE DEATH OF THE UNBORN HUMAN BEING IS NOT THE RESULT OF AN ABORTION;

2. THE PARENT OF THE UNBORN HUMAN BEING PROVIDED INFORMED, WRITTEN CONSENT; AND

3. THE USE IS IN ACCORDANCE WITH THE MARYLAND REVISED UNIFORM ANATOMICAL GIFT ACT;

(4) EXPERIMENT UPON AN UNBORN HUMAN BEING WHEN THE MOTHER INTENDS TO HAVE AN ABORTION, UNLESS THE EXPERIMENTATION IS INTENDED TO TREAT OR CURE A DISEASE OR DISORDER BY REMEDIAL AGENTS OR METHODS FOR THE UNBORN HUMAN BEING;

(5) PERFORM OR OFFER TO PERFORM AN ABORTION WHERE PART OR ALL OF THE JUSTIFICATION FOR THE ABORTION IS THAT THE BODILY REMAINS MAY BE USED FOR ANIMAL OR HUMAN RESEARCH, EXPERIMENTATION, OR TRANSPLANTATION;

(6) ALTER THE TIMING, METHOD, OR PROCEDURE TYPICALLY USED TO TERMINATE A PREGNANCY SOLELY FOR THE PURPOSE OF OBTAINING THE BODILY REMAINS;

(7) USE AN UNBORN HUMAN BEING OR THE BODILY REMAINS OF AN UNBORN HUMAN BEING TO CONDUCT OR ATTEMPT TO CONDUCT HUMAN CLONING, AS PROHIBITED BY § 10–440 OF THE ECONOMIC DEVELOPMENT ARTICLE; OR

(8) ACQUIRE, RECEIVE, OR ACCEPT BODILY REMAINS OBTAINED FROM AN UNBORN HUMAN BEING THAT WAS GESTATED IN THE UTERUS OF A NONHUMAN ANIMAL OR IN AN ARTIFICIAL UTERUS OR WOMB.

20–2005.

(A) AN INDIVIDUAL IN CHARGE OF A HEALTH CARE FACILITY OR ABORTION CLINIC WHERE BODILY REMAINS OF AN UNBORN HUMAN BEING WERE EXPELLED OR EXTRACTED WHO VIOLATES § 20–2002 OR § 20–2003 OF THIS SUBTITLE SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING $10,000 OR BOTH FOR EACH VIOLATION.

(B) ANY PERSON WHO VIOLATES § 20–2004(1) OR (2) OF THIS SUBTITLE SHALL BE GUILTY OF A MISDEMEANOR AND ON CONVICTION SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING $50,000 OR BOTH FOR EACH VIOLATION.

(C) ANY PERSON WHO VIOLATES § 20–2004(3), (4), OR (5) OF THIS SUBTITLE SHALL BE GUILTY OF A FELONY AND ON CONVICTION SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING $200,000 OR BOTH FOR EACH

VIOLATION.

(D) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE UNDER THE LAW:

(1) THE PARENT OF AN INFANT, AN UNBORN HUMAN BEING, OR A DECEASED UNBORN HUMAN BEING, OR THE PARENT'S PARENT OR LEGAL GUARDIAN IF THE PARENT OF THE INFANT OR UNBORN HUMAN BEING IS A MINOR, MAY USE ANY FINAL DISPOSITION OF OR EXPERIMENTATION ON AN INFANT, AN UNBORN HUMAN BEING, OR BODILY REMAINS IN VIOLATION OF THIS SUBTITLE AS A BASIS FOR RECOVERY IN A CIVIL ACTION, INCLUDING:

(I) DAMAGES FOR PSYCHOLOGICAL INJURIES CAUSED BY THE VIOLATION OF THIS SUBTITLE; AND

(II) DAMAGES EQUAL TO 10 TIMES THE COST OF THE MOTHER'S DELIVERY OR ABORTION; AND

(2) THE STATE BOARD OF PHYSICIANS OR ANY OTHER APPLICABLE HEALTH OCCUPATIONS BOARD UNDER THE HEALTH OCCUPATIONS ARTICLE MAY USE A VIOLATION OF THIS SUBTITLE AS A BASIS FOR DISCIPLINARY ACTION, INCLUDING THE SUSPENSION OR REVOCATION OF THE LICENSE OF THE PERSON WHO VIOLATED THIS SUBTITLE.

(E) IF A PERSON WITH A LICENSE OR CERTIFICATION ISSUED BY A HEALTH OCCUPATIONS BOARD UNDER THE HEALTH OCCUPATIONS ARTICLE IS CONVICTED UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE APPROPRIATE HEALTH OCCUPATIONS BOARD SHALL:

(1) SUSPEND THE LICENSE OF THE PERSON FOR A PERIOD OF AT LEAST 1 YEAR; AND

(2) REINSTATE THE PERSON'S LICENSE ONLY UNDER CONDITIONS THAT THE HEALTH OCCUPATIONS BOARD DETERMINES ARE NECESSARY TO ENSURE THE PERSON COMPLIES WITH THIS SUBTITLE.

20–2006.

THIS SUBTITLE MAY NOT BE CONSTRUED TO:

(1) AFFECT EXISTING FEDERAL OR STATE LAW REGARDING ABORTION;

(2) CREATE OR RECOGNIZE A RIGHT TO ABORTION; OR

(3) ALTER GENERALLY ACCEPTED MEDICAL STANDARDS.

20–2007.

THIS SUBTITLE MAY BE CITED AS THE HUMANE DISPOSITION OF HUMAN REMAINS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.