

# Abortion gets wide protection in Md. law

By **DAVID KOHN**

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**I**f federal Judge Samuel A. Alito Jr. is confirmed to the U.S. Supreme Court, opponents of abortion have high hopes that he will help craft decisions that outlaw or significantly limit the procedure.

But even if the court eventually rules that the Constitution does not protect a woman's right to an abortion, the procedure will likely remain readily available in Maryland.

Most legal scholars agree that if the court overturns *Roe v. Wade*, the landmark 1973 abortion decision, each state would have the authority to decide whether the procedure is legal. Before *Roe*, states regulated abortion.

Maryland strongly protects the right to abortion, relying in part on a 1991 state law, upheld in a 1992 referendum, that explicitly endorsed *Roe v. Wade*.

That measure - along with a General Assembly dominated by Democrats who regularly block attempts to enact restrictions - has given Maryland women greater access to abortion than women in most other states.

"Maryland has been one of the leaders in protecting reproductive rights," says John Nugent, the director of Planned Parenthood of Maryland.

Abortion opponents generally agree with this assessment. "There are very few restrictions to abortion in Maryland," says Angela Martin, president of Maryland Right to Life, a prominent state anti-abortion group.

In this, Maryland is an anomaly. Over the past decade, many states have passed laws that restrict access to abortion. In some, women seeking an abortion face a 24-hour waiting period. In others, lawmakers limit certain abortion procedures to hospitals. Thirty-three states restrict or outlaw public funding for poor women's abortions.

Maryland has taken the opposite approach. In 2005, the National Abortion Rights Action League report card gave the state an A, an especially high rating, considering that the average grade nationally is a D-minus. Ariana Brannigan Kelly, executive director of NARAL's Maryland chapter, calls the state "one of the top 10" in terms of abortion access.

About 20 clinics that provide abortions operate around Maryland, about the same number as a decade ago. Most are in the Baltimore area and Washington suburbs. In addition, private doctors and some hospitals

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More than 34,000 women had abortions in Maryland in 2000, according to a study conducted three years ago by the Guttmacher Institute, a private nonprofit institution that does research on reproductive policy. The average cost for a first-trimester abortion - the simplest procedure - is typically \$250 to \$350.

A little more than 3 percent of Maryland women of childbearing age had an abortion that year, slightly higher than the national average of 2 percent, according to the Guttmacher study.

There are no more recent statistics for Maryland because the state does not require doctors, clinics and hospitals to report abortions. Abortion rights advocates say such reporting would allow anti-abortion groups to target providers, and, so far, anti-abortion legislators have failed in attempts to require it.

Maryland does keep track of abortions that are paid for by state Medicaid funds. In 2004, the state paid for 4,481 abortions for poor women, at a cost of \$2.4 million. That was an increase of 12 percent over the number of abortions it funded in 2003. However, it is not clear that the overall abortion rate has also risen.

But numbers don't tell the whole story. Compared with most states, Maryland has few legal restrictions on abortion until late in pregnancy. Women who want an abortion here can get one the same day. Many states, including Virginia and Pennsylvania, require that women wait 24 hours.

Maryland also has relatively few restrictions on abortions later in pregnancy. Some states, such as Virginia, have attempted to limit those procedures. Maryland law makes abortion legal until a fetus is viable - meaning until it can survive outside the womb.

Most doctors interpret viability as the 24th week of pregnancy. But the law also waives the viability restriction if a woman's life is in danger, or if the fetus has serious birth defects. Such cases are extremely rare, according to Dr. Carole Meyers, the medical director of Planned Parenthood of Maryland, which operates clinics in Baltimore and Annapolis.

Also, unlike many states, Maryland does not require women under the age of 18 to get parental consent for an abortion. Doctors must inform parents if a minor has an abortion, but they can waive this requirement if they believe the notification endangers the patient.

Maryland also places no special requirements on clinics and providers. Abortion rights groups call these rules TRAP laws, for Targeted Regulation of Abortion Providers. According to NARAL, 34 states have enacted them.

These laws can create difficulties and expenses for providers. Last year, for example, Missouri's legislature passed a law requiring doctors at a clinic to have privileges at a hospital within 30 miles. As a result, one of the state's four remaining clinics was forced to close.

Even so, Maryland's abortion-rights advocates say Maryland is not ideal. Two-thirds of Maryland counties have  
ve women who come up from Salisbury [to

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But most states have even fewer counties with clinics. In Missouri - with an area more than five times as large as Maryland's - 97 percent of counties don't have a clinic. Three states, Mississippi, North Dakota and South Dakota, have only one clinic each that performs abortions, which means that some women have to travel hundreds of miles.

One key indication of Maryland's position: Providers say they see many patients from surrounding states, where abortion is less accessible. "We get women from Virginia, Pennsylvania and Delaware. We're always seeing people from other states," says a doctor who performs abortions at a Baltimore clinic. He asked to remain anonymous for fear of being targeted by anti-abortion groups.

The reason for Maryland's openness to abortion, both sides say, is the political climate. The state has a solid Democratic majority that favors abortion rights, and many Republicans shy away from the issue. Maryland's Republican governor, Robert L. Ehrlich Jr., says he generally favors abortion rights, although he opposes state funding for the procedure.

Maryland's attitude has been clear for more than a decade. In 1991, abortion-rights supporters, fearful that *Roe v. Wade* might be overturned, successfully pressed for a state law declaring that abortion would remain legal in Maryland.

Attempting to repeal that law, anti-abortion groups forced it to a referendum, where almost two-thirds of Maryland voters chose to keep the law on the books.

"Things haven't changed much since then," says Dr. Steven Adashek, a Baltimore gynecologist who campaigned to retain the law 14 years ago.

The situation in Maryland frustrates abortion foes. "It is very difficult here, very difficult," says Paul Mulligan, director of the Gabriel Project, which urges pregnant women not to have abortions and helps them with housing, baby clothes and baby food.

But many anti-abortion leaders, including Mulligan, are confident that Maryland will increasingly restrict abortion. "The national trend is that people think that abortion should be more limited," says Republican state Sen. Andrew P. Harris, a physician and anti-abortion activist who represents parts of Baltimore and Harford counties. "I think Maryland will follow that trend."

Meanwhile, abortion opponents have focused on offering alternatives to women considering an abortion. Maryland has some 38 crisis pregnancy centers, where counselors try to persuade pregnant women to have their babies.

Many centers are in rural areas that don't have clinics that provide abortions. At least two offer free sonograms, an attempt to emphasize to pregnant women the reality of their fetuses. "It makes a powerful difference when  
ector of the Bowie Crofton Pregnancy Center,

The center has offered sonograms since 1999, and in 2004 bought an \$80,000 machine that provides 3-D images and can detect a heartbeat when a fetus is less than seven weeks old.

For their part, abortion-rights supporters worry that demographic change and anti-abortion pressure could eventually decrease access. Doctors and abortion-rights advocates say that the number of abortion providers in the state is decreasing.

"Many abortion providers are aging," says Allie Harper, who operates clinics in Potomac and Hagerstown. "I don't know who is going to replace them. It's really hard getting younger doctors to do the procedure."

In this respect, Maryland mirrors national trends. The abortion-rights group Medical Students for Choice estimates that since the 1980s, four out of 10 abortion providers have stopped performing the procedure. A 2001 study found that more than half of abortion providers were over 50.

Many doctors take access to abortion for granted, Harper says, while others have been intimidated by the aggressive tactics of some abortion opponents. She says one of her doctors has been regularly harassed by activists, not only at the clinic, but also at his house.

In addition, a larger percentage of abortions are occurring at clinics, rather than hospitals, which means that obstetric residents receive less instruction. "As the procedure moves to clinics, fewer are learning," says Dr. Victor Khouzami, chairman of obstetrics at Greater Baltimore Medical Center.

Some observers also see a decrease in the number of providers who perform second-trimester abortions, a more complicated procedure that takes place between the 12th and 20th weeks of pregnancy.

"There are fewer providers that do second-trimester abortions than five years ago," says Meyers. The second-trimester procedure is more controversial because the fetus is more developed.

Since 2001, three of the 29 clinics and hospitals that provided second-trimester abortions have stopped. However, since no one knows how many private doctors still perform the procedure, observers say it's hard to determine the full impact.

Most agree that even fewer doctors are willing and able to perform third-trimester abortions, which are even more complex and controversial.

Meyers sees several reasons for the decrease in providers of second-trimester abortions. First, they account for only 11 percent of the cases, so residents and doctors have fewer opportunities to learn the procedure, she says.

And because the operation is more complex and riskier than a first-term abortion, malpractice insurers charge more for coverage.

...d the procedure is more trouble than it's worth.

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But some older doctors who remember what abortion was like before 1973 see their work as essential, even lifesaving.

The anonymous clinic doctor, for example, was an obstetrics and gynecology resident at a Baltimore hospital in the late 1960s. He was often on call for the emergency room.

"I would spend my days and nights taking care of complications from abortions that had taken place in nonmedical facilities," he says. "After Roe, that disappeared overnight."

david.kohn@baltsun.com

## State laws

More than half the states have enacted laws that would take effect if the U.S. Supreme Court overturns Roe v. Wade, the 1973 case that legalized abortion nationwide.

These 11 states have enacted so-called "trigger laws" that express an intent to outlaw abortion if Roe is overturned: Arkansas, Idaho, Illinois, Kentucky, Louisiana, Missouri, Nebraska, North Dakota, Pennsylvania, South Dakota and Utah.

These 17 states have laws that explicitly protect abortion rights if Roe is reversed: Maryland, Alaska, Arizona, California, Connecticut, Florida, Illinois, Indiana, Massachusetts, Minnesota, Montana, New Jersey, New Mexico, Oregon, Tennessee, Vermont and West Virginia.

Illinois appears on both lists because the Illinois courts have ruled that the state offers greater protection of abortion rights than Roe v. Wade, while the state Legislature has passed a law that would repeal the state's abortion law if Roe is overturned.

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