

HOUSE BILL 1744

D4

8lr3856

By: **Delegate Wilson**

Introduced and read first time: February 21, 2018

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Substance–Exposed Newborns – Reporting**

3 FOR the purpose of altering the conditions under which a newborn is considered to be
4 substance–exposed; repealing certain conditions under which a health care
5 practitioner is not required to make a certain report concerning a substance–exposed
6 newborn to a local department of social services; requiring that a report made by a
7 health care practitioner to a local department include certain information; requiring
8 a local department to provide a copy of a report made by a health care practitioner
9 to a certain local health department under certain circumstances; requiring a local
10 department and local health department to take certain actions after receiving a
11 report; requiring the Maryland Department of Health to report certain information
12 to the Secretary of Human Services annually; requiring the Secretary of Health to
13 adopt certain regulations; and generally relating to substance–exposed newborns.

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 5–704.2
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2017 Supplement)

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

Article – Family Law

22 5–704.2.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) “Controlled drug” means a controlled dangerous substance included in
25 Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V under Title 5, Subtitle 4

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 of the Criminal Law Article.

2 (3) "Health care practitioner" has the meaning stated in § 1-301 of the
3 Health Occupations Article.

4 (4) "Newborn" means a child under the age of 30 days who is born or who
5 receives care in the State.

6 (b) For purposes of this section, a newborn is "substance-exposed" if[:

7 (1)] the newborn:

8 [(i)] (1) displays a positive toxicology screen for a controlled drug
9 as evidenced by any appropriate test after birth;

10 [(ii)] (2) displays the effects of controlled drug use or symptoms of
11 withdrawal resulting from prenatal controlled drug exposure as determined by medical
12 personnel; or

13 [(iii)] (3) displays the effects of a fetal alcohol spectrum disorder[;
14 or

15 (2) the newborn's mother had a positive toxicology screen for a controlled
16 drug at the time of delivery].

17 (c) Except as provided in [subsections (d) and] **SUBSECTION** (e) of this section, a
18 health care practitioner involved in the delivery or care of a substance-exposed newborn
19 shall:

20 (1) make an oral report to the local department as soon as possible; and

21 (2) make a written report to the local department not later than 48 hours
22 after the contact, examination, attention, treatment, or testing that prompted the report.

23 (d) In the case of a substance-exposed newborn in a hospital or birthing center, a
24 health care practitioner shall notify and provide the information required under this section
25 to the head of the institution or the designee of the head.

26 (e) A health care practitioner is not required to make a report under this section
27 if the health care practitioner[:

28 (1)] has knowledge that the head of an institution or the designee of the
29 head or another individual at that institution has made a report regarding the
30 substance-exposed newborn[;

31 (2) has verified that, at the time of delivery, the mother was using a

1 controlled substance as currently prescribed for the mother by a licensed health care
2 practitioner; or

3 (3) has verified that, at the time of delivery, the presence of the controlled
4 substance was consistent with a prescribed medical or drug treatment administered to the
5 mother or the newborn].

6 (f) To the extent known, an individual who makes a report under this section
7 shall include in the report the following information:

8 (1) the name, date of birth, and home address of the newborn;

9 (2) the names and home addresses of the newborn's parents;

10 (3) the nature and extent of the effects of the prenatal alcohol or drug
11 exposure on the newborn;

12 (4) the nature and extent of the impact of the prenatal alcohol or drug
13 exposure on the mother's ability to provide proper care and attention to the newborn;

14 (5) the nature and extent of the risk of harm to the newborn; [and]

15 (6) **WHETHER, AT THE TIME OF DELIVERY, THE HEALTH CARE**
16 **PRACTITIONER VERIFIED THAT THE MOTHER WAS USING A CONTROLLED DRUG AS**
17 **PRESCRIBED FOR THE MOTHER BY A LICENSED HEALTH CARE PRACTITIONER; AND**

18 (7) any other information that would support a conclusion that the needs
19 of the newborn require a prompt assessment of risk and safety, the development of a plan
20 of safe care for the newborn, and referral of the family for appropriate services.

21 (G) **IF A REPORT UNDER THIS SECTION PROVIDES THAT, AT THE TIME OF**
22 **DELIVERY, A HEALTH CARE PRACTITIONER VERIFIED THAT THE MOTHER WAS USING**
23 **A CONTROLLED DRUG PRESCRIBED FOR THE MOTHER BY A LICENSED HEALTH CARE**
24 **PRACTITIONER, THE LOCAL DEPARTMENT SHALL IMMEDIATELY FORWARD A**
25 **COMPLETE COPY OF THE REPORT TO THE LOCAL HEALTH DEPARTMENT IN THE**
26 **JURISDICTION IN WHICH THE MOTHER RESIDES.**

27 [(g)] (H) Within 48 hours after receiving [the notification pursuant to] A
28 **REPORT UNDER** subsection (c) **OR (G)** of this section, the local department **OR LOCAL**
29 **HEALTH DEPARTMENT** shall:

30 (1) see the newborn in person;

31 (2) consult with a health care practitioner with knowledge of the newborn's
32 condition and the effects of any prenatal alcohol or drug exposure; and

1 (3) attempt to interview the newborn's mother and any other individual
2 responsible for care of the newborn.

3 **[(h)] (I)** (1) Promptly after receiving a report under subsection (c) **OR (G)** of
4 this section, the local department **OR THE LOCAL HEALTH DEPARTMENT** shall assess the
5 risk of harm to and the safety of the newborn to determine whether any further
6 intervention is necessary.

7 (2) If the local department **OR THE LOCAL HEALTH DEPARTMENT**
8 determines that further intervention is necessary, the local department **OR THE LOCAL**
9 **HEALTH DEPARTMENT** shall **DEVELOP A PLAN TO ENSURE THE SAFETY AND**
10 **WELL-BEING OF THE NEWBORN FOLLOWING RELEASE FROM THE CARE OF A HEALTH**
11 **CARE PRACTITIONER THAT:**

12 (i) **[develop a plan of safe care for the newborn] ADDRESSES THE**
13 **HEALTH AND SUBSTANCE USE DISORDER TREATMENT NEEDS OF THE NEWBORN AND**
14 **AFFECTED FAMILY OR CAREGIVER; AND**

15 (ii) **[assess and refer the family for appropriate services, including**
16 **alcohol or drug treatment; and] INCLUDES THE DEVELOPMENT AND IMPLEMENTATION**
17 **OF A SYSTEM TO MONITOR AND DETERMINE WHETHER AND IN WHAT MANNER THE**
18 **INFANT AND AFFECTED FAMILY OR CAREGIVER HAVE BEEN REFERRED TO AND**
19 **RECEIVED APPROPRIATE SERVICES.**

20 (iii) as necessary, develop a plan to monitor the safety of the newborn
21 and the family's participation in appropriate services.]

22 **[(i)] (J)** A report made under this section does not create a presumption that a
23 child has been or will be abused or neglected.

24 **(K) DURING THE COURSE OF AN ASSESSMENT UNDER THIS SECTION, IF A**
25 **UNIT WITHIN A LOCAL DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SUSPECTS**
26 **THAT A CHILD HAS BEEN ABUSED OR NEGLECTED, THE UNIT OR THE LOCAL HEALTH**
27 **DEPARTMENT SHALL REPORT THE SUSPECTED ABUSE OR NEGLECT TO CHILD**
28 **PROTECTIVE SERVICES WITHIN THE LOCAL DEPARTMENT.**

29 **(L) THE MARYLAND DEPARTMENT OF HEALTH SHALL REPORT ANNUALLY**
30 **TO THE SECRETARY OF HUMAN SERVICES THE FOLLOWING DATA:**

31 **(1) THE NUMBER OF NEWBORNS REFERRED TO A LOCAL HEALTH**
32 **DEPARTMENT;**

33 **(2) THE NUMBER OF NEWBORNS FOR WHOM A PLAN OF SAFE CARE**
34 **WAS DEVELOPED; AND**

1 **(3) THE NUMBER OF NEWBORNS REFERRED TO APPROPRIATE**
2 **SERVICES, INCLUDING SERVICES FOR AN AFFECTED FAMILY MEMBER OR**
3 **CAREGIVER.**

4 **[j] (M) (1)** The Secretary of Human Services shall adopt regulations to
5 implement the provisions of this section.

6 **(2) THE SECRETARY OF HEALTH SHALL ADOPT REGULATIONS TO**
7 **IMPLEMENT THE PROVISIONS OF THIS SECTION.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
9 1, 2018.