

SENATE BILL 944

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4r2653
CF 4r2873

By: **Senator Shank**

Introduced and read first time: February 5, 2014

Assigned to: Rules

A BILL ENTITLED

AN ACT concerning

Family Law – Controlled Dangerous Substance Use During Pregnancy and Substance–Exposed Newborns – Reporting

FOR the purpose of prohibiting the discharge of a certain substance–exposed newborn from a hospital or birthing center until the local department of social services completes certain requirements; requiring a local department that makes a certain determination that a newborn has been exposed to a certain controlled dangerous substance to conduct a certain investigation and take other action necessary to determine whether to make a certain report of child abuse; requiring a certain health care practitioner who discovers that a person has used a certain controlled dangerous substance while pregnant to make certain oral and written reports within certain periods of time to the local department; authorizing the use of a certain report as evidence in a certain proceeding relating to children in need of assistance; and generally relating to the use of controlled dangerous substances during pregnancy and substance–exposed newborns.

BY repealing and reenacting, with amendments,

Article – Family Law

Section 5–704.2

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

BY adding to

Article – Family Law

Section 5–704.3

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Family Law

5–704.2.

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

(2) “Controlled drug” means a controlled dangerous substance included in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V under Title 5, Subtitle 4 of the Criminal Law Article.

(3) “Health care practitioner” has the meaning stated in § 1–301 of the Health Occupations Article.

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

(b) For purposes of this section, a newborn is “substance–exposed” if:

(1) the newborn:

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

(ii) displays the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel; or

(iii) displays the effects of a fetal alcohol spectrum disorder; or

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

(c) Except as provided in subsections (d) and (e) of this section, a health care practitioner involved in the delivery or care of a substance–exposed newborn shall:

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

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

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

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

(1) has knowledge that the head of an institution or the designee of the head or another individual at that institution has made a report regarding the substance—exposed newborn;

(2) has verified that, at the time of delivery, the mother was using a controlled substance as currently prescribed for the mother by a licensed health care practitioner; or

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

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

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

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

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

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

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

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

(g) Within 48 hours after receiving the notification pursuant to subsection (c) of this section, the local department shall:

(1) see the newborn in person;

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

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

(h) (1) Promptly after receiving a report under subsection (c) of this section, the local department shall assess the risk of harm to and the safety of the newborn to determine whether any further intervention is necessary.

(2) If the local department determines that further intervention is necessary, the local department shall:

(i) develop a plan of safe care for the newborn;

(ii) assess and refer the family for appropriate services, including alcohol or drug treatment; and

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

(I) A SUBSTANCE-EXPOSED NEWBORN MAY NOT BE DISCHARGED FROM A HOSPITAL OR BIRTHING CENTER UNTIL THE LOCAL DEPARTMENT COMPLETES THE REQUIREMENTS UNDER SUBSECTION (G) OF THIS SECTION.

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

(K) IF A LOCAL DEPARTMENT CONDUCTING AN EVALUATION REQUIRED UNDER SUBSECTION (G) OF THIS SECTION DETERMINES THAT A NEWBORN WAS EXPOSED TO A CONTROLLED DANGEROUS SUBSTANCE INCLUDED IN SCHEDULE I OR SCHEDULE II UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE, THE LOCAL DEPARTMENT SHALL CONDUCT AN INVESTIGATION AND TAKE ANY OTHER ACTION NECESSARY TO DETERMINE WHETHER TO MAKE A REPORT OF CHILD ABUSE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE.

[(j)] (L) The Secretary of Human Resources shall adopt regulations to implement the provisions of this section.

5-704.3.

(A) IN THIS SECTION, "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN § 1-301 OF THE HEALTH OCCUPATIONS ARTICLE.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A HEALTH CARE PRACTITIONER WHO DISCOVERS THAT A PERSON HAS USED A CONTROLLED DANGEROUS SUBSTANCE INCLUDED IN SCHEDULE I OR SCHEDULE II UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE WHILE PREGNANT SHALL:

(1) MAKE AN ORAL REPORT TO THE LOCAL DEPARTMENT AS SOON AS POSSIBLE; AND

(2) MAKE A WRITTEN REPORT TO THE LOCAL DEPARTMENT NOT LATER THAN 48 HOURS AFTER MAKING THE DISCOVERY.

(C) A HEALTH CARE PRACTITIONER IS NOT REQUIRED TO MAKE A REPORT UNDER THIS SECTION IF THE HEALTH CARE PRACTITIONER:

(1) HAS KNOWLEDGE THAT ANOTHER INDIVIDUAL HAS MADE A REPORT REGARDING THE PERSON IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION; OR

(2) HAS VERIFIED THAT THE PERSON WAS USING A CONTROLLED SUBSTANCE AS PRESCRIBED BY A LICENSED HEALTH CARE PRACTITIONER.

(D) A REPORT MADE UNDER SUBSECTION (B) OF THIS SECTION MAY BE USED AS EVIDENCE IN A PROCEEDING UNDER TITLE 3, SUBTITLE 8 OF THE COURTS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.