

HOUSE BILL 1271

D4

8lr3258

By: **Delegate McKay**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Opioid–Exposed Newborns and Parents Addicted to Opioids –**
3 **Mobile Application**
4 **(I’m Alive Today App)**

5 FOR the purpose of requiring a local department of social services, if appropriate, to
6 monitor an opioid–exposed newborn through a certain mobile application under
7 certain circumstances; requiring a local department to assess the risk of harm to and
8 safety of a certain child under certain circumstances; requiring a court to make a
9 referral to a local department for a certain assessment under certain circumstances;
10 requiring the Social Services Administration to develop a certain mobile application;
11 requiring a certain mobile application to provide a method for a parent to periodically
12 check in and to alert a local department if a parent fails to check in; authorizing the
13 Administration to contract with a third party to develop a certain mobile application;
14 requiring a local department to investigate if a parent fails to check in on the mobile
15 application as required by the Administration; authorizing the Secretary of Human
16 Services to adopt certain regulations; and generally relating to child protective
17 services.

18 BY repealing and reenacting, with amendments,
19 Article – Family Law
20 Section 5–704.2
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2017 Supplement)

23 BY adding to
24 Article – Family Law
25 Section 5–704.3
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Family Law**

4 5–704.2.

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

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

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

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

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

14 (1) the newborn:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) see the newborn in person;

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

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

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

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

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

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

9 (iii) as necessary, develop a plan to monitor the safety of the newborn
10 and the family's participation in appropriate services, **INCLUDING, IF APPROPRIATE,**
11 **MONITORING AN OPIOID-EXPOSED NEWBORN THROUGH A MOBILE APPLICATION IN**
12 **ACCORDANCE WITH § 5-704.3 OF THIS SUBTITLE.**

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

15 (j) The Secretary of Human Services shall adopt regulations to implement the
16 provisions of this section.

17 **5-704.3.**

18 (A) (1) **A LOCAL DEPARTMENT SHALL ASSESS THE RISK OF HARM TO AND**
19 **SAFETY OF AN OPIOID-EXPOSED NEWBORN AS REQUIRED UNDER THE PROVISIONS**
20 **OF § 5-704.2 OF THIS SUBTITLE OR A CHILD WHOSE PARENT HAS BEEN FOUND**
21 **GUILTY OF POSSESSION OF AN OPIOID AS REQUIRED UNDER PARAGRAPH (2) OF THIS**
22 **SUBSECTION.**

23 (2) **A COURT SHALL MAKE A REFERRAL TO THE LOCAL DEPARTMENT**
24 **FOR AN ASSESSMENT OF THE RISK OF HARM TO AND SAFETY OF A CHILD IF THE**
25 **CHILD'S PARENT HAS BEEN FOUND GUILTY OF POSSESSION OF AN OPIOID IN**
26 **VIOLATION OF § 5-601 OF THE CRIMINAL LAW ARTICLE.**

27 (B) (1) **THE ADMINISTRATION SHALL DEVELOP A MOBILE APPLICATION**
28 **TO BE USED BY PARENTS WHO ARE DETERMINED BY THE ADMINISTRATION TO HAVE**
29 **OPIOID ADDICTIONS THAT COULD RESULT IN HARM OR POTENTIAL HARM TO A**
30 **CHILD.**

31 (2) **THE MOBILE APPLICATION DEVELOPED UNDER THIS SUBSECTION**
32 **SHALL:**

1 **(I) PROVIDE A METHOD FOR A PARENT TO CHECK IN**
2 **PERIODICALLY IN ORDER TO SIGNAL THAT THE PARENT IS CONSCIOUS AND ABLE TO**
3 **CARE FOR THE PARENT’S CHILDREN; AND**

4 **(II) ALERT THE LOCAL DEPARTMENT IF A PARENT FAILS TO**
5 **CHECK IN.**

6 **(3) THE ADMINISTRATION MAY CONTRACT WITH A THIRD PARTY TO**
7 **DEVELOP THE MOBILE APPLICATION REQUIRED UNDER THIS SUBSECTION.**

8 **(C) THE LOCAL DEPARTMENT SHALL INVESTIGATE IF A PARENT FAILS TO**
9 **CHECK IN ON THE MOBILE APPLICATION AS REQUIRED BY THE ADMINISTRATION.**

10 **(D) THE SECRETARY OF HUMAN SERVICES MAY ADOPT REGULATIONS TO**
11 **IMPLEMENT THIS SECTION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2018.