

# HOUSE BILL 1744

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By: **Delegate Wilson**

Introduced and read first time: February 21, 2018

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, March 5, 2018

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

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## CHAPTER \_\_\_\_\_

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~~ altering 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, without amendments,

15 Article – Family Law

16 Section 5-704.2(a)

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2017 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Family Law

21 Section ~~5-704.2~~ 5-704.2(b), (c), and (e)

22 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2012 Replacement Volume and 2017 Supplement)

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

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

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

[(iii)] (3) 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] **SUBSECTION** (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.

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

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

6 (1) has knowledge that the head of an institution or the designee of the  
7 head or another individual at that institution has made a report regarding the  
8 substance-exposed newborn; **OR**

9 (2) has verified that, at the time of delivery:

10 **(I) the mother was using a controlled substance as currently**  
11 **prescribed for the mother by a licensed health care practitioner; ~~or~~**

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

15 **(II) THE NEWBORN DOES NOT DISPLAY THE EFFECTS OF**  
16 **WITHDRAWAL FROM CONTROLLED SUBSTANCE EXPOSURE AS DETERMINED BY**  
17 **MEDICAL PERSONNEL;**

18 **(III) THE NEWBORN DOES NOT DISPLAY THE EFFECTS OF FETAL**  
19 **ALCOHOL SPECTRUM DISORDER; AND**

20 **(IV) THE NEWBORN IS NOT AFFECTED BY SUBSTANCE ABUSE.**

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

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

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

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

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

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

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

~~(7) 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) IF A REPORT UNDER THIS SECTION PROVIDES THAT, AT THE TIME OF DELIVERY, A HEALTH CARE PRACTITIONER VERIFIED THAT THE MOTHER WAS USING A CONTROLLED DRUG PRESCRIBED FOR THE MOTHER BY A LICENSED HEALTH CARE PRACTITIONER, THE LOCAL DEPARTMENT SHALL IMMEDIATELY FORWARD A COMPLETE COPY OF THE REPORT TO THE LOCAL HEALTH DEPARTMENT IN THE JURISDICTION IN WHICH THE MOTHER RESIDES.~~

~~[(g)] (H) Within 48 hours after receiving [the notification pursuant to] A REPORT UNDER subsection (e) OR (G) of this section, the local department OR LOCAL HEALTH 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)] (I) (1) Promptly after receiving a report under subsection (e) OR (G) of this section, the local department OR THE LOCAL HEALTH 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 OR THE LOCAL HEALTH DEPARTMENT determines that further intervention is necessary, the local department OR THE LOCAL HEALTH DEPARTMENT shall DEVELOP A PLAN TO ENSURE THE SAFETY AND WELL-BEING OF THE NEWBORN FOLLOWING RELEASE FROM THE CARE OF A HEALTH CARE PRACTITIONER THAT:~~

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

~~(ii) [assess and refer the family for appropriate services, including alcohol or drug treatment, and] INCLUDES THE DEVELOPMENT AND IMPLEMENTATION OF A SYSTEM TO MONITOR AND DETERMINE WHETHER AND IN WHAT MANNER THE~~

1 ~~INFANT AND AFFECTED FAMILY OR CAREGIVER HAVE BEEN REFERRED TO AND~~  
2 ~~RECEIVED APPROPRIATE SERVICES.~~

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

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

7 ~~(K) DURING THE COURSE OF AN ASSESSMENT UNDER THIS SECTION, IF A~~  
8 ~~UNIT WITHIN A LOCAL DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SUSPECTS~~  
9 ~~THAT A CHILD HAS BEEN ABUSED OR NEGLECTED, THE UNIT OR THE LOCAL HEALTH~~  
10 ~~DEPARTMENT SHALL REPORT THE SUSPECTED ABUSE OR NEGLECT TO CHILD~~  
11 ~~PROTECTIVE SERVICES WITHIN THE LOCAL DEPARTMENT.~~

12 ~~(L) THE MARYLAND DEPARTMENT OF HEALTH SHALL REPORT ANNUALLY~~  
13 ~~TO THE SECRETARY OF HUMAN SERVICES THE FOLLOWING DATA:~~

14 ~~(1) THE NUMBER OF NEWBORNS REFERRED TO A LOCAL HEALTH~~  
15 ~~DEPARTMENT;~~

16 ~~(2) THE NUMBER OF NEWBORNS FOR WHOM A PLAN OF SAFE CARE~~  
17 ~~WAS DEVELOPED; AND~~

18 ~~(3) THE NUMBER OF NEWBORNS REFERRED TO APPROPRIATE~~  
19 ~~SERVICES, INCLUDING SERVICES FOR AN AFFECTED FAMILY MEMBER OR~~  
20 ~~CAREGIVER.~~

21 ~~[(j)] (M) (1) The Secretary of Human Services shall adopt regulations to~~  
22 ~~implement the provisions of this section.~~

23 ~~(2) THE SECRETARY OF HEALTH SHALL ADOPT REGULATIONS TO~~  
24 ~~IMPLEMENT THE PROVISIONS OF THIS SECTION.~~

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
26 1, 2018.