

# HOUSE BILL 1635

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By: **Delegates Pena–Melnyk, Bartlett, and Lehman**

Introduced and read first time: February 24, 2020

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Department of Health – Birth Registration – Gestational Carriers**

3 FOR the purpose of requiring a certain person to attach a copy of an order of the court  
4 establishing parentage to a certificate of birth under certain circumstances;  
5 requiring, for a birth involving a gestational carrier in which parentage is  
6 determined by a certain court, that certain information be entered on the certificate  
7 of birth and that a certain order be attached to the certificate; requiring the Division  
8 of Vital Records to immediately register a certain certificate of birth in accordance  
9 with a certain order on receipt of certain documents; defining a certain term; and  
10 generally relating to birth registration and gestational carriers.

11 BY repealing and reenacting, with amendments,  
12 Article – Health – General  
13 Section 4–208 and 4–226(b)(2)  
14 Annotated Code of Maryland  
15 (2019 Replacement Volume)

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

18 **Article – Health – General**

19 4–208.

20 **(A) IN THIS SECTION, “GESTATIONAL CARRIER” MEANS A WOMAN OTHER**  
21 **THAN AN INTENDED PARENT OR GAMETE DONOR WHO AGREES TO BECOME**  
22 **PREGNANT FOR AN INTENDED PARENT WITH THE INTENTION OF GESTATING AND**  
23 **DELIVERING THE CHILD OF THE INTENDED PARENT.**

24 **[(a)] (B) (1) Within 5 calendar days after a birth occurs in an institution, or**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 en route to the institution, or outside an institution with an attending clinician, the  
2 administrative head of the institution or a designee of the administrative head, or the  
3 attending clinician or a designee of the attending clinician, shall:

4 (i) Prepare, on the form that the Secretary provides, a certificate of  
5 birth;

6 (ii) Secure each signature that is required on the certificate; [and]

7 (iii) File the certificate; AND

8 **(IV) IF APPLICABLE, ATTACH A COPY OF THE ORDER OF THE**  
9 **COURT ESTABLISHING PARENTAGE.**

10 (2) The attending physician, physician assistant, nurse practitioner, nurse  
11 midwife, or attending clinician shall provide the date of birth and medical information that  
12 are required on the certificate within 5 calendar days after the birth.

13 (3) The results of the universal hearing screening of newborns shall be  
14 incorporated into the supplemental information required by the Department to be  
15 submitted as a part of the birth event.

16 (4) When an individual who is not married gives birth to a child in an  
17 institution or outside an institution with an attending clinician, the administrative head of  
18 the institution or the designee of the administrative head, or the attending clinician or the  
19 designee of the attending clinician, shall:

20 (i) Provide an opportunity for the child's parents to complete a  
21 standardized affidavit of parentage recognizing parentage of the child on the standardized  
22 form provided by the Department of Human Services under § 5-1028 of the Family Law  
23 Article;

24 (ii) Furnish to the mother written information prepared by the Child  
25 Support Administration concerning the benefits of having the parentage of the child  
26 established, including the availability of child support enforcement services; and

27 (iii) Forward the completed affidavit to the Maryland Department of  
28 Health, Division of Vital Records. The Maryland Department of Health, Division of Vital  
29 Records shall make the affidavits available to the parents, guardian of the child, or a child  
30 support enforcement agency upon request.

31 (5) An institution, the administrative head of the institution, the designee  
32 of the administrative head of an institution, an employee of an institution, the attending  
33 clinician, and the designee of the attending clinician may not be held liable in any cause of  
34 action arising out of the establishment of parentage.

35 (6) If the child's mother was not married at the time of either conception or

1 birth or between conception and birth, the name of the child's other parent may not be  
2 entered on the certificate without an affidavit of parentage as authorized by § 5-1028 of  
3 the Family Law Article signed by the mother and the person to be named on the certificate  
4 as the other parent.

5 (7) If the child's mother was married at the time of either the conception or  
6 birth or between conception and birth, the name of the mother's spouse shall be entered on  
7 the certificate as the child's other parent.

8 (8) (I) In any case **THAT DOES NOT INVOLVE A GESTATIONAL**  
9 **CARRIER** in which parentage of a child is determined by a court of competent jurisdiction,  
10 the name of the parent who did not give birth to the child and surname of the child shall  
11 be entered on the certificate of birth in accordance with the finding and order of the court.

12 (II) **IN ANY CASE THAT INVOLVES A GESTATIONAL CARRIER IN**  
13 **WHICH PARENTAGE IS DETERMINED BY A COURT OF COMPETENT JURISDICTION:**

14 1. **THE FOLLOWING SHALL BE ENTERED ON THE**  
15 **CERTIFICATE OF BIRTH:**

16 A. **AN INDICATION THAT THE DELIVERY OF BIRTH WAS**  
17 **BY A GESTATIONAL CARRIER; AND**

18 B. **THE IDENTITY OF THE INTENDED PARENTS;**

19 2. **AN ORDER OF THE COURT ESTABLISHING PARENTAGE**  
20 **SHALL BE ATTACHED TO THE CERTIFICATE OF BIRTH; AND**

21 3. **ON RECEIPT OF THE CERTIFICATE OF BIRTH AND**  
22 **ORDER OF THE COURT ESTABLISHING PARENTAGE, THE DIVISION OF VITAL**  
23 **RECORDS SHALL IMMEDIATELY REGISTER THE CERTIFICATE OF BIRTH IN**  
24 **ACCORDANCE WITH THE ORDER OF THE COURT.**

25 (9) If the parent who did not give birth to the child is not named on the  
26 certificate of birth, no other information about that parent shall be entered on the  
27 certificate.

28 [(b)] (C) Within 5 calendar days after a birth occurs outside an institution  
29 without an attending clinician, the birth shall be verified by the Secretary and a certificate  
30 of birth shall be prepared, on the form that the Secretary provides, and filed by one of the  
31 following, in the indicated order of priority:

32 (1) The attending individual.

33 (2) In the absence of an attending individual, either parent of the child.

1           (3) In the absence or inability of either parent, the individual in charge of  
2 the premises where the birth occurred.

3           **[(c)] (D)** (1) When a birth occurs on a common carrier within the United  
4 States and the child is first removed from the carrier in this State, the birth shall be  
5 registered in this State, and the place where the child is first removed shall be considered  
6 the place of birth.

7           (2) When a birth occurs on a common carrier while in international waters,  
8 air space, or in a foreign country and the child is first removed from the carrier in this  
9 State, the birth shall be registered in this State but the certificate shall show the actual  
10 place of birth insofar as can be determined.

11           (3) The certificate shall be filed within 5 calendar days after the child is  
12 removed from the carrier.

13           **[(d)] (E)** (1) Each parent shall provide his or her own Social Security number  
14 on the form provided by the Secretary under this section.

15           (2) (i) If the parent who did not give birth to the child is not available  
16 to provide the parent's Social Security number on the form provided under paragraph (1)  
17 of this subsection, the parent shall provide the parent's Social Security number on a form  
18 provided by the Secretary for this purpose.

19           (ii) The form provided under this paragraph shall:

20                   1. State that the form is for the purpose of providing the  
21 Social Security numbers of parents, to be included on the portion of the form that remains  
22 in the official birth record;

23                   2. Contain a specific reference to this subtitle; and

24                   3. State that the parent's Social Security number shall be  
25 provided under penalty of perjury.

26           (3) The Social Security number as provided by each parent shall be  
27 recorded on the portion of the form provided by the Secretary which remains in the official  
28 birth record.

29           (4) The Social Security numbers of the parents may not appear on the  
30 portion of the birth certificate issued as proof of birth.

31           (5) (i) The Secretary shall permit disclosure of the Social Security  
32 numbers of the parents only to the Child Support Administration of the Department of  
33 Human Services.

1                   (ii) The Child Support Administration may use the Social Security  
2 numbers of the parents to:

- 3                   1. Locate a parent;
- 4                   2. Establish parentage; and
- 5                   3. Establish and enforce a child support order under Title 10,  
6 Subtitle 1 of the Family Law Article.

7           [(e)] (F) If, under subsection [(d)(1)] (E)(1) of this section, the Social Security  
8 number of the parent who did not give birth to the child is not entered on the form provided  
9 by the Secretary:

10           (1) Upon adjudication of parentage, the court shall order the parent to  
11 provide the parent's Social Security number to the clerk of court; and

12           (2) The clerk of court shall send the parent's Social Security number to the  
13 Secretary, as provided under § 4-211(f) of this subtitle.

14 4-226.

15           (b) (2) A person may not fail to provide a Social Security number or willfully  
16 provide a false Social Security number to the clerk of court under [§ 4-208(e)] § 4-208(F)  
17 of this subtitle.

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2020.