

SB 410- Public Health - Childbirth - Paternity Tes

Uploaded by: Jane Krienke

Position: UNF



Maryland
Hospital Association

February 15, 2023

To: The Honorable Senator Melony Griffith, Chair, Senate Finance Committee

Re: Letter of Concern - Senate Bill 410 - Public Health - Childbirth - Paternity Test

Dear Chair Griffith:

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 410.

SB 410 requires an attending physician to provide an oral and written offer for a paternity test to the presumed father for a child born at a health care facility before a birth certificate form is completed for the child.

This legislation presents many concerns for the hospital field. Primarily, it is not the role of the attending physician to make a determination about the identity of the presumed father or to offer a paternity test. After a newborn is delivered, the clinical hospital care team are focused on the well-being of the birthing person and baby.

There is an extensive process outlined in statute for filing a birth certificate for an individual who is not married who gives birth to a child.^{1,2} Changes to this process that involve the attending physician, as required by SB 410, present concerns about the impact on the birthing person, newborn, hospital staff, other patients and visitors if there is a domestic disagreement regarding the paternity of the child.

For these reasons, MHA expresses deep concern with the concepts outlined in SB 410 and respectfully requests an *unfavorable* report.

For more information, please contact:
Jane Krienke, Senior Legislative Analyst
jkrienke@mhaonline.org

¹ Department of Legislative Services. (2023). "[SB 410: Fiscal and Policy Note.](#)"

² [Md. Code, Health General 4-208](#)

SB 410 - UNF- Women's Law Center of Maryland.pdf

Uploaded by: Laure Ruth

Position: UNF

BILL NO: Senate Bill 410
TITLE: Public Health - Childbirth - Paternity Test
COMMITTEE: Finance
HEARING DATE: February 15, 2023
POSITION: **OPPOSE**

Senate Bill 410 would require the attending physician at any birth of a child at a health care facility to offer the presumed father a paternity test. While at first glance this seems like a simple matter, as drafted, and if enacted, it brings several other statutes into play. In addition, it fails to consider several other issues. For these reasons, the Women's Law Center opposes SB 410.

At the outset, a change of this sort in our laws impacts several other statutes, and all of these would have to be examined and perhaps amended to account for this new law. A brief look at how long it takes to get results from a DNA test indicates that *if* the health facility has a laboratory (some hospitals do not, birthing centers do not), it takes from 2 to 5 days. By that time, in most circumstances, most new mothers and babies have been released from the hospital. What kind of paternity test is required, and who will pay for it? This would upend the system that is in place for applying for a birth certificates (*see* Md. Health General Code §4-208). *See also*, Affidavit of Parentage Md. Family Law Code Ann. §5-1028; Md Family Law Code Ann. §5-1029. It will upend the laws on presumptions of parentage for children conceived or born during a marriage. *See* Md. Estates and Trusts Code Ann. § 1-206(a); Family Law § 5-1027(c).

Senate Bill 410 makes this requirement mandatory for all children born in a health facility. It does not address home births, or mid-wife attended births. In addition, it only allows the attending physician to make the offer to test. We suspect there is a more appropriate way to do this.

But more importantly, the bill covers a very broad swath for a concern that is only about a small percentage of births. Frankly, the bill seems to be based in a misogynistic viewpoint that women regularly lie about who is the father of their child. This is statistically untrue. Under SB 410, even when the parties are married, the attending physician would have to offer a paternity test. This is an invasion of peoples' deeply private lives. It does not consider the different circumstances under which children are born. What if the child is a product of IVF? What if the child has two mothers? Two fathers? A surrogate birth? We have a large concern for survivors of domestic violence who do not want their abusers present at the birth, or who allow the abuser to be at the birth. The abuser may push for this knowing there will be a paternity test offered. It could endanger these women.

There may be a way to provide for paternity tests at or near a child's birth. But this bill is not it.

Therefore, the Women's Law Center of Maryland, Inc. opposes Senate Bill 410 and urges an unfavorable report.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women.

SB 410_FJLSC_UNF .pdf

Uploaded by: Laure Ruth

Position: UNF

To: Members of The Senate Finance Committee

From: Family & Juvenile Law Section Council (FJLSC)

Date: February 15, 2023

Subject: Senate Bill 410:
Public Health – Childbirth – Paternity Test

Position: OPPOSE/UNFAVORABLE

The Maryland State Bar Association (MSBA) FJLSC **opposes Senate Bill 410: Public Health – Childbirth – Paternity Test.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

Senate Bill 410 is seeking to create a process whereby at every birth in a health facility the attending physician would be required to offer a paternity test. Our concern is that this bill does not consider the multitude of other statutes that would be impacted should this pass. For example. Md. Estates and Trusts Code Ann. § 1-206 (a) addresses the presumption of parentage for a child conceived or born during a marriage. Md. Family Law code Ann. § 5-1028 address affidavits of parentage. And Md. Health General Code Ann. § 4-208 lays out how to apply for a birth certificate.

If the legislature wanted to consider a mandatory offer of a paternity test at the point a child is born it should look at the entire range of the birth experience, such as who assists at births, including mid-wives and doulas, where births take place (e.g. birthing centers, home delivery). Not all health facilities have a laboratory where a DNA test can be processed in the average time for 2-5 days, which impacts how to handle the tests when mother and child are most often already released from the hospital. The issue is more complex than SB 410 contemplates.

For the reason(s) stated above, the MSBA FJLSC opposes **Senate Bill 410 and urges an unfavorable committee report.**



520 West Fayette St., Baltimore, MD 21201

410-685-7878 | 800-492-1964

fax 410-685-1016 | tdd 410-539-3186

msba.org

Should you have any questions, please contact Lindsay Parvis by telephone at 240-399-7900 or lparvis@jgllaw.com or Michelle Smith by telephone at 410-280-1700 or by e-mail at msmith@lawannapolis.com.

SB 410 - UNF- Women's Law Center of Maryland.pdf

Uploaded by: Michelle Siri

Position: UNF

BILL NO: Senate Bill 410
TITLE: Public Health - Childbirth - Paternity Test
COMMITTEE: Finance
HEARING DATE: February 15, 2023
POSITION: **OPPOSE**

Senate Bill 410 would require the attending physician at any birth of a child at a health care facility to offer the presumed father a paternity test. While at first glance this seems like a simple matter, as drafted, and if enacted, it brings several other statutes into play. In addition, it fails to consider several other issues. For these reasons, the Women's Law Center opposes SB 410.

At the outset, a change of this sort in our laws impacts several other statutes, and all of these would have to be examined and perhaps amended to account for this new law. A brief look at how long it takes to get results from a DNA test indicates that *if* the health facility has a laboratory (some hospitals do not, birthing centers do not), it takes from 2 to 5 days. By that time, in most circumstances, most new mothers and babies have been released from the hospital. What kind of paternity test is required, and who will pay for it? This would upend the system that is in place for applying for a birth certificates (*see* Md. Health General Code §4-208). *See also*, Affidavit of Parentage Md. Family Law Code Ann. §5-1028; Md Family Law Code Ann. §5-1029. It will upend the laws on presumptions of parentage for children conceived or born during a marriage. *See* Md. Estates and Trusts Code Ann. § 1-206(a); Family Law § 5-1027(c).

Senate Bill 410 makes this requirement mandatory for all children born in a health facility. It does not address home births, or mid-wife attended births. In addition, it only allows the attending physician to make the offer to test. We suspect there is a more appropriate way to do this.

But more importantly, the bill covers a very broad swath for a concern that is only about a small percentage of births. Frankly, the bill seems to be based in a misogynistic viewpoint that women regularly lie about who is the father of their child. This is statistically untrue. Under SB 410, even when the parties are married, the attending physician would have to offer a paternity test. This is an invasion of peoples' deeply private lives. It does not consider the different circumstances under which children are born. What if the child is a product of IVF? What if the child has two mothers? Two fathers? A surrogate birth? We have a large concern for survivors of domestic violence who do not want their abusers present at the birth, or who allow the abuser to be at the birth. The abuser may push for this knowing there will be a paternity test offered. It could endanger these women.

There may be a way to provide for paternity tests at or near a child's birth. But this bill is not it.

Therefore, the Women's Law Center of Maryland, Inc. opposes Senate Bill 410 and urges an unfavorable report.

The Women's Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women.

SB0410_LOI_MDACOG_PH - Childbirth - Paternity Test

Uploaded by: Pam Kasemeyer

Position: INFO



Maryland Section

TO: The Honorable Melony Griffith, Chair
Members, Senate Finance Committee
The Honorable Ron Watson

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Christine K. Krone
410-244-7000

DATE: February 15, 2023

RE: **LETTER OF INFORMATION** – Senate Bill 410 – *Public Health – Childbirth – Paternity Test*

The American College of Obstetricians and Gynecologists, Maryland Section (MDACOG), which represents the Maryland physicians who serve the obstetrical and gynecological needs of Maryland women and their families, submits this **letter of information** for Senate Bill 410.

Senate Bill 410 requires an “attending physician” to offer the presumed father of a child born in a “health care facility” the option to take a paternity test. The offer to take a paternity test must be made orally, in writing, and before a birth certificate form is completed for the child. The presumed father may waive the right to take a paternity test or elect to take a paternity test at any time before the completion of the child’s birth certificate. The bill’s requirement does not apply if the attending physician is unable to contact the presumed father of the child.

While MDACOG has no objection to ensuring that a presumed father of a newborn child has the right to take a paternity test, the provisions of Senate Bill 410 could place the facility and its staff in the middle of a domestic issue, which could escalate and exacerbate workplace violence. Current law already creates a framework for addressing paternity issues and birth certificate completion where there is a question related to paternity. Therefore, MDACOG believes that Senate Bill 410, while well intended, could create unintended consequences, which the Committee should consider in the deliberation of this legislation.