

BILL NO: Senate Bill 201
TITLE: Public Health - Childbirth - Paternity Test
COMMITTEE: Finance
HEARING DATE: February 8, 2024
POSITION: **OPPOSE**

Senate Bill 201 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 201.

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 201 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 201, 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 201 and urges an unfavorable report.

The Women's Law Center of Maryland is a non-profit legal services organization whose mission is to ensure the physical safety, economic security, and bodily autonomy of women in Maryland. Our mission is advanced through direct legal services, information and referral hotlines, and statewide advocacy.