



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 14, 2024

The Honorable William C. Smith Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 438 – Family Law - Fundamental Parental Rights – Letter of Opposition

Dear Chair Smith and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of opposition for Senate Bill (SB) 438 – Family Law – Fundamental Parental Rights. SB 438 establishes that a parent has the fundamental right to direct the upbringing, education, care, and welfare of the parent's child. It prohibits the State or a political subdivision from infringing upon these rights.

According to a 2022 study, 41 states allow minors, regardless of age, to consent to STI testing and treatment and 42 allow them to consent to HIV testing and treatment.¹ In Maryland, a minor has the same capacity as an adult to consent to medical or dental treatment under certain conditions. These include treatments related to drug abuse, alcoholism, sexually transmitted diseases, pregnancy, contraception, and physical examinations for injuries resulting from sexual offenses. The Department administers programs like the Maryland School-Based Health Center (SBHC) Program and the Maryland Family Planning Program, offering sexual, reproductive, and behavioral healthcare services to minors. While parental involvement is encouraged, it is not required.

SB 438 raises concerns as it conflicts with existing laws safeguarding the confidentiality of minors seeking treatment. According to the CDC's analysis of the 2013-2015 National Survey of Family Growth, nationally 12.7% of sexually experienced adolescents and young adults (aged 15-25) would not seek sexual and reproductive health care because of concerns that their parents might find out.² This was highest amongst 15-17 year olds at 22.6%. If required to provide a parent's consent in order to receive medical treatment for these services, Maryland could see a decline in adolescents and young adults utilizing these essential treatments.

¹ Nelson KM, Skinner A, Underhill K. Minor Consent Laws for Sexually Transmitted Infection and HIV Services. *JAMA*. 2022;328(7):674–676. doi:10.1001/jama.2022.10777

² Leichliter JS, Copen C, Dittus PJ. Confidentiality issues and use of sexually transmitted disease services among sexually experienced persons aged 15-25 years: United States, 2013-2015. *MMWR Morb Mortal Wkly Rep*. 2017;66(9):237-241. doi:10.15585/mmwr.mm6609a1

Additionally, if passed, the Department's programs may be found to infringe upon parental rights regarding their child's care, and as a result, new protocols would be necessary for parental consent and patient education.

For these reasons, the Department strongly opposes SB 438, advocating for legislation that prioritizes the health and safety of youth.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,



Laura Herrera Scott, M.D., M.P.H.
Secretary