# HOUSE BILL 119

J1 4lr0158

(PRE–FILED) CF SB 211

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health)**

Requested: September 13, 2023
Introduced and read first time: January 10, 2024
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 7, 2024

CHAPTER _____

AN ACT concerning

**Public Health – Giving Infants a Future Without Transmission (GIFT) Act**

FOR the purpose of altering certain HIV and syphilis reporting and testing requirements for hospitals and health care providers for pregnant women and newborns, including by requiring that the pregnancy status of certain individuals be included in certain reports and that certain health care providers submit certain blood samples to medical laboratories; providing that certain documents related to certain HIV and syphilis reports are not discoverable and are not admissible in evidence in any criminal or administrative action; and generally relating to testing and reporting requirements for HIV and syphilis.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–201.1, 18–202.1, 18–307, and 18–336
Annotated Code of Maryland
(2023 Replacement Volume)

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

**Article – Health – General**

18–201.1.

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.

(a) A **[**physician**] HEALTH CARE PROVIDER** who has diagnosed **[**a patient**] AN INDIVIDUAL** under the **[**physician's**] HEALTH CARE PROVIDER'S** care with **[**human immunodeficiency virus**] HIV** infection or acquired immunodeficiency syndrome according to the current definition published in the **[**morbidity and mortality weekly report**] MORBIDITY AND MORTALITY WEEKLY REPORT** by the Centers for Disease Control and Prevention of the Department of Health and Human Services shall submit immediately a report to the health officer for the county where the **[**physician**] HEALTH CARE PROVIDER** cares for that **[**patient**] INDIVIDUAL**.

(b) The report shall:

(1) Be on the form that the Secretary provides;

(2) Identify the disease;

(3) State the name, age, race, sex, and residence address of the **[**patient; and**] INDIVIDUAL;**

**(4) STATE THE PREGNANCY STATUS OF THE INDIVIDUAL, IF APPLICABLE; AND**

**[**(4)**] (5)** Be signed by the **[**physician**] HEALTH CARE PROVIDER**.

(c) (1) A **[**physician**] HEALTH CARE PROVIDER** shall submit a report as described in subsection (b) of this section to the Secretary within 48 hours of **[**the**]:**

**(I) THE** birth of an infant whose mother has tested positive for **[**the human immunodeficiency virus**] HIV; AND**

**(II) A PREGNANT WOMAN TESTING POSITIVE FOR HIV, FOR THE PURPOSE OF INTERVENTION**.

(2) If a newborn infant does not become HIV positive after 18 months from the **[**date that the report required in paragraph (1) of this subsection was submitted**] INFANT'S DATE OF BIRTH**, the Secretary shall have the newborn infant's name removed from the HIV registry.

(d) (1) All **[**physician**] HEALTH CARE PROVIDER** reports required under this section are:

(i) Confidential and subject to Title 4, Subtitle 1 of this article; and

(ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

(2) The reports and any proceedings, records, or files relating to the reports required under this section are not discoverable and are not admissible in evidence in any ~~civil action~~ **CRIMINAL, CIVIL, OR ADMINISTRATIVE ACTION**.

(3) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties pursuant to State or federal law where the Secretary determines the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.

18–202.1.

(a) In this section, "institution" includes:

(1) A hospital;

(2) A nursing home;

(3) A hospice facility;

(4) A medical clinic in a correctional facility;

(5) An inpatient psychiatric facility; and

(6) An inpatient drug rehabilitation facility.

(b) When an institution has an individual in the care of the institution with a diagnosis of **[**human immunodeficiency virus**]** **HIV** or acquired immunodeficiency syndrome according to the current definition published in the **[**morbidity and mortality weekly report**]** **MORBIDITY AND MORTALITY WEEKLY REPORT** by the Centers for Disease Control and Prevention, a clinical or infection control practitioner shall submit a report within 48 hours to the health officer for the county where the institution is located.

(c) The report shall:

(1) Be on the form that the Secretary provides;

(2) Identify the disease;

(3) State the name, age, race, sex, and residence address of the individual with the disease;

**(4) STATE THE PREGNANCY STATUS OF THE INDIVIDUAL, IF APPLICABLE;**

**[**(4)**]** **(5)** State the name of the administrative head of the institution; and

**[**(5)**] (6)** State the address of the institution.

(d) (1) All institution reports required under this section are:

(i) Confidential and subject to Title 4, Subtitle 1 of this article; and

(ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

(2) The reports and any proceedings, records, or files relating to the reports required under this section are not discoverable and are not admissible in evidence in any ~~civil action~~ **CRIMINAL, CIVIL, OR ADMINISTRATIVE ACTION**.

(3) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties in accordance with State or federal law where the Secretary determines the agency to whom the information is disclosed will maintain the confidentiality of the disclosure.

18–307.

(a) This section does not apply to a woman who objects to a standard serological syphilis test because the test is against the religious beliefs and practices of the woman.

(b) (1) The **[**individual**] HEALTH CARE PROVIDER** attending a woman for pregnancy shall submit to a medical laboratory:

(i) A blood sample taken from the woman at the time that the **[**individual**] HEALTH CARE PROVIDER** first examines the woman; **[**and**]**

(ii) A blood sample taken from the woman **[**during the third trimester of the pregnancy**] IN THE THIRD TRIMESTER AT:**

**1. THE PRENATAL VISIT AT 28 WEEKS OF GESTATION; OR**

**2. THE FIRST PRENATAL VISIT AFTER 28 WEEKS OF GESTATION; AND**

**(III) 1. A BLOOD SAMPLE TAKEN FROM THE WOMAN WHO DELIVERS A LIVE BORN INFANT AT THE TIME OF DELIVERY; OR**

**2. A BLOOD SAMPLE TAKEN FROM THE WOMAN WHO DELIVERS A STILLBORN INFANT:**

**A. AT 20 WEEKS OF GESTATION OR LATER; OR**

**B. WEIGHING AT LEAST 500 GRAMS.**

(2) The medical laboratory to which a blood sample is submitted shall do a standard serological syphilis test that is approved by the Department.

**(C) A HOSPITAL SHALL DETERMINE THE SYPHILIS SEROLOGIC STATUS OF THE MOTHER BEFORE DISCHARGING THE NEWBORN FOR THE PURPOSES OF NEONATAL EVALUATION AND TREATMENT.**

**(D) THE DEPARTMENT MAY ADOPT RULES, REGULATIONS, AND STANDARDS UNDER THIS SECTION.**

18–336.

(a) (1) In this section the following words have the meanings indicated.

(2) "Health care facility" has the same meaning stated in § 18–338.2 of this subtitle.

(3) "Health care provider" means a physician, nurse, or designee of a health care facility.

(4) "HIV" means the human immunodeficiency virus that causes acquired immune deficiency syndrome.

(b) (1) Except as provided in Title 11, Subtitle 1, Part II of the Criminal Procedure Article or § 18–338.3 of this subtitle, before obtaining a fluid or tissue sample from the body of an individual for the purpose of testing the fluid or tissue for the presence of HIV infection, a health care provider shall:

(i) Inform the individual verbally or in writing that HIV testing will be performed on a specimen obtained from the individual unless the individual refuses HIV testing;

(ii) Provide the individual verbal or written information or show a video that includes an explanation of HIV infection and the meaning of positive and negative test results;

(iii) Offer the individual an opportunity to ask questions and decline HIV testing; and

(iv) If the individual refuses HIV testing, document in the medical record the individual's decision.

(2) (i) Consent for HIV testing shall be included in a patient's general informed consent for medical care in the same category as other screening and diagnostic tests.

(ii) Except as otherwise provided in this section, a health care provider may not be required to obtain consent for HIV testing using a separate consent form.

(3) A health care provider shall make available to individuals for whom HIV testing is performed easily understood informational materials in the languages of the commonly encountered populations of the health care provider.

**(C) UNLESS A PATIENT DECLINES, A HEALTH CARE PROVIDER SHALL OBTAIN A FLUID OR TISSUE SAMPLE FOR THE PURPOSE OF TESTING THE FLUID OR TISSUE FOR THE PRESENCE OF HIV INFECTION FROM:**

**(1) ~~THE BODY OF A~~ A PREGNANT WOMAN DURING DELIVERY; AND**

**(2) A NEWBORN WHEN THE PREGNANT WOMAN'S HIV STATUS IS UNKNOWN.**

**[**(c)**] (D)** (1) If the HIV test is ordered at a location that is not a health care facility, informed consent shall be in writing and signed by the individual on an informed consent for HIV testing document that is approved by the Department.

(2) The informed consent for HIV testing document shall be distinct and separate from all other consent forms.

(3) A patient identifying number obtained from an anonymous and confidential test site which is approved by the Department may be evidence of a patient's informed consent in lieu of a patient's signature.

**[**(d)**] (E)** An individual's refusal to undergo an HIV test or a positive test result may not be used as the sole basis by an institution or laboratory to deny services or treatment.

**[**(e)**] (F)** If the individual is unable to give informed consent, substitute consent may be given under § 5–605 of this article.

**[**(f)**] (G)** A health care provider who obtains a result from an HIV test conducted in accordance with the provisions of subsection (b) of this section shall:

(1) Notify the individual from whom the fluid or tissue sample was obtained of the result; and

(2) If the test is positive:

(i) Provide a referral for treatment and supportive services;

(ii) Counsel the individual to inform all sexual and needle–sharing partners of the individual's positive HIV status;

(iii) Offer to assist in notifying the individual's sexual and needle–sharing partners or refer the individual to the local health officer to assist the individual with notifying the individual's sexual and needle–sharing partners; and

(iv) If necessary, take action appropriate to comply with § 18–337 of this subtitle.

**[**(g)**]** **(H)** Local health officers shall make available to health care providers in their jurisdiction information on referral resources for an individual with an HIV positive status, including counseling, testing, needs assessment, treatment, and support services.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.