

HOUSE BILL 463

Unofficial Copy
J1

2001 Regular Session
11r0083

By: **Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)**

Introduced and read first time: February 2, 2001

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 7, 2001

CHAPTER _____

1 AN ACT concerning

2 **HIV and AIDS Cases - Confidentiality and Reporting Provisions**

3 FOR the purpose of providing that any record, report, statement, note, or other
4 information that is assembled or obtained for research or study by the AIDS
5 Administration in the Department of Health and Mental Hygiene is a
6 "confidential record" for certain purposes; requiring certain physicians to report
7 AIDS cases based on diagnosis, not suspicion; eliminating the requirement that
8 institutions report suspected cases of AIDS; specifying that certain facilities
9 must make available to the Secretary of Health and Mental Hygiene certain
10 information necessary to compile an HIV/AIDS care report under certain
11 circumstances; defining certain terms; and generally relating to HIV and AIDS
12 reporting.

13 BY repealing and reenacting, with amendments,
14 Article - Health - General
15 Section 4-101, 4-102, 18-201, 18-202, and 18-207
16 Annotated Code of Maryland
17 (2000 Replacement Volume)

18 BY adding to
19 Article - Health - General
20 Section 18-201.1
21 Annotated Code of Maryland
22 (2000 Replacement Volume)

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

3 **Article - Health - General**

4 4-101.

5 In this subtitle, "confidential record" means any record, report, statement, note,
6 or other information that:

7 (1) Is assembled or obtained for research or study by:

8 (i) The Drug Abuse Administration;[or]

9 (II) THE AIDS ADMINISTRATION; OR

10 [(ii)] (III) The Secretary; and

11 (2) Names or otherwise identifies any person.

12 4-102.

13 (a) (1) Each confidential record shall remain in the custody and control of:

14 (i) The Drug Abuse Administration, if that Administration
15 assembled or obtained the confidential record; [or]

16 (II) THE AIDS ADMINISTRATION, IF THAT ADMINISTRATION
17 ASSEMBLED OR OBTAINED THE CONFIDENTIAL RECORD; OR

18 [(ii)] (III) The Secretary or an agent or employee of the Secretary, if
19 the Secretary assembled or obtained the confidential record.

20 (2) The confidential record may be used only for the research and study
21 for which it was assembled or obtained.

22 (3) A person may not disclose any confidential record to any person who
23 is not engaged in the research or study project.

24 (b) This section does not apply to or restrict the use or publication of any
25 statistics, information, or other material that summarizes or refers to confidential
26 records in the aggregate, without disclosing the identity of any person who is the
27 subject of the confidential record.

28 18-201.

29 (a) A physician with reason to suspect that a patient under the physician's
30 care has an infectious or contagious disease EXCEPT HUMAN IMMUNODEFICIENCY
31 VIRUS OR ACQUIRED IMMUNODEFICIENCY SYNDROME that endangers public health
32 shall submit immediately a report to the health officer for the county where the
33 physician cares for that patient.

1 (b) The report shall:

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

3 (2) Identify the disease or suspected disease;

4 (3) [(i) Except as provided in item (ii) of this item, state] STATE the
5 name, age, race, sex, and residence address of the patient; and

6 [(ii) For reports of asymptomatic human immunodeficiency virus
7 infection, state the age, sex, race, and zip code of residence of the patient and the
8 unique patient identifying number that does not disclose the identity of the patient;
9 and]

10 (4) Be signed by the physician.

11 (c) (1) All physician reports required under this section are:

12 (i) Confidential;

13 (ii) Not open to public inspection; and

14 (iii) Subject to subpoena or discovery in any criminal or civil
15 proceeding only pursuant to a court order sealing the court record.

16 (2) This subsection does not apply to a disclosure by the Secretary to
17 another governmental agency performing its lawful duties as authorized by an act of
18 the Maryland General Assembly or the United States Congress where the Secretary
19 determines that:

20 (i) The agency to whom the information is disclosed will maintain
21 the confidentiality of the disclosure; and

22 (ii) The disclosure is necessary to protect the public health or to
23 prevent the spread of an infectious or contagious disease.

24 18-201.1.

25 (A) A PHYSICIAN WHO HAS DIAGNOSED A PATIENT UNDER THE PHYSICIAN'S
26 CARE WITH ACQUIRED IMMUNODEFICIENCY SYNDROME ACCORDING TO THE
27 CURRENT DEFINITION PUBLISHED IN THE MORBIDITY AND MORTALITY WEEKLY
28 REPORT BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION OF THE
29 DEPARTMENT OF HEALTH AND HUMAN SERVICES SHALL SUBMIT IMMEDIATELY A
30 REPORT TO THE HEALTH OFFICER FOR THE COUNTY WHERE THE PHYSICIAN CARES
31 FOR THAT PATIENT.

32 (B) THE REPORT SHALL:

33 (1) BE ON THE FORM THAT THE SECRETARY PROVIDES;

34 (2) IDENTIFY THE DISEASE;

1 (3) STATE THE NAME, AGE, RACE, SEX, AND RESIDENCE ADDRESS OF
2 THE PATIENT; AND

3 (4) BE SIGNED BY THE PHYSICIAN.

4 (C) (1) ALL PHYSICIAN REPORTS REQUIRED UNDER THIS SECTION ARE:

5 (I) CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS
6 ARTICLE; AND

7 (II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS
8 ARTICLE, BUT ARE SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS OF TITLE 4,
9 SUBTITLE 1 OF THIS ARTICLE.

10 (2) THIS SUBSECTION DOES NOT APPLY TO A DISCLOSURE BY THE
11 SECRETARY TO ANOTHER GOVERNMENTAL AGENCY PERFORMING ITS LAWFUL
12 DUTIES PURSUANT TO STATE OR FEDERAL LAW WHERE THE SECRETARY
13 DETERMINES THE AGENCY TO WHOM THE INFORMATION IS DISCLOSED WILL
14 MAINTAIN THE CONFIDENTIALITY OF THE DISCLOSURE.

15 18-202.

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

17 (1) A hospital; and

18 (2) A lodging facility.

19 (b) When the administrative head of an institution has reason to believe that
20 an individual on the premises of the institution has an infectious or contagious
21 disease EXCEPT HUMAN IMMUNODEFICIENCY VIRUS OR ACQUIRED
22 IMMUNODEFICIENCY SYNDROME, the administrative head immediately shall submit
23 a report to the health officer for the county where the institution is located.

24 (c) The report shall:

25 (1) [(i) Except as provided in item (ii) of this item, state] STATE the
26 name and residence address of the individual believed to have the disease; [and

27 (ii) For reports of asymptomatic human immunodeficiency virus
28 infection, state the age, sex, race, and zip code of residence of the patient and the
29 unique patient identifying number that does not disclose the identity of the patient;]

30 (2) Identify the infectious or contagious disease;

31 (3) State the name of the administrative head of the institution; and

32 (4) State the address of the institution.

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

- 1 (i) Confidential;
- 2 (ii) Not open to public inspection; and
- 3 (iii) Subject to subpoena or discovery in any criminal or civil
4 proceeding only pursuant to a court order sealing the court record.

5 (2) This subsection does not apply to a disclosure by the Secretary to
6 another governmental agency performing its lawful duties as authorized by an act of
7 the Maryland General Assembly or the United States Congress where the Secretary
8 determines that:

9 (i) The agency to whom the information is disclosed will maintain
10 the confidentiality of the disclosure; and

11 (ii) The disclosure is necessary to protect the public health or to
12 prevent the spread of an infectious or contagious disease.

13 18-207.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (2) "HIV/AIDS CASE REPORT" MEANS AN ABSTRACT OF THE MEDICAL
17 RECORD OF A PATIENT DIAGNOSED WITH HUMAN IMMUNODEFICIENCY VIRUS OR
18 ACQUIRED IMMUNODEFICIENCY SYNDROME WHICH CONTAINS:

19 (I) REASONABLY OBTAINED PATIENT DEMOGRAPHIC
20 INFORMATION, INCLUDING RISK FACTORS;

21 (II) RELEVANT INFORMATION ON THE:

- 22 1. INITIAL DIAGNOSIS;
- 23 2. TREATMENT AND REFERRAL; AND
- 24 3. CLINICAL CONDITION;

25 (III) FACILITY AND OTHER PROVIDER IDENTIFICATION
26 INFORMATION; AND

27 (IV) FOR REPORTS OF HIV, THE UNIQUE IDENTIFIER OF THE
28 PATIENT, BUT NOT THE PATIENT'S NAME.

29 (3) "REPORT" MEANS:

30 (I) A LABORATORY EXAMINATION REPORT FOR HIV OR CD 4+
31 COUNT AS REQUIRED BY § 18-205 OF THIS SUBTITLE;

32 (II) A PHYSICIAN REPORT FOR AIDS AS REQUIRED BY § 18-201.1 OF
33 THIS SUBTITLE; OR

1 (III) AN HIV/AIDS CASE REPORT.

2 (4) "DESIGNATED ANONYMOUS HIV TEST SITE" MEANS AN HIV
3 COUNSELING AND TESTING SITE APPROVED BY THE DEPARTMENT OF HEALTH AND
4 MENTAL HYGIENE AS A SITE WHERE A PATIENT MAY HAVE AN ANONYMOUS HIV
5 TEST.

6 (B) (1) EXCEPT FOR A DESIGNATED ANONYMOUS HIV TEST SITE, A FACILITY
7 OR OFFICE THAT ORDERS A TEST FOR HIV AND RECEIVES A TEST RESULT THAT
8 DOCUMENTS THE PRESENCE OF HIV AS DEFINED BY THE CDC LABORATORY
9 CRITERIA SHALL, UPON THE SECRETARY'S REQUEST, MAKE AVAILABLE TO THE
10 SECRETARY, OR AN AGENT OF THE SECRETARY, THE INFORMATION NECESSARY TO
11 COMPILE AN HIV/AIDS CASE REPORT.

12 (2) A REPORT OR INFORMATION ASSEMBLED OR OBTAINED UNDER THIS
13 SECTION SHALL BE CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS
14 ARTICLE.

15 (I) A REPORT IN THIS SECTION IS NOT A MEDICAL RECORD UNDER
16 TITLE 4, SUBTITLE 3 OF THIS ARTICLE, BUT IS SUBJECT TO THE CONFIDENTIALITY
17 REQUIREMENTS OF TITLE 4, SUBTITLE 1 OF THIS ARTICLE.

18 (II) THIS SUBSECTION DOES NOT APPLY TO A DISCLOSURE BY THE
19 SECRETARY TO ANOTHER GOVERNMENTAL AGENCY PERFORMING ITS LAWFUL
20 DUTIES PURSUANT TO STATE OR FEDERAL LAW WHERE THE SECRETARY
21 DETERMINES THAT THE AGENCY TO WHOM THE INFORMATION IS DISCLOSED WILL
22 MAINTAIN THE CONFIDENTIALITY OF THE DISCLOSURE.

23 (C) The director of a medical laboratory in which serum samples are tested for
24 human immunodeficiency virus may not disclose, directly or indirectly, the identity of
25 any individual tested for human immunodeficiency virus in any report submitted to
26 the Department or the health officer for the county where the laboratory is located.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2001.