
By: **Delegate Pendergrass**

Introduced and read first time: February 14, 2003

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Birth Defects - Release of**
3 **Medical Information**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to
5 establish a certain program for the monitoring of birth defects; requiring a
6 hospital to submit a certain report within 5 days of a discharge of a certain child
7 or a certain date that a certain fetus was stillborn; requiring a hospital to
8 disclose the identity of a certain child without a birth defect; requiring the
9 hospital to provide the Secretary with a certain list of children for certain
10 purposes under a certain circumstance; requiring the Department to obtain
11 certain consent prior to including a certain child in a certain investigation;
12 requiring a health care provider to allow the Department to inspect and obtain
13 copies of certain information relating to a child with a birth defect; providing
14 that certain information that the Department inspects or obtains may be used
15 only for certain purposes; providing that certain information that the
16 Department receives is confidential and may only be used or disclosed under
17 certain circumstances; requiring certain entities to jointly develop procedures to
18 monitor certain data; altering a certain definition; defining a certain term;
19 making certain stylistic changes; and generally relating to birth defects and the
20 release of medical information.

21 BY repealing and reenacting, without amendments,
22 Article - Health - General
23 Section 4-301(a) and (h)
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2002 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Health - General
28 Section 18-206
29 Annotated Code of Maryland
30 (2000 Replacement Volume and 2002 Supplement)

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 4-301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (h) (1) "Health care provider" means:

7 (i) A person who is licensed, certified, or otherwise authorized
8 under the Health Occupations Article or § 13-516 of the Education Article to provide
9 health care in the ordinary course of business or practice of a profession or in an
10 approved education or training program; or

11 (ii) A facility where health care is provided to patients or recipients,
12 including a facility as defined in § 10-101(e) of this article, a hospital as defined in §
13 19-301(g) of this article, a related institution as defined in § 19-301(o) of this article,
14 a health maintenance organization as defined in § 19-701(e) of this article, an
15 outpatient clinic, and a medical laboratory.

16 (2) "Health care provider" includes the agents, employees, officers, and
17 directors of a facility and the agents and employees of a health care provider.

18 18-206.

19 (a) (1) In this [section,] SECTION THE FOLLOWING WORDS HAVE THE
20 MEANINGS INDICATED.

21 (2) ["sentinel birth] "BIRTH defect" includes:

22 [(1)] (I) Anencephaly;

23 [(2)] (II) Spina bifida;

24 [(3)] (III) Hydrocephaly;

25 [(4)] (IV) Cleft palate;

26 [(5)] (V) Cleft lip;

27 [(6)] (VI) Esophageal atresia and stenosis;

28 [(7)] (VII) Rectal and anal atresia;

29 [(8)] (VIII) Hypospadias;

30 [(9)] (IX) Reduction deformity - upper limb;

31 [(10)] (X) Reduction deformity - lower limb;

1 [(11)] (XI) Congenital dislocation of the hip; and

2 [(12)] (XII) Down syndrome.

3 (3) "HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 4-301 OF
4 THIS ARTICLE.

5 (b) (1) THE SECRETARY SHALL ESTABLISH A PUBLIC HEALTH
6 SURVEILLANCE PROGRAM FOR THE MONITORING OF BIRTH DEFECTS.

7 (2) A hospital shall make a report on each child who is [born live]
8 LIVEBORN [or] AND EACH FETUS THAT IS stillborn in the hospital and has a
9 [sentinel] birth defect. If a child is born outside the hospital, the person filling out
10 the birth certificate shall make a report under this section.

11 [(2)] (3) The Secretary shall appoint a committee of physicians, hospital
12 representatives and officials from the Department to determine the information
13 required under paragraph [(1)] (2) of this subsection.

14 [(3)] (4) [Each month the] A hospital shall submit [the reports for that
15 month] EACH REPORT to the Department WITHIN 5 DAYS OF:

16 (I) THE DISCHARGE OF THE CHILD WHO IS BORN WITH A BIRTH
17 DEFECT; OR

18 (II) THE DATE THAT THE FETUS WAS STILLBORN WITH A BIRTH
19 DEFECT.

20 (c) (1) The hospital shall disclose the identity of the child with a birth defect
21 [to the Secretary so that the Secretary may:

22 (i) Use the information to protect the public health; or

23 (ii) Provide the parents with information on sentinel birth defects
24 and public and private services available in accordance with paragraphs (1) and (4) of
25 subsection (d) of this section] OR A CHILD WITHOUT A BIRTH DEFECT WHO IS PART OF
26 A CASE-CONTROL INVESTIGATION UNDER PARAGRAPH (2) OF THIS SUBSECTION.

27 (2) (I) If the Department shows a need for the individual identity of
28 children without [sentinel] birth defects to conduct a case-control investigation, the
29 hospital shall [obtain the written consent of the parent or guardian of the child to
30 disclose the child's name to the Secretary] PROVIDE THE SECRETARY WITH A LIST OF
31 CHILDREN WITH CHARACTERISTICS THAT MEET CRITERIA SPECIFIED BY THE
32 DEPARTMENT FOR PURPOSES OF THE CASE-CONTROL INVESTIGATION.

33 (II) PRIOR TO INCLUDING A CHILD WITHOUT A BIRTH DEFECT IN A
34 CASE-CONTROL INVESTIGATION, THE DEPARTMENT SHALL OBTAIN WRITTEN
35 CONSENT OF THE PARENT OR GUARDIAN OF THE CHILD.

1 [(3) The Secretary shall assure that the identity of a child under this
2 section may not be released without the written consent of the parent or guardian of
3 the child.]

4 (D) (1) PURSUANT TO PARAGRAPH (2) OF THIS SUBSECTION AND
5 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH CARE PROVIDER
6 SHALL ALLOW THE DEPARTMENT TO INSPECT AND OBTAIN COPIES OF ANY OF THE
7 FOLLOWING INFORMATION RELATING TO A CHILD WITH A BIRTH DEFECT:

8 (I) MEDICAL RECORDS;

9 (II) RECORDS OF LABORATORY TESTS; AND

10 (III) ANY OTHER MEDICAL INFORMATION THAT THE DEPARTMENT
11 DEEMS NECESSARY.

12 (2) ANY INFORMATION THAT THE DEPARTMENT INSPECTS OR OBTAINS
13 UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL ONLY BE USED TO:

14 (I) PROVIDE INFORMATION OR SERVICES TO A CHILD'S FAMILY;

15 (II) CONDUCT AN EPIDEMIOLOGICAL INVESTIGATION RELATED TO
16 A BIRTH DEFECT;

17 (III) ASSURE THAT THE QUALITY OF INFORMATION RECEIVED BY
18 THE DEPARTMENT IS ACCURATE; OR

19 (IV) CONDUCT RESEARCH INTO THE CAUSES OF BIRTH DEFECTS.

20 (E) ANY INFORMATION THAT THE DEPARTMENT RECEIVES UNDER THIS
21 SECTION IS CONFIDENTIAL AND MAY BE USED OR DISCLOSED ONLY IN ACCORDANCE
22 WITH THIS SECTION.

23 (F) A HEALTH CARE PROVIDER MAY NOT BE LIABLE FOR RELEASING REPORTS
24 OR OTHER MEDICAL INFORMATION TO THE DEPARTMENT UNDER THIS SECTION.

25 [(d)] (G) (1) The Department shall assure that information is prepared and
26 periodically updated on:

27 (i) [Sentinel birth] BIRTH defects; and

28 (ii) Public and private services for [the disabled] CHILDREN with
29 [sentinel] birth defects.

30 (2) (i) The Secretary shall appoint a committee to determine the
31 information required under paragraph (1) of this subsection.

32 (ii) The committee shall consist of:

33 1. Physicians;

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| 1 | | 2. | Educators; |
| 2 | | 3. | Social service specialists; |
| 3 | | 4. | Representatives of the Department; |
| 4 | | 5. | Representatives of the Department of Human Resources; |
| 5 | | 6. | Representatives of the Department of Education; and |
| 6 | | 7. | Parents of children with [sentinel] birth defects. |

7 (3) The information provided under this subsection shall be distributed
 8 to each hospital and made available to parents or guardians of children with
 9 [sentinel] birth defects by the [infant's] CHILD'S physician before the [infant] CHILD
 10 is discharged from the hospital and with an explanation, to the extent possible, of the
 11 birth defect to the parents or guardians.

12 (4) (i) The Secretary shall send a letter to the parent or guardian of
 13 each child reported under this section with a [sentinel] birth defect before the child is
 14 6 months old.

15 (ii) The letter shall offer information about the birth defect and
 16 available services with emphasis on needs identified after discharge from the
 17 hospital.

18 (iii) Before sending a letter to a parent or guardian, the Secretary
 19 shall implement appropriate procedures to assure that a letter is not sent to a parent
 20 or guardian of a child who has died.

21 [(e)] (H) The [Department] DEPARTMENT, THE CHILDREN'S
 22 ENVIRONMENTAL HEALTH AND PROTECTION ADVISORY COUNCIL, and the
 23 Department of the Environment shall jointly develop procedures to monitor the data
 24 on [sentinel] birth defect trends which may be caused by environmental hazards.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 26 October 1, 2003.