

# HOUSE BILL 393

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By: **Chair, Health and Government Operations Committee (By Request –  
Departmental – Health and Mental Hygiene)**  
Introduced and read first time: January 28, 2008  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Communicable Diseases or Conditions – Reporting**

3 FOR the purpose of repealing certain requirements for certain reports made by  
4 physicians and institutions regarding infectious and contagious diseases;  
5 providing that certain reports made by physicians and institutions regarding  
6 infectious and contagious diseases are confidential and are not medical records;  
7 providing that certain physician and institution reports are not discoverable;  
8 authorizing the Secretary of Health and Mental Hygiene to disseminate and  
9 disclose certain information under certain circumstances; repealing the time  
10 limitation in which the director of certain medical laboratories has to make a  
11 certain report; requiring the director of the State’s public health laboratory to  
12 submit a certain report to the Secretary under certain circumstances; requiring  
13 the director of a medical laboratory to submit clinical material to the Secretary  
14 under certain circumstances; repealing the list of the diseases or conditions that  
15 are reportable by a medical laboratory director; authorizing the Secretary to  
16 discuss certain laboratory reports with certain healthcare providers and with a  
17 patient in a certain manner under certain circumstances; providing that certain  
18 reports made by a medical laboratory director regarding infectious and  
19 contagious diseases are confidential and are not medical records; providing that  
20 certain reports made by a medical laboratory are not discoverable; defining a  
21 certain term; and generally relating to the reporting of communicable diseases  
22 and conditions.

23 BY repealing and reenacting, with amendments,  
24 Article – Health – General  
25 Section 18–201, 18–202, and 18–205  
26 Annotated Code of Maryland  
27 (2005 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



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 18-201.

5 (a) A physician with reason to suspect that a patient under the physician's  
6 care has an infectious or contagious disease except human immunodeficiency virus or  
7 acquired immunodeficiency syndrome that endangers public health shall submit  
8 immediately a report to the health officer for the county where the physician cares for  
9 that patient.

10 (b) [The report shall:

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

12 (2) Identify the disease or suspected disease;

13 (3) State the name, age, race, sex, and residence address of the  
14 patient; and

15 (4) Be signed by the physician.

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

17 (i) Confidential;

18 (ii) Not open to public inspection; and

19 (iii) Subject to subpoena or discovery in any criminal or civil  
20 proceeding only pursuant to a court order sealing the court record.] **(1) ALL REPORTS**  
21 **REQUIRED UNDER THIS SECTION:**

22 **(I) ARE CONFIDENTIAL AND SUBJECT TO TITLE 4,**  
23 **SUBTITLE 1 OF THIS ARTICLE; BUT**

24 **(II) ARE NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE**  
25 **3 OF THIS ARTICLE.**

26 **(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5)**  
27 **OF THIS SECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES**  
28 **ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT**  
29 **MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE**  
30 **IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.**

1           **(3) THE SECRETARY MAY PREPARE AND DISSEMINATE**  
2 **GENERALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES BASED**  
3 **ON ANY REPORT RECEIVED UNDER THIS SECTION, FOR ANY PURPOSE**  
4 **CONSISTENT WITH THE SECRETARY’S LAWFUL DUTIES AS AUTHORIZED BY AN**  
5 **ACT OF THE MARYLAND GENERAL ASSEMBLY.**

6           ~~[(2)]~~**(4)** This subsection does not apply to a disclosure by the  
7 Secretary to another governmental agency performing its lawful duties as authorized  
8 by an act of the Maryland General Assembly or the United States Congress where the  
9 Secretary determines that:

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

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

14           **(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS**  
15 **SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH**  
16 **A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:**

17           **(I) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF**  
18 **TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR**  
19 **TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR**

20           **(II) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF**  
21 **A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES**  
22 **ESTABLISHED BY THE SECRETARY IN REGULATIONS.**

23 18–202.

24           (a) In this section, “institution” includes:

25           (1) A hospital; and

26           (2) A lodging facility.

27           (b) When the administrative head of an institution has reason to believe that  
28 an individual on the premises of the institution has an infectious or contagious disease  
29 except human immunodeficiency virus or acquired immunodeficiency syndrome, the  
30 administrative head immediately shall submit a report to the health officer for the  
31 county where the institution is located.

32           (c) [The report shall:

1 (1) State the name and residence address of the individual believed to  
2 have the disease;

3 (2) Identify the infectious or contagious disease;

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

5 (4) State the address of the institution.

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

7 (i) Confidential;

8 (ii) Not open to public inspection; and

9 (iii) Subject to subpoena or discovery in any criminal or civil  
10 proceeding only pursuant to a court order sealing the court record.] **(1) ALL REPORTS**  
11 **REQUIRED UNDER THIS SECTION:**

12 **(I) ARE CONFIDENTIAL AND SUBJECT TO TITLE 4,**  
13 **SUBTITLE 1 OF THIS ARTICLE; BUT**

14 **(II) ARE NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE**  
15 **3 OF THIS ARTICLE.**

16 **(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5)**  
17 **OF THIS SUBSECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR**  
18 **FILES ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A**  
19 **REPORT MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT**  
20 **ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.**

21 **(3) THE SECRETARY MAY PREPARE AND DISSEMINATE**  
22 **GENERALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES BASED**  
23 **ON ANY REPORT RECEIVED UNDER THIS SECTION, FOR ANY PURPOSE**  
24 **CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN**  
25 **ACT OF THE MARYLAND GENERAL ASSEMBLY.**

26 [(2)](4) This subsection does not apply to a disclosure by the  
27 Secretary to another governmental agency performing its lawful duties as authorized  
28 by an act of the Maryland General Assembly or the United States Congress where the  
29 Secretary determines that:

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

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

3 (5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS  
4 SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH  
5 A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:

6 (I) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF  
7 TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR  
8 TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR

9 (II) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF  
10 A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES  
11 ESTABLISHED BY THE SECRETARY IN REGULATIONS.

12 18–205.

13 (a) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15 (1) “CLINICAL MATERIAL” MEANS:

16 (I) AN ORGANISM ISOLATED FROM A CLINICAL SPECIMEN;

17 (II) MATERIAL DERIVED OR PREPARED FROM A CLINICAL  
18 SPECIMEN IN WHICH EVIDENCE OF A COMMUNICABLE DISEASE HAS BEEN  
19 IDENTIFIED OR DETECTED; OR

20 (III) IF THE ORGANISM OR MATERIAL DESCRIBED IN  
21 SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH IS NOT AVAILABLE, MATERIAL  
22 FROM AN INDIVIDUAL THAT HAS ALREADY BEEN OBTAINED BY THE MEDICAL  
23 LABORATORY, IN THE FOLLOWING ORDER OF PREFERENCE:

24 1. A PATIENT SPECIMEN;

25 2. NUCLEIC ACID; OR

26 3. OTHER LABORATORY MATERIAL.

27 (2) [“invasive] “INVASIVE disease” means a disease in which an  
28 organism is detected in a specimen taken from a normally sterile body site.

29 (b) (1) [The] EXCEPT FOR THE DIRECTOR OF THE STATE’S PUBLIC  
30 HEALTH LABORATORY SYSTEM, THE director of a medical laboratory located in this  
31 State shall submit a report to the health officer for the county where the laboratory is

1 located [within 48 hours] after an examination of a human specimen shows evidence of  
2 any [disease or condition listed in subsection (c) of this section] **INFECTIOUS OR**  
3 **CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE**  
4 **SECRETARY AS REPORTABLE.**

5 **(2) THE DIRECTOR OF THE STATE'S PUBLIC HEALTH**  
6 **LABORATORY SYSTEM SHALL SUBMIT A REPORT TO THE SECRETARY IF AN**  
7 **EXAMINATION OF A HUMAN SPECIMEN SHOWS EVIDENCE OF ANY INFECTIOUS**  
8 **OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE**  
9 **SECRETARY AS REPORTABLE.**

10 [(2)](3) The director of a medical laboratory located outside of this  
11 State that performs a medical laboratory test on a human specimen acquired from a  
12 person in this State shall submit a report to the Secretary [within 48 hours] after an  
13 examination of that specimen shows evidence of any [disease or condition listed in  
14 subsection (c) of this section] **INFECTIOUS OR CONTAGIOUS DISEASE OR**  
15 **CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.**

16 **(4) A DIRECTOR OF A MEDICAL LABORATORY SHALL SUBMIT**  
17 **CLINICAL MATERIAL TO THE SECRETARY AS DIRECTED BY THE SECRETARY.**

18 [(c) The diseases or conditions reportable by a medical laboratory director  
19 under this section are:

- 20 (1) Amoebiasis.
- 21 (2) Anaplasmosis.
- 22 (3) Anthrax.
- 23 (4) Arbovirus infection (all types).
- 24 (5) Babesiosis.
- 25 (6) Bacteremia in newborns.
- 26 (7) Botulism.
- 27 (8) Brucellosis.
- 28 (9) Campylobacter infection.
- 29 (10) CD 4+ count.
- 30 (11) Chlamydia infection.
- 31 (12) Cholera.

- 1 (13) Coccidioidomycosis.
- 2 (14) Creutzfeldt–Jakob Disease.
- 3 (15) Cryptosporidiosis.
- 4 (16) Cyclosporiasis.
- 5 (17) Dengue fever.
- 6 (18) Diphtheria.
- 7 (19) Ehrlichiosis.
- 8 (20) Encephalitis, infectious.
- 9 (21) E. Coli 0157:H7 infection.
- 10 (22) Giardiasis.
- 11 (23) Gonorrhea.
- 12 (24) Haemophilus influenzae, invasive disease.
- 13 (25) Hansen disease (leprosy).
- 14 (26) Hantavirus infection.
- 15 (27) Hepatitis, viral, types A, B, C, and other types.
- 16 (28) Human immunodeficiency virus infection.
- 17 (29) Isosporiasis.
- 18 (30) Legionellosis.
- 19 (31) Leptospirosis.
- 20 (32) Listeriosis.
- 21 (33) Lyme disease.
- 22 (34) Malaria.
- 23 (35) Measles.
- 24 (36) Meningococcal invasive disease.

- 1 (37) Meningitis, infectious.
- 2 (38) Microsporidiosis.
- 3 (39) Mumps.
- 4 (40) Pertussis.
- 5 (41) Pesticide related illness.
- 6 (42) Plague.
- 7 (43) Poliomyelitis.
- 8 (44) Psittacosis.
- 9 (45) Q fever.
- 10 (46) Rabies.
- 11 (47) Ricin toxin.
- 12 (48) Rocky Mountain spotted fever.
- 13 (49) Rubella and congenital rubella syndrome.
- 14 (50) Salmonellosis (nontyphoid fever types).
- 15 (51) Severe acute respiratory syndrome.
- 16 (52) Shiga-like toxin production.
- 17 (53) Shigellosis.
- 18 (54) Smallpox and other orthopox viruses.
- 19 (55) Staphylococcal enterotoxin.
- 20 (56) Streptococcal invasive disease, group A.
- 21 (57) Streptococcal invasive disease, group B.
- 22 (58) Streptococcus pneumoniae, invasive disease.
- 23 (59) Syphilis.
- 24 (60) Trichinosis.

- 1           (61) Tuberculosis.
- 2           (62) Tularemia.
- 3           (63) Typhoid fever.
- 4           (64) Varicella (chickenpox), fatal cases only.
- 5           (65) Vibriosis, noncholera.
- 6           (66) Viral hemorrhagic fevers (all types).
- 7           (67) Yellow fever.
- 8           (68) Yersiniosis.]

9           [(d)](C)     (1)    When more than 1 specimen is taken from a patient during  
10 1 disease episode, the director of the medical laboratory need not report every test  
11 result of a specimen that shows evidence of the same disease in that patient if:

- 12                   (i)    At least 1 positive test result is reported; and
- 13                   (ii)   The health officer has approved the reporting of less than all  
14 test results.

15                   (2)    The director of the medical laboratory need not report vibriosis,  
16 noncholera, [under subsection (c)(65) of this section] if the disease is found in a  
17 specimen obtained from the patient's teeth, gingival tissues, or oral mucosa.

18           [(e)](D)     The report shall:

19                   (1)    Be [either in the form that the Department prescribes or on the  
20 form that the Department provides] **IN A FORMAT SPECIFIED OR APPROVED BY**  
21 **THE SECRETARY AND BE TRANSMITTED AS DIRECTED BY THE SECRETARY;** and

22                   (2)    State at a minimum:

23                           (i)    The date, type, and result of the test that shows evidence of  
24 a disease required to be reported;

25                           (ii)   The name, age, sex, and residence address of the patient  
26 from whom the specimen was taken; and

27                           (iii) The name and address of the physician who requested the  
28 test.

1            [(f)](E)        This section does not relieve a person of the duty to report under §  
2 18–201, § 18–201.1, § 18–202, or § 18–202.1 of this subtitle.

3            [(g)](F)        (1)    A health officer shall inform the Secretary of each laboratory  
4 examination report received under subsection (b)(1) of this section.

5                        (2)    The Secretary shall inform the health officer of the jurisdiction  
6 where the patient resides of a laboratory examination report received under this  
7 section from a medical laboratory located outside this State.

8            [(h)](G)        The Secretary, a health officer, or an agent of the Secretary or  
9 health officer may discuss a laboratory report with the attending physician **OR**  
10 **ANOTHER HEALTH CARE PROVIDER CARING FOR A PATIENT**, but, if the physician  
11 **OR ANOTHER HEALTH CARE PROVIDER CARING FOR A PATIENT** is **NOT** reasonably  
12 available, may communicate with a patient [only with the consent of the attending  
13 physician] **DIRECTLY IN A MANNER PRESCRIBED BY THE SECRETARY.**

14           [(i)](H)        (1)    [Except as provided in paragraph (2) of this subsection, all  
15 laboratory] **ALL** reports required under this section are:

16                        [(i)    Confidential;

17                        [(ii)   Not open to public inspection; and

18                        [(iii)   Subject to subpoena or discovery in a criminal or civil  
19 proceeding only pursuant to a court order sealing the court record.

20                        (2)    Reports submitted under this section relating to human  
21 immunodeficiency virus and acquired immunodeficiency syndrome are:

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

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

26                        (3)    The reports and any proceedings, records, or files submitted under  
27 this section related to HIV/AIDS are not discoverable and are not admissible in  
28 evidence in any civil action.]

29                        (I)    **CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1**  
30 **OF THIS ARTICLE; AND**

31                        (II)   **NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3**  
32 **OF THIS ARTICLE.**

1           **(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5)**  
2 **OF THIS SECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES**  
3 **ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT**  
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9 **WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE**  
10 **MARYLAND GENERAL ASSEMBLY.**

11           (4) This subsection does not apply to a disclosure by the Secretary to  
12 another governmental agency performing its lawful duties as authorized by an act of  
13 the Maryland General Assembly or the United States Congress where the Secretary  
14 determines that:

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

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

19           **(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS**  
20 **SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH**  
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25                   **(II) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF**  
26 **A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES**  
27 **ESTABLISHED BY THE SECRETARY IN REGULATIONS.**

28           [(j)](I) To assure compliance with this section, the Secretary, a health  
29 officer, or an agent of the Secretary or health officer may inspect pertinent laboratory  
30 records.

31           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2008.