

HOUSE BILL 438

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8lr1546

By: **Delegate Hubbard**

Introduced and read first time: January 29, 2008

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 13, 2008

CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Birth Defects**
3 **Research – Medical Information**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to appoint
5 epidemiologists and parents or guardians of children with birth defects to a
6 certain committee that makes certain reports to the Department of Health and
7 Mental Hygiene concerning certain children born with birth defects; requiring
8 hospitals to submit certain reports to the Department within a certain number
9 of days from a certain date; requiring certain health care providers to allow the
10 Department to inspect and obtain certain medical information regarding certain
11 children with birth defects; requiring a hospital to obtain the consent of certain
12 parents or guardians if the Department shows a need for certain information in
13 the course of an investigation that aids in the protection of the public's health;
14 requiring the Secretary to assure that the identity of certain children is not
15 released outside the Department; requiring the Department to keep certain
16 medical information confidential; requiring certain medical information
17 requested by the Department to be used for certain purposes; providing that the
18 release of certain medical information to the Department is not a violation of a
19 certain confidential relationship; providing that certain health care providers
20 are immune from civil and criminal liability and certain disciplinary action;
21 providing that certain medical information is not subject to certain discovery or
22 use as evidence in certain proceedings; requiring the Department to comply
23 with certain State and federal laws regarding human subject research;
24 including guardians of children with birth defects among the individuals who
25 may be appointed to a certain committee that determines certain information to
26 be prepared on birth defects and certain services; defining certain terms;

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.



1 making certain technical changes; and generally relating to the Department of
2 Health and Mental Hygiene and medical information regarding birth defects.

3 BY repealing and reenacting, with amendments,
4 Article – Health – General
5 Section 18–206
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2007 Supplement)

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

10 **Article – Health – General**

11 18–206.

12 (a) (1) In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
13 **INDICATED.**

14 (2) [“sentinel birth] **“BIRTH defect”** [includes:

15 (1) Anencephaly;

16 (2) Spina bifida;

17 (3) Hydrocephaly;

18 (4) Cleft palate;

19 (5) Cleft lip;

20 (6) Esophageal atresia and stenosis;

21 (7) Rectal and anal atresia;

22 (8) Hypospadias;

23 (9) Reduction deformity – upper limb;

24 (10) Reduction deformity – lower limb;

25 (11) Congenital dislocation of the hip; and

26 (12) Down syndrome] **MEANS AN ABNORMALITY OF THE STRUCTURE**
27 **OR A FUNCTION OF THE HUMAN BODY PRESENT AT BIRTH THAT MAY RESULT IN:**

28 (I) **A PHYSICAL OR MENTAL DISABILITY; OR**

1 **(II) DEATH.**

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

4 (b) (1) A hospital shall make a report on each child who is [born live]
5 **LIVE-BORN** or stillborn in the hospital and has a [sentinel] birth defect. If a child is
6 born outside the hospital, the person filling out the birth certificate shall make a
7 report under this section.

8 (2) The Secretary shall appoint a committee of physicians, hospital
9 representatives, **EPIDEMIOLOGISTS, PARENTS OR GUARDIANS OF CHILDREN**
10 **WITH BIRTH DEFECTS**, and officials from the Department to determine the
11 information required under paragraph (1) of this subsection.

12 (3) [Each month the] **THE** hospital shall submit the reports [for that
13 month to the Department] **REQUIRED UNDER PARAGRAPH (1) OF THIS**
14 **SUBSECTION TO THE DEPARTMENT WITHIN 10 DAYS OF THE DATE OF RELEASE**
15 **OF THE CHILD'S MOTHER FROM THE HOSPITAL.**

16 **(C) A HEALTH CARE PROVIDER SHALL ALLOW THE DEPARTMENT TO**
17 **INSPECT AND OBTAIN THE FOLLOWING MEDICAL INFORMATION REGARDING A**
18 **CHILD WITH A BIRTH DEFECT:**

19 **(1) THE MEDICAL RECORDS OF:**

20 **(I) A CHILD THROUGH THE CHILD'S SECOND YEAR OF LIFE;**
21 **AND**

22 **(II) A CHILD'S MOTHER REGARDING THE MOTHER'S**
23 **PREGNANCY WITH THE CHILD;**

24 **(2) RECORDS OF ANY LABORATORY TESTS RELATING TO A**
25 **CHILD'S BIRTH DEFECT; AND**

26 **(3) ANY OTHER MEDICAL INFORMATION RELATING TO A CHILD'S**
27 **BIRTH DEFECT.**

28 **[(c)] (D) (1)** The hospital shall disclose the identity of the child with a birth
29 defect to the Secretary so that the Secretary may:

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

1 (ii) Provide the parents **OR GUARDIANS OF THE CHILD** with
2 information on [sentinel] birth defects and public and private services available in
3 accordance with [paragraphs (1) and (4) of] subsection [(d)] **(G)(1) AND (4)** of this
4 section.

5 (2) If the Department shows a need for the individual identity of
6 children without [sentinel] birth defects to conduct [a case-control] **AN** investigation
7 **THAT AIDS IN THE PROTECTION OF THE PUBLIC HEALTH**, the hospital shall obtain
8 the written consent of the parent or guardian of the child to disclose the child's name
9 to the Secretary.

10 (3) The Secretary shall assure that the identity of a child under this
11 section may not be released **OUTSIDE THE DEPARTMENT** without the written
12 consent of the parent or guardian of the child.

13 **(E) (1) THE DEPARTMENT SHALL KEEP ANY MEDICAL INFORMATION**
14 **OBTAINED UNDER THIS SECTION CONFIDENTIAL.**

15 **(2) MEDICAL INFORMATION REQUESTED UNDER THIS SECTION**
16 **SHALL BE ONLY AS INTRUSIVE AS NECESSARY AND USED FOR THE PURPOSE OF:**

17 **(I) ASSURING THE QUALITY OF THE DATA REPORTED;**

18 **(II) PROVIDING INFORMATION OR SERVICES TO A CHILD'S**
19 **FAMILY;**

20 **(III) CONDUCTING AN EPIDEMIOLOGICAL INVESTIGATION**
21 **RELATED TO A BIRTH DEFECT; OR**

22 **(IV) CONDUCTING THE DEPARTMENT'S RESEARCH INTO THE**
23 **CAUSES OF BIRTH DEFECTS.**

24 **(3) (I) THE RELEASE OF MEDICAL INFORMATION OBTAINED IN**
25 **ACCORDANCE WITH THIS SECTION TO THE DEPARTMENT IS NOT A VIOLATION**
26 **OF THE CONFIDENTIAL RELATIONSHIP BETWEEN A HEALTH CARE PROVIDER**
27 **AND A PATIENT.**

28 **(II) A HEALTH CARE PROVIDER WHO DISCLOSES MEDICAL**
29 **RECORDS TO THE DEPARTMENT UNDER THIS SECTION:**

30 **1. IS NOT LIABLE IN ANY SUIT FOR CIVIL DAMAGES**
31 **FOR THE DISCLOSURE OF THE MEDICAL RECORDS;**

1 **2. IS NOT SUBJECT TO DISCIPLINARY ACTION BY ANY**
2 **LICENSING OR DISCIPLINING AUTHORITY FOR DISCLOSURE OF CONFIDENTIAL**
3 **INFORMATION; AND**

4 **3. MAY NOT BE SUBJECT TO ANY CRIMINAL**
5 **PENALTIES.**

6 **(4) THE MEDICAL INFORMATION OBTAINED BY THE**
7 **DEPARTMENT UNDER THIS SECTION IS NOT SUBJECT TO SUBPOENA,**
8 **DISCOVERY, OR INTRODUCTION INTO EVIDENCE IN ANY ADMINISTRATIVE, CIVIL,**
9 **OR CRIMINAL PROCEEDING.**

10 **(F) WHILE CONDUCTING RESEARCH USING HUMAN SUBJECTS UNDER**
11 **THIS SECTION, THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS**
12 **FOR THE PROTECTION OF HUMAN SUBJECTS UNDER:**

13 **(1) TITLE 13, SUBTITLE 20 OF THIS ARTICLE; AND**

14 **(2) 42 U.S.C. § 289.**

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

17 **(i) [Sentinel birth] BIRTH defects; and**

18 **(ii) Public and private services for [the disabled with sentinel]**
19 **CHILDREN WITH birth defects.**

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

22 **(ii) The committee shall consist of:**

23 1. Physicians;

24 2. Educators;

25 3. Social service specialists;

26 4. Representatives of the Department;

27 5. Representatives of the Department of Human
28 Resources;

29 6. Representatives of the Department of Education; and

