

SENATE BILL 828

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8lr2948
CF HB 438

By: **Senator Conway**

Introduced and read first time: February 8, 2008

Assigned to: Rules

A BILL ENTITLED

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; defining
24 certain terms; making certain technical changes; and generally relating to the
25 Department of Health and Mental Hygiene and medical information regarding
26 birth defects.

27 BY repealing and reenacting, with amendments,
28 Article – Health – General
29 Section 18–206
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2005 Replacement Volume and 2007 Supplement)

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

4 **Article – Health – General**

5 18–206.

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

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

9 (1) Anencephaly;

10 (2) Spina bifida;

11 (3) Hydrocephaly;

12 (4) Cleft palate;

13 (5) Cleft lip;

14 (6) Esophageal atresia and stenosis;

15 (7) Rectal and anal atresia;

16 (8) Hypospadias;

17 (9) Reduction deformity – upper limb;

18 (10) Reduction deformity – lower limb;

19 (11) Congenital dislocation of the hip; and

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

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

23 (II) **DEATH.**

24 (3) **“HEALTH CARE PROVIDER” HAS THE MEANING STATED IN §**
25 **4–301 OF THIS ARTICLE.**

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

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

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

13 (c) **A HEALTH CARE PROVIDER SHALL ALLOW THE DEPARTMENT TO**
14 **INSPECT AND OBTAIN THE FOLLOWING MEDICAL INFORMATION REGARDING A**
15 **CHILD WITH A BIRTH DEFECT:**

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

17 (i) **A CHILD THROUGH THE CHILD'S SECOND YEAR OF LIFE;**
18 **AND**

19 (ii) **A CHILD'S MOTHER REGARDING THE MOTHER'S**
20 **PREGNANCY WITH THE CHILD;**

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

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

25 [(c)] (d) (1) The hospital shall disclose the identity of the child with a birth
26 defect to the Secretary so that the Secretary may:

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

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

32 (2) If the Department shows a need for the individual identity of
33 children without [sentinel] birth defects to conduct [a case-control] **AN** investigation

1 **THAT AIDS IN THE PROTECTION OF THE PUBLIC HEALTH**, the hospital shall obtain
2 the written consent of the parent or guardian of the child to disclose the child's name
3 to the Secretary.

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

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

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

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

12 **(II) PROVIDING INFORMATION OR SERVICES TO A CHILD'S**
13 **FAMILY;**

14 **(III) CONDUCTING AN EPIDEMIOLOGICAL INVESTIGATION**
15 **RELATED TO A BIRTH DEFECT; OR**

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

18 **(3) (I) THE RELEASE OF MEDICAL INFORMATION OBTAINED IN**
19 **ACCORDANCE WITH THIS SECTION TO THE DEPARTMENT IS NOT A VIOLATION**
20 **OF THE CONFIDENTIAL RELATIONSHIP BETWEEN A HEALTH CARE PROVIDER**
21 **AND A PATIENT.**

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

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

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

29 **3. MAY NOT BE SUBJECT TO ANY CRIMINAL**
30 **PENALTIES.**

1 (4) THE MEDICAL INFORMATION OBTAINED BY THE
2 DEPARTMENT UNDER THIS SECTION IS NOT SUBJECT TO SUBPOENA,
3 DISCOVERY, OR INTRODUCTION INTO EVIDENCE IN ANY ADMINISTRATIVE, CIVIL,
4 OR CRIMINAL PROCEEDING.

5 (F) WHILE CONDUCTING RESEARCH USING HUMAN SUBJECTS UNDER
6 THIS SECTION, THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS
7 FOR THE PROTECTION OF HUMAN SUBJECTS UNDER:

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

9 (2) 42 U.S.C. § 289.

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

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

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

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

17 (ii) The committee shall consist of:

18 1. Physicians;

19 2. Educators;

20 3. Social service specialists;

21 4. Representatives of the Department;

22 5. Representatives of the Department of Human
23 Resources;

24 6. Representatives of the Department of Education; and

25 7. Parents of children with [sentinel] birth defects.

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

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

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

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

9 [(e)] (H) The Department and the Department of the Environment shall
10 jointly develop procedures to monitor the data on [sentinel] birth defect trends which
11 may be caused by environmental hazards.

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