

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 438 (Delegate Hubbard)  
Health and Government Operations Education, Health, and Environmental Affairs

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Department of Health and Mental Hygiene - Birth Defects Research - Medical Information

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This bill modifies the circumstances under which cases with birth defects must be reported and hospital records and other medical information be provided to the Department of Health and Mental Hygiene. It adds epidemiologists and parents or guardians of children with birth defects to the list of committee members charged with birth defect reporting within a hospital. The bill changes the frequency with which reports are submitted from a monthly basis to within 10 days of the release date of the child’s mother from the hospital. DHMH is authorized to inspect and maintain medical information relating to a child with a birth defect. In addition, the bill provides legal protections for medical information relating to a child with a birth defect and makes technical changes.

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Fiscal Summary

**State Effect:** The bill could be implemented with existing resources. Enactment could result in additional federal fund grant revenues for birth defect research.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill renames “sentinel birth defect” as “birth defect.” A “birth defect” is redefined as an abnormality of the structure or function of the human body present at birth that may result in a physical or mental disability or death.

The bill authorizes DHMH to inspect and obtain the following medical information regarding a child with a birth defect: • a medical record of a child through the second year of life; • a medical record of a child's mother regarding the mother's pregnancy; • records of any laboratory tests relating to a child's birth defect; and • any other medical information relating to a child's birth defect.

DHMH has to keep any medical information confidential. Such medical information must only be as intrusive as necessary and used for • assuring the quality of the data reported; • providing information or services to a child's family; • conducting an epidemiological investigation related to a birth defect; or • conducting DHMH's research into the causes of birth defects.

The release of such medical information to DHMH does not violate the confidential relationship between a health care provider and a patient. The disclosing health care provider • is not liable in any suit for civil damages for the disclosure of medical records; • is not subject to disciplinary action by any licensing or disciplining authority for disclosure of confidential information; and • may not be subject to criminal penalties. Medical information obtained by DHMH is not discoverable or admissible as evidence in any civil or criminal matter.

**Current Law:** A "sentinel birth defect" includes • anencephaly; • spina bifida; • hydrocephaly; • cleft palate; • cleft lip; • esophageal atresia and stenosis; • rectal and anal atresia; • hypospadias; • reduction deformity-upper limb; • reduction deformity-lower limb; • congenital dislocation of the hip; and • Down syndrome.

The Secretary appoints a committee of physicians, hospital representatives, and officials from DHMH to handle birth defect reports. The hospital has to submit reports to DHMH on a monthly basis.

DHMH must ensure that a child's identity not be released without the written consent of the parent or guardian of a child.

**Background:** Nationally, about 3% of all babies are born with birth defects, which are the leading cause of infant death in the United States. Birth defects increase the chance of illness and long-term disability. They are underreported on birth certificates, partly because some birth defects are not recognizable at birth.

In Maryland, the Birth Defects Reporting and Information System collects data on the number of babies born with birth defects. BDRIS monitors birth defect trends, especially as they relate to environmental hazards, and provides information and services to the families of babies with birth defects. About 500 families are served each year.

**State Fiscal Effect:** DHMH advises that changes in the bill would bring the State's reporting system into compliance with the Centers for Disease Control's national standards. In recent years, CDC has given grants to states of \$100,000 per year for five years to assist them in meeting the national standards. Maryland has not been able to receive a grant in the past because current statute does not meet the standards. However, the number of grants and the amount of the grants given by CDC vary, so it is difficult to estimate if and when Maryland would receive a grant and at what funding level.

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### **Additional Information**

**Prior Introductions:** A similar bill, HB 1315 of 2005, was amended by the House but received an unfavorable report by the Senate Education, Health, and Environmental Affairs Committee.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2008  
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