

HB0518/506889/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 518

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Infectious Disease” and substitute “HIV”; strike beginning with “establishing” in line 3 down through “Department;” in line 11; in line 11, after “Department” insert “, in consultation with stakeholders.”; in line 13, strike “infectious disease” and substitute “prenatal HIV”; in the same line, strike “Advisory Group” and substitute “Department”; in line 14, strike “recommendations” and substitute “requirements”; in lines 20 and 21, strike “defining a certain term;”; in line 21, after “definition;” insert “making a stylistic change; making certain provisions of this Act subject to a certain contingency;”; strike beginning with “infectious” in line 21 down through “disease” in line 22 and substitute “HIV”; in line 22, strike “and the Prenatal Infectious Disease Testing Advisory Group”; and after line 27, insert:

“BY repealing and reenacting, with amendments,

Article – Health – General

Section 18–338.2

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

(As enacted by Section 1 of this Act)”.

AMENDMENT NO. 2

On page 2, strike lines 4 and 5 in their entirety; in lines 6, 11, 13, and 15, in each instance, strike the brackets; in the same lines, strike “**(3)**”, “**(4)**”, “**(5)**”, and “**(6)**”, respectively; and in line 15, strike “service” and substitute “**SERVICES**”.

On pages 2 through 4, strike in their entirety the lines beginning with line 22 on page 2 through line 7 on page 4, inclusive.

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On page 4, in line 8, strike “(8)” and substitute “(B)”; in the same line, strike “(I)”; in the same line, after “DEPARTMENT” insert “, IN CONSULTATION WITH STAKEHOLDERS,”; in line 9, strike “INFECTIOUS DISEASE” and substitute “PRENATAL HIV”; in lines 9 and 10, strike “DURING PRENATAL CARE”; strike in their entirety lines 11 through 13, inclusive; in line 14, strike the second set of brackets; in the same line, strike “A”; in lines 15 and 25, in each instance, strike the bracket; in line 16, after “(i)” insert “1.”; in lines 18 and 20, strike “(ii)” and “(iii)”, respectively, and substitute “2.” and “3.”, respectively; in line 21, after “services” insert “; AND”

(II) FOLLOW THE REQUIREMENTS FOR PRENATAL HIV TESTING THAT ARE ADOPTED BY THE DEPARTMENT;

in line 22, strike “(1)” and substitute “(1)(I)”; strike beginning with “FOLLOW” in line 25 down through “SECTION” in line 27; in line 28, strike “(2)” and substitute “(3)”; in the same line, strike “ADVISORY GROUP” and substitute “DEPARTMENT”; in lines 28 and 29, strike “RECOMMENDATIONS MADE” and substitute “REQUIREMENTS ESTABLISHED”; and in line 29, strike “(B)(7)(I)” and substitute “(B)”.

On page 5, in lines 6 and 23, in each instance, strike the bracket; in lines 6 and 12, strike “(c)” and “(d)”, respectively, and substitute “(D)” and “(E)”, respectively; in lines 24 and 31, strike “(D)” and “(E)”, respectively, and substitute “(F)” and “(G)”, respectively; in line 31, strike the third bracket; and in line 32, strike “(d)” and substitute “(E)”.

On page 6, in line 3, strike the bracket; in line 6, strike “INFECTIOUS DISEASE” and substitute “PRENATAL HIV”; in the same line, strike “in accordance with this section” and substitute “BY THE DEPARTMENT”; after line 6, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

18–338.2.

(a) (1) In this section the following words have the meanings indicated.

(2) “Health care facility” means a facility or office where health or medical care is provided to patients by a health care provider, including:

(i) A hospital as defined in § 19–301 of this article;

(ii) A facility operated by the Department or a health officer; and

(iii) The office of a health care provider.

(3) “Health care provider” means a physician, nurse, licensed direct–entry midwife, or designee of a health care facility.

(4) “HIV” means the human immunodeficiency virus that causes acquired immune deficiency syndrome (AIDS).

(5) “Prenatal care” means obstetric and gynecologic services performed as part of a prenatal care program, including:

(i) Screening;

(ii) Physical examination;

(iii) Laboratory and diagnostic testing procedures and interpretation; and

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(iv) Counseling.

(b) The Department, in consultation with stakeholders, shall adopt regulations establishing requirements for prenatal HIV testing.

(c) (1) [Except as provided in paragraph (2) of this subsection, a] A health care provider who provides prenatal medical care shall[:

(i) 1. Obtain consent from a pregnant patient for HIV testing in accordance with § 18-336 of this subtitle;

2. Test the patient during the first and third trimesters, unless the patient declines the tests; and

3. Provide a referral for treatment and supportive services, including case management services; and

(ii) Follow] FOLLOW the requirements for prenatal HIV testing that are adopted by the Department.

[(2) Paragraph (1)(i) of this subsection:

(i) Applies to routine prenatal medical care visits; and

(ii) Does not apply to the incidental or episodic provision of prenatal medical care given to a pregnant patient by a health care provider.]

[(3)] (2) The Department shall provide the requirements established under subsection (b) of this section to:

(i) Hospitals that offer obstetric services;

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- (ii) The American College of Obstetricians and Gynecologists;
- (iii) The American College of Nurse Midwives; and
- (iv) The Association of Independent Midwives of Maryland.

[(d) A health care provider who provides labor and delivery services to pregnant women shall offer:

(1) A rapid HIV test to pregnant women with unknown or undocumented HIV status during labor and delivery; and

(2) Antiretroviral prophylaxis prior to receiving the results of the confirmatory test if a rapid HIV test during labor and delivery is positive.

(e) (1) As part of a health care provider's patient acceptance procedures or protocol, a health care provider shall provide a pregnant woman with counseling concerning being tested for the presence of HIV as part of the woman's prenatal care program.

(2) The counseling shall include:

(i) Information required for pretest counseling under § 18–336 of this subtitle; and

(ii) Education on:

1. The effect of a positive HIV test result on the pregnant woman and the fetus concerning the risk of transmission of HIV to the fetus; and

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2. Recognized methods of reducing that risk, including the use of pharmaceuticals during pregnancy known to reduce the risk of transmission of HIV to the fetus.]

[(f)] (D) (1) Except as otherwise provided in paragraph (2) of this subsection, the record of an HIV test performed under this section is confidential and not discoverable or admissible in evidence in any criminal, civil, or administrative action.

(2) Provided that the identity or any other information that could readily be associated with the identity of the pregnant woman is not disclosed, the results of an HIV test performed under this section may be introduced into evidence in any criminal, civil, or administrative action, including the adjudication of a workers' compensation claim.

[(g)] (E) [(1) A health care provider, including a health care facility, acting in good faith to provide the counseling required under subsection (e) of this section may not be held liable in any cause of action related to a woman's decision to consent or not to consent to have an HIV test.

(2)] A health care provider may not be subject to disciplinary action by the professional licensing board that licenses the health care provider for following the requirements for prenatal HIV testing established by the Department.”;

strike in their entirety lines 7 through 11, inclusive; after line 11, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 2 of this Act is contingent on the Department of Health and Mental Hygiene, in consultation with stakeholders, adopting regulations that are consistent with § 18-338.2 of the Health – General Article, as amended by Chapter 441 of the Acts of the General Assembly of 2016, before October 1, 2018.

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(b) (1) The Department of Health and Mental Hygiene shall notify the Department of Legislative Services no later than 5 days before the regulations described in subsection (a) of this section will take effect.

(2) If notice of the taking effect of the regulations is received on or before October 1, 2018, Section 2 of this Act shall take effect on the date the regulations take effect. If notice of the taking effect of the regulations is not received by the Department of Legislative Services on or before October 1, 2018, Section 2 of this Act shall be null and void without the necessity of further action by the General Assembly.”;

in line 12, strike “3.” and substitute “4.”; and in the same line, after “That” insert “, subject to Section 3 of this Act.”.