

HOUSE BILL 1632

J1

EMERGENCY BILL

71r3701

By: **Delegates Kipke and Kelly**

Introduced and read first time: March 1, 2017

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Certificates of Birth – Births Outside an Institution**

3 FOR the purpose of requiring the attending clinician or a designee of the attending clinician
4 to prepare a certificate of birth, secure certain signatures, and file the certificate
5 within a certain time period after a birth occurs outside an institution with an
6 attending clinician; requiring the attending clinician, within a certain time period
7 after the birth, to provide certain information that is required on a certificate of birth;
8 requiring the attending clinician or a designee of the attending clinician to take
9 certain actions on the birth of a child to an unmarried woman outside an institution
10 with an attending clinician; providing that the attending clinician or a designee of
11 the attending clinician may not be held liable in any cause of action arising out of
12 the establishment of paternity; defining certain terms; making a conforming change;
13 making a stylistic change; making this Act an emergency measure; and generally
14 relating to certificates of birth for births outside an institution.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 4–201 and 4–208(a) and (b)
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2016 Supplement)

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

22 **Article – Health – General**

23 4–201.

24 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) “ATTENDING CLINICIAN” MEANS THE PHYSICIAN, NURSE MIDWIFE, OR**
2 **DIRECT-ENTRY MIDWIFE IN CHARGE OF A BIRTH OUTSIDE AN INSTITUTION.**

3 **[(b)] (C)** “Attending physician” means the physician in charge of the patient’s
4 care for the illness or condition which resulted in death.

5 **[(c)] (D)** “County registrar” means the registrar of vital records for a county.

6 **[(d)] (E)** (1) “Dead body” means:

7 (i) A dead human body; or

8 (ii) Parts or bones of a human body if, from their condition, an
9 individual reasonably may conclude that death has occurred.

10 (2) “Dead body” does not include an amputated part.

11 **(F) “DIRECT-ENTRY MIDWIFE” MEANS AN INDIVIDUAL LICENSED TO**
12 **PRACTICE DIRECT-ENTRY MIDWIFERY UNDER TITLE 8, SUBTITLE 6C OF THE**
13 **HEALTH OCCUPATIONS ARTICLE.**

14 **[(e)] (G)** “Fetal death” means death of a product of human conception, before its
15 complete expulsion or extraction from the mother, regardless of the duration of the
16 pregnancy, as indicated by the fact that, after the expulsion or extraction, the fetus does
17 not breathe or show any other evidence of life, such as heart beat, pulsation of the umbilical
18 cord, or definite movement of voluntary muscle.

19 **[(f)] (H)** “File” means to present for registration any certificate, report, or other
20 record including records transmitted by approved electronic media, including facsimile, of
21 birth, death, fetal death, adoption, marriage, or divorce for which this subtitle provides and
22 to have the Secretary accept the record.

23 **[(g)] (I)** “Filing date” means the date a vital record is accepted for registration
24 by the Secretary.

25 **[(h)] (J)** “Final disposition” means the burial, cremation, or other final
26 disposition of a body or fetus.

27 **[(i)] (K)** “Institution” means any public or private establishment:

28 (1) To which individuals are committed by law; or

29 (2) That provides to 2 or more unrelated individuals:

30 (i) Any inpatient or outpatient medical, surgical, or diagnostic care
31 or treatment; or

1 (ii) Any nursing, custodial, or domiciliary care.

2 **[(j)] (L)** “Licensed health care practitioner” means:

3 (1) An individual who is:

4 (i) A physician licensed under Title 14 of the Health Occupations
5 Article;

6 (ii) A psychologist licensed under Title 18 of the Health Occupations
7 Article;

8 (iii) A registered nurse licensed and certified to practice as a nurse
9 practitioner, nurse psychotherapist, or clinical nurse specialist under Title 8 of the Health
10 Occupations Article;

11 (iv) A licensed certified social worker—clinical licensed under Title 19
12 of the Health Occupations Article; or

13 (2) An individual who:

14 (i) Is licensed to practice a profession listed in item (1) of this
15 subsection in another state; and

16 (ii) Meets the requirements under the Health Occupations Article to
17 qualify for a license to practice the profession in this State.

18 **[(k)] (M)** “Live birth” means the complete expulsion or extraction of a product of
19 human conception from the mother, regardless of the period of gestation, if, after the
20 expulsion or extraction, it breathes or shows any other evidence of life, such as heart beat,
21 pulsation of the umbilical cord, or definite movement of voluntary muscle, whether or not
22 the umbilical cord is cut or the placenta is attached.

23 **[(l)] (N)** “Mortician” means a funeral director, mortician, or other person who is
24 authorized to make final disposition of a body.

25 **(O) “NURSE MIDWIFE” MEANS AN INDIVIDUAL CERTIFIED TO PRACTICE AS
26 A NURSE MIDWIFE UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE.**

27 **[(m)] (P)** “Physician” means a person authorized or licensed to practice medicine
28 or osteopathy pursuant to the laws of this State.

29 **[(n)] (Q)** “Physician assistant” means an individual who is licensed under Title
30 15 of the Health Occupations Article to practice medicine with physician supervision.

1 [(o)] (R) “Registration” means acceptance by the Secretary and incorporation in
2 the records of the Department of any certificate, report, or other record of birth, death, fetal
3 death, adoption, marriage, divorce, or dissolution or annulment of marriage for which this
4 subtitle provides.

5 [(p)] (S) “Vital record” means a certificate or report of birth, death, fetal death,
6 marriage, divorce, dissolution or annulment of marriage, adoption, or adjudication of
7 paternity that is required by law to be filed with the Secretary.

8 [(q)] (T) “Vital statistics” means the data derived from certificates and reports
9 of birth, death, fetal death, marriage, divorce, dissolution or annulment of marriage, and
10 reports related to any of these certificates and reports.

11 4–208.

12 (a) (1) Within 5 calendar days after a birth occurs in an institution, or en route
13 to the institution, **OR OUTSIDE AN INSTITUTION WITH AN ATTENDING CLINICIAN**, the
14 administrative head of the institution or a designee of the administrative head, **OR THE**
15 **ATTENDING CLINICIAN OR A DESIGNEE OF THE ATTENDING CLINICIAN**, shall:

16 (i) Prepare, on the form that the Secretary provides, a certificate of
17 birth;

18 (ii) Secure each signature that is required on the certificate; and

19 (iii) File the certificate.

20 (2) The attending physician, physician assistant, nurse practitioner, [or]
21 nurse midwife, **OR ATTENDING CLINICIAN** shall provide the date of birth and medical
22 information that are required on the certificate within 5 calendar days after the birth.

23 (3) The results of the universal hearing screening of newborns shall be
24 incorporated into the supplemental information required by the Department to be
25 submitted as a part of the birth event.

26 (4) [Upon] **ON** the birth of a child to an unmarried woman in an institution
27 **OR OUTSIDE AN INSTITUTION WITH AN ATTENDING CLINICIAN**, the administrative
28 head of the institution or the designee of the administrative head, **OR THE ATTENDING**
29 **CLINICIAN OR THE DESIGNEE OF THE ATTENDING CLINICIAN**, shall:

30 (i) Provide an opportunity for the child’s mother and the father to
31 complete a standardized affidavit of parentage recognizing parentage of the child on the
32 standardized form provided by the Department of Human Resources under § 5–1028 of the
33 Family Law Article;

1 (ii) Furnish to the mother written information prepared by the Child
2 Support Enforcement Administration concerning the benefits of having the paternity of her
3 child established, including the availability of child support enforcement services; and

4 (iii) Forward the completed affidavit to the Department of Health
5 and Mental Hygiene, Division of Vital Records. The Department of Health and Mental
6 Hygiene, Division of Vital Records shall make the affidavits available to the parents,
7 guardian of the child, or a child support enforcement agency upon request.

8 (5) An institution, the administrative head of the institution, the designee
9 of the administrative head of an institution, [and] an employee of an institution, **THE**
10 **ATTENDING CLINICIAN, AND THE DESIGNEE OF THE ATTENDING CLINICIAN** may not
11 be held liable in any cause of action arising out of the establishment of paternity.

12 (6) If the child's mother was not married at the time of either conception or
13 birth or between conception and birth, the name of the father may not be entered on the
14 certificate without an affidavit of paternity as authorized by § 5-1028 of the Family Law
15 Article signed by the mother and the person to be named on the certificate as the father.

16 (7) In any case in which paternity of a child is determined by a court of
17 competent jurisdiction, the name of the father and surname of the child shall be entered on
18 the certificate of birth in accordance with the finding and order of the court.

19 (8) If the father is not named on the certificate of birth, no other
20 information about the father shall be entered on the certificate.

21 (b) Within 5 calendar days after a birth occurs outside an institution **WITHOUT**
22 **AN ATTENDING CLINICIAN**, the birth shall be verified by the Secretary and a certificate
23 of birth shall be prepared, on the form that the Secretary provides, and filed by one of the
24 following, in the indicated order of priority:

25 (1) The attending individual.

26 (2) In the absence of an attending individual, the father or mother.

27 (3) In the absence of the father and the inability of the mother, the
28 individual in charge of the premises where the birth occurred.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
30 measure, is necessary for the immediate preservation of the public health or safety, has
31 been passed by a yea and nay vote supported by three-fifths of all the members elected to
32 each of the two Houses of the General Assembly, and shall take effect from the date it is
33 enacted.