

SENATE BILL 27

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EMERGENCY BILL
(PRE-FILED)

7lr0091

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Resources)**

Requested: October 21, 2016

Introduced and read first time: January 11, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Substance–Exposed Newborns – Reporting**

3 FOR the purpose of repealing certain provisions exempting a health care practitioner from
4 the requirement of making a certain report regarding a substance–exposed newborn
5 under certain circumstances; making this Act an emergency measure; and generally
6 relating to substance–exposed newborns.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 5–704.2
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2016 Supplement)

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

Article – Family Law

14 5–704.2.

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

16 (2) “Controlled drug” means a controlled dangerous substance included in
17 Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V under Title 5, Subtitle 4
18 of the Criminal Law Article.
19

20 (3) “Health care practitioner” has the meaning stated in § 1–301 of the
21 Health Occupations Article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) "Newborn" means a child under the age of 30 days who is born or who
2 receives care in the State.

3 (b) For purposes of this section, a newborn is "substance-exposed" if:

4 (1) the newborn:

5 (i) displays a positive toxicology screen for a controlled drug as
6 evidenced by any appropriate test after birth;

7 (ii) displays the effects of controlled drug use or symptoms of
8 withdrawal resulting from prenatal controlled drug exposure as determined by medical
9 personnel; or

10 (iii) displays the effects of a fetal alcohol spectrum disorder; or

11 (2) the newborn's mother had a positive toxicology screen for a controlled
12 drug at the time of delivery.

13 (c) Except as provided in [subsections (d) and] **SUBSECTION** (e) of this section, a
14 health care practitioner involved in the delivery or care of a substance-exposed newborn
15 shall:

16 (1) make an oral report to the local department as soon as possible; and

17 (2) make a written report to the local department not later than 48 hours
18 after the contact, examination, attention, treatment, or testing that prompted the report.

19 (d) In the case of a substance-exposed newborn in a hospital or birthing center, a
20 health care practitioner shall notify and provide the information required under this section
21 to the head of the institution or the designee of the head.

22 (e) A health care practitioner is not required to make a report under this section
23 if the health care practitioner[:

24 (1)] has knowledge that the head of an institution or the designee of the
25 head or another individual at that institution has made a report regarding the
26 substance-exposed newborn[;

27 (2) has verified that, at the time of delivery, the mother was using a
28 controlled substance as currently prescribed for the mother by a licensed health care
29 practitioner; or

30 (3) has verified that, at the time of delivery, the presence of the controlled
31 substance was consistent with a prescribed medical or drug treatment administered to the
32 mother or the newborn].

1 (f) To the extent known, an individual who makes a report under this section
2 shall include in the report the following information:

3 (1) the name, date of birth, and home address of the newborn;

4 (2) the names and home addresses of the newborn's parents;

5 (3) the nature and extent of the effects of the prenatal alcohol or drug
6 exposure on the newborn;

7 (4) the nature and extent of the impact of the prenatal alcohol or drug
8 exposure on the mother's ability to provide proper care and attention to the newborn;

9 (5) the nature and extent of the risk of harm to the newborn; and

10 (6) any other information that would support a conclusion that the needs
11 of the newborn require a prompt assessment of risk and safety, the development of a plan
12 of safe care for the newborn, and referral of the family for appropriate services.

13 (g) Within 48 hours after receiving the notification pursuant to subsection (c) of
14 this section, the local department shall:

15 (1) see the newborn in person;

16 (2) consult with a health care practitioner with knowledge of the newborn's
17 condition and the effects of any prenatal alcohol or drug exposure; and

18 (3) attempt to interview the newborn's mother and any other individual
19 responsible for care of the newborn.

20 (h) (1) Promptly after receiving a report under subsection (c) of this section,
21 the local department shall assess the risk of harm to and the safety of the newborn to
22 determine whether any further intervention is necessary.

23 (2) If the local department determines that further intervention is
24 necessary, the local department shall:

25 (i) develop a plan of safe care for the newborn;

26 (ii) assess and refer the family for appropriate services, including
27 alcohol or drug treatment; and

28 (iii) as necessary, develop a plan to monitor the safety of the newborn
29 and the family's participation in appropriate services.

30 (i) A report made under this section does not create a presumption that a child
31 has been or will be abused or neglected.

1 (j) The Secretary of Human Resources shall adopt regulations to implement the
2 provisions of this section.

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