

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1632

(Delegate Kipke, *et al.*)

Health and Government Operations

Finance

Public Health - Certificates of Birth - Births Outside an Institution

This emergency bill requires an attending clinician or the attending clinician's designee to file a certificate of birth for a birth that occurs outside an institution in the same manner as a certificate of birth that is filed by the administrative head of an institution, or the administrative head's designee, for a birth that occurs in an institution or en route to the institution. It also makes conforming changes.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances.

Local Effect: Local health departments may realize efficiencies and minimal cost savings beginning in FY 2017, to the extent they no longer have to verify information for births that occur outside of an institution with an attending clinician. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under the bill, "attending clinician" means the physician, nurse midwife, or direct-entry midwife in charge of a birth outside an institution. "Direct-entry midwife" means an individual licensed to practice direct-entry midwifery under the Health Occupations Article. "Nurse midwife" means an individual certified to practice as a nurse midwife under the Health Occupations Article.

Under current law, within five calendar days after a birth occurs in an institution, or en route to the institution, the administrative head of the institution, or the administrative

head's designee, must prepare a birth certificate on the proper form, secure each required signature, and file the certificate. The bill incorporates an attending clinician or the attending clinician's designee into these requirements for a birth that occurs outside of an institution.

Further, under current law, the attending physician, physician assistant, nurse practitioner, or nurse midwife must provide the date of birth and medical information that are required for the certificate within five days after the birth. If an unmarried woman gives birth in an institution, the administrative head of the institution or the administrative head's designee must provide an opportunity for the child's mother and father to complete an affidavit of parentage, as specified. The bill incorporates an attending clinician and/or the attending clinician's designee into these requirements for a birth that occurs outside of an institution.

Additionally, under current law, an institution, administrative head of the institution, the designee, or an employee of the institution may not be held liable in any cause of action arising out of the establishment of paternity. The bill extends this immunity from liability to attending clinicians and their designees.

Finally, under current law, within five calendar days after a birth occurs outside an institution, the birth must be verified by the Secretary of Health and Mental Hygiene and a birth certificate must be prepared on the proper form and filed by one of the following individuals, in order of priority: (1) the attending individual; (2) in the absence of the attending individual, the father or mother; or (3) in the absence of the father and the inability of the mother, the individual in charge of the premises where the birth occurred. The bill establishes that these requirements only apply to a birth that occurs outside an institution *without* an attending clinician.

Background: According to the Vital Statistics Administration (VSA) within the Department of Health and Mental Hygiene (DHMH), State law for birth certificate registrations follows model legislation developed by the U.S. Centers for Disease Control and Prevention (CDC), which specifies different procedures for filing certificates for births that occur in an institution and outside an institution. VSA advises that approximately 450 certificates for births outside of an institution are prepared and filed each year by a variety of birth attendants.

CDC's Model State Vital Statistics Act and Regulations (last updated in 1995) recommends that states adopt language establishing that (1) a certificate of birth for each live birth in the state must be filed with the Office of Vital Statistics or as otherwise directed by the State Registrar within five days after the birth; (2) when a birth occurs in an institution or en route to an institution, the person in charge of the institution or the person's designee must file the certificate, and the physician or other person in attendance must provide the required medical information within 72 hours of the birth; and (3) when a birth

occurs outside an institution, the certificate must be prepared and filed by, in order of priority, the attending physician, any other person in attendance, the father or mother, or the person in charge of the premises where the birth occurred. Additionally, the model language specifies that, when a birth occurs outside an institution in the state and the certificate is filed before the first birthday, additional evidence may be required, specifically (1) evidence of pregnancy; (2) evidence that the infant was born alive; and (3) evidence of the mother's presence in the state on the date of the birth.

DHMH regulations specify additional requirements for registering a birth that occurs outside of an institution. Under the Code of Maryland Regulations (10.03.01.03), before the Secretary of Health and Mental Hygiene may accept such birth certificates for registration, the local health officer or designee of the jurisdiction where the birth occurs must verify the facts of the birth and sign the birth record. If the facts cannot be verified, the birth record may only be created upon a court order.

According to the Maryland Affiliate of the American College of Nurse-Midwives (ACNM), DHMH began requiring nurse midwives and direct-entry midwives who attend at-home births to follow the regulations noted above (requiring verification of births by local health departments) in December 2016 through a departmental memorandum. Before then, these practitioners had been following the same birth certificate requirements as those for births occurring in or en route to institutions. ACNM advises that, although the regulations had been in place prior to December 2016, DHMH had not enforced them. ACNM advises that enforcement of the regulations has created confusion amongst both the affected practitioners and local health departments (as it represents a significant departure from prior long-standing practice), causing delays in birth registrations and procedural inconsistencies. ACNM advises that the bill is intended to codify prior practice and alleviate this confusion.

Additional Information

Prior Introductions: None.

Cross File: SB 1174 (Senator Jennings) - Finance.

Information Source(s): Maryland Association of County Health Officers; Department of Health and Mental Hygiene; Maryland Affiliate of the American College of Nurse-Midwives; U.S. Centers for Disease Control and Prevention; Department of Legislative Services

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