

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 27

(Chair, Judicial Proceedings Committee)(By Request -
Departmental - Human Resources)

Judicial Proceedings

Child Abuse and Neglect - Substance-Exposed Newborns - Reporting

This emergency departmental bill repeals a provision that exempts health care practitioners from making a required report regarding a substance-exposed newborn if the health care practitioner has verified that, at the time of delivery (1) the mother was using a controlled substance as currently prescribed for the mother by a licensed health care practitioner or (2) the presence of the controlled substance was consistent with a prescribed medical or drug treatment administered to the mother of the newborn.

Fiscal Summary

State Effect: The Department of Human Resources (DHR) can use existing resources to handle additional reports. The bill is intended to protect significant federal fund revenues by ensuring that the State is in compliance with federal law, as discussed below.

Local Effect: Health care practitioners within local health departments involved in the care of substance-exposed newborns can make the required reports using existing resources.

Small Business Effect: DHR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: A newborn is “substance-exposed” if the newborn displays (1) a positive toxicology screen for a controlled drug as evidenced by any appropriate test after birth; (2) the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel; or (3) the effects of a fetal alcohol spectrum disorder. A newborn is also substance-exposed if the newborn’s mother had a positive toxicology screen for a controlled drug at the time of delivery. A newborn is a child younger than the age of 30 days who is born or receives care in the State. A “controlled drug” means a controlled dangerous substance included in Schedules I through V as established under Title 5, Subtitle 4 of the Criminal Law Article.

A health care practitioner involved in the delivery or care of a substance-exposed newborn must make an oral report to the local department of social services as soon as possible and make a written report to the local department not later than 48 hours after the contact, examination, attention, treatment, or testing that prompted the report. If the substance-exposed newborn is in the hospital or birthing center, a health care practitioner must instead notify and provide the information to the head of the institution or that person’s designee.

A health care practitioner is not required to make a report if the health care practitioner (1) has knowledge that the head of an institution, or the designee of the head, or another individual at that institution, has made a report regarding the newborn; (2) has verified that, at the time of delivery, the mother was using a controlled substance as currently prescribed for the mother by a licensed health care practitioner; or (3) has verified that, at the time of delivery, the presence of the controlled substance was consistent with a prescribed medical or drug treatment administered to the mother or the newborn.

To the extent known, an individual must include specified information in the report, including information regarding the nature and extent of the impact of the prenatal alcohol or drug exposure on the mother’s ability to provide proper care and attention to the newborn and the risk of harm to the newborn. Within 48 hours after receiving the notification, the local department must (1) see the newborn in person; (2) consult with a health care practitioner with knowledge of the newborn’s condition and the effects of any prenatal alcohol or drug exposure; and (3) attempt to interview the newborn’s mother and any other individual responsible for care of the newborn.

Promptly after receiving a report, a local department must assess the risk of harm to and the safety of the newborn to determine whether any further intervention is necessary. If the local department determines that further intervention is necessary, the local department must (1) develop a plan of safe care; (2) assess and refer the family for appropriate services,

including alcohol or drug treatment; and (3) as necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services. A report made under these provisions does not create a presumption that a child has been or will be abused or neglected.

Background: Chapter 90 of 2013 established the existing reporting requirements relating to substance-exposed newborns. However, DHR advises that to be in compliance with the federal Child Abuse Prevention and Treatment Act (CAPTA), State law must ensure that health care practitioners report all substance-exposed newborns to local departments of social services. CAPTA does not provide an exception to this reporting requirement for circumstances involving prescribed drugs, as is permitted under State law. DHR also advises that, according to the U.S. Department of Health and Human Services, the State will lose more than \$450,000 annually in federal funds if an amendment to State law to eliminate this exemption is not enacted by May 2017. This funding is distributed to all 24 local departments of social services to support child protective services programs that benefit at-risk families and children.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Human Resources; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2017
mm/kdm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Substance-Exposed Newborns

BILL NUMBER: SB 27

PREPARED BY: Department of Human Resources
(Dept./Agency)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS