

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 410

(Senator Watson)

Finance

Public Health - Childbirth - Paternity Test

This bill requires an “attending physician” to offer the presumed father of a child born in a “health care facility” the option to take a paternity test. The offer to take a paternity test must be made orally, in writing, and before a birth certificate form is completed for the child. The presumed father may waive the right to take a paternity test or elect to take a paternity test at any time before the completion of the child’s birth certificate. The bill’s requirement does not apply if the attending physician is unable to contact the presumed father of the child.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Attending physician” means the licensed physician who has primary responsibility for the medical care of an individual. “Health care facility” means a facility or an office where health or medical care is provided to patients by a health care provider.

Current Law: Under the Health-General Article, within five calendar days after a birth occurs in an institution, en route to the institution, or outside an institution with an attending clinician, the administrative head of the institution or the attending clinician (or their designee) must (1) prepare a birth certificate on a form provided by the Secretary;

(2) secure required signatures on the certificate; (3) file the certificate; and (4) if applicable, attach a copy of the order of the court establishing parentage. The attending physician, physician assistant, nurse practitioner, nurse midwife, or attending clinician must provide the date of birth and medical information required.

When an individual who is not married gives birth to a child in an institution or outside an institution with an attending clinician, the administrative head of the institution or the attending clinician (or their designee) must (1) provide an opportunity for the child's parents to complete a standardized affidavit of parentage; (2) provide the mother written information prepared by the Child Support Administration concerning the benefits of having the parentage of the child established, including the availability of child support enforcement services; and (3) forward the completed affidavit to the Division of Vital Records (DVR). DVR must make the affidavits available to the parents, guardian of the child, or a child support enforcement agency upon request. The name of the child's other parent may not be entered on the certificate without an affidavit of parentage signed by the mother and the person to be named on the certificate as the other parent. If the parent who did not give birth to the child is not named on the certificate of birth, no other information about that parent may be entered on the certificate.

If the child's mother was married at the time of either the conception or birth or between conception and birth, the name of the mother's spouse must be entered on the certificate as the child's other parent.

In any case where parentage of a child is determined by a court of competent jurisdiction (and a gestational carrier is not involved) the name of the parent who did not give birth to the child and surname of the child must be entered on the certificate of birth in accordance with the finding and order of the court.

Pursuant to the Estates and Trusts Article, a child born or conceived during a marriage is presumed to be the legitimate child of both spouses. A child born to individuals who are not married to one another is considered to be the child of the mother.

There is a rebuttable presumption that a child born to parents who are unmarried to one another is the child of an individual who did not give birth to the child if the individual (1) has acknowledged himself or herself, in writing, to be a parent of the child; (2) has openly and notoriously recognized the child to be the individual's child; or (3) has subsequently married the mother and has acknowledged himself or herself, orally or in writing, to be a parent of the child.

An individual who is the putative father of a child under the Family Law Article may obtain and use evidence of blood or genetic testing in the proceeding to rebut a presumption of parentage as set forth above, regardless of whether it is in the best interest of the child. A

presumption of parentage may be rebutted by (1) evidence of blood or genetic testing; (2) testimony of the mother, the presumed parent, or another individual, that the presumed parent did not have access to the mother at the time of conception; or (3) any other competent evidence that the presumed parent is not the father of the child.

Additional Comments: This analysis assumes that any presumed father who chooses to exercise the right to have a paternity test is responsible for the cost of the paternity test. The current price for a legal paternity test from Labcorp is \$525.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2023
km/jc

Analysis by: Amber R. Gundlach

Direct Inquiries to:
(410) 946-5510
(301) 970-5510