

Date: March 11, 2022

Bill number: HB 1335

Committee: Health and Government Operations

Bill title: Perinatal Care - Drug and Alcohol Testing and Screening - Consent

DHS Position: Letter of Information

The Department of Human Services (the Department) respectfully submits this letter of information regarding House Bill 1355 (HB 1355). HB 1355 prohibits health care providers from administering a drug or alcohol test or screening to pregnant patients, perinatal patients, and newborn infants without written consent.

The Comprehensive Addiction and Recovery Act of 2016, the Child Abuse Prevention and Treatment Act (CAPTA), Maryland's Family Law § 5-704.2 , and COMAR 07.02.08 requires healthcare providers involved in the delivery or care of a newborn to notify DHS if a newborn is born substance exposed. A newborn is considered substance exposed if the newborn either (1) displays a positive toxicology screen for a controlled substance as evidenced by any appropriate test after birth (2) displays the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel; or (3) displays effects of fetal alcohol spectrum disorder.

Under current law, when DHS receives a report of a Substance Exposed Newborn (SEN), the Department is required to (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. The Department must also conduct a safety risk assessment for the newborn to determine whether further intervention is needed.

If this bill passes, notification to DHS may not occur if written consent from the pregnant, perinatal patient, or an individual who is the parent or legal guardian of the newborn is not obtained. This would impact the agency, and the safety of children. Furthermore, this may place the agency out of compliance with CAPTA which may jeopardize \$1.6 million in federal funds awarded to the agency.

The Department appreciates the opportunity to share the aforementioned information with the Committee, and asks that it be taken into consideration during deliberations.