HOUSE SUBSTITUTE FOR

SENATE BILL NO. 807

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending section 5431 (MCL 333.5431), as amended by 1999 PA 138.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 5431. (1) A health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant shall administer or cause to be administered to the infant a test for each of the following:

(a) Phenylketonuria.

(b) Galactosemia.

(c) Hypothyroidism.

(d) Maple syrup urine disease.

(e) Biotinidase deficiency.

(f) Sickle cell anemia.

(g) Congenital adrenal hyperplasia.

(h) Other treatable but otherwise disabling conditions as designated by the department.

(2) THE INFORMED CONSENT REQUIREMENTS OF SECTIONS 17020 AND 17520 DO NOT APPLY TO THE TESTS REQUIRED UNDER SUBSECTION (1). The tests required under subsection (1) shall be administered and reported within a time and under conditions prescribed by the department. The department may require that the tests be performed by the department.

(3) If the results of a test administered under subsection (1) are positive, the results shall be reported to the infant's parents, guardian, or person in loco parentis. A person is in compliance with this subsection if the person makes a good faith effort to report the positive test results to the infant's parents, guardian, or person in loco parentis. ~~The department shall promulgate rules that define a good faith effort to report positive test results for purposes of this subsection.~~

(4) Subject to the annual adjustment required under this subsection and subject to subsection (6), if the department performs 1 or more of the tests required under subsection (1), the department may charge a fee for the tests of not more than $39.00. The DEPARTMENT SHALL ADJUST THE amount prescribed by this subsection ~~shall be adjusted~~ annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index. As used in this subsection, "Detroit consumer price index" means the most

comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(5) A person who violates this section or a rule promulgated under this part is guilty of a misdemeanor.

(6) The department shall provide for a hardship waiver of the fee authorized under subsection (4) under circumstances found appropriate by the department.

(7) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING IN REGARD TO THE BLOOD SPECIMENS TAKEN FOR PURPOSES OF CONDUCTING THE TESTS REQUIRED UNDER SUBSECTION (1):

(A) BY APRIL 1, 2000, DEVELOP A SCHEDULE FOR THE RETENTION AND DISPOSAL OF THE BLOOD SPECIMENS USED FOR THE TESTS AFTER THE TESTS ARE COMPLETED. THE SCHEDULE SHALL MEET AT LEAST ALL OF THE FOLLOWING REQUIREMENTS:

(*i*) BE CONSISTENT WITH NATIONALLY RECOGNIZED STANDARDS FOR LABORATORY ACCREDITATION AND FEDERAL LAW.

(*ii*) REQUIRE THAT THE DISPOSAL BE CONDUCTED IN COMPLIANCE WITH SECTION 13811.

(*iii*) REQUIRE THAT THE DISPOSAL BE CONDUCTED IN THE PRESENCE OF A WITNESS. FOR PURPOSES OF THIS SUBPARAGRAPH, THE WITNESS MAY BE AN INDIVIDUAL INVOLVED IN THE DISPOSAL OR ANY OTHER INDIVIDUAL.

(*iv*) REQUIRE THAT A WRITTEN RECORD OF THE DISPOSAL BE MADE AND KEPT, AND THAT THE WITNESS REQUIRED UNDER SUBPARAGRAPH (*iii*) SIGNS THE RECORD.

(B) ALLOW THE BLOOD SPECIMENS TO BE USED FOR MEDICAL RESEARCH DURING THE RETENTION PERIOD ESTABLISHED UNDER SUBDIVISION (A), AS LONG AS THE MEDICAL RESEARCH IS CONDUCTED IN A MANNER THAT PRESERVES THE CONFIDENTIALITY OF THE TEST SUBJECTS AND IS CONSISTENT TO PROTECT HUMAN SUBJECTS FROM RESEARCH RISKS UNDER SUBPART A OF PART 46 OF SUBCHAPTER A OF TITLE 45 OF THE CODE OF FEDERAL REGULATIONS.

(8) THE DEPARTMENT SHALL REWRITE ITS PAMPHLET EXPLAINING THE REQUIREMENTS OF THIS SECTION WHEN THE SUPPLY OF PAMPHLETS IN EXISTENCE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IS EXHAUSTED. WHEN THE DEPARTMENT REWRITES THE EXPLANATORY PAMPHLET, IT SHALL INCLUDE AT LEAST ALL OF THE FOL-LOWING INFORMATION IN THE PAMPHLET:

(A) THE NATURE AND PURPOSE OF THE TESTING PROGRAM REQUIRED UNDER THIS SECTION, INCLUDING, BUT NOT LIMITED TO, A BRIEF DESCRIPTION OF EACH CONDITION OR DISORDER LISTED IN SUBSECTION (1).

(B) THE PURPOSE AND VALUE OF THE INFANT’S PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS RETAINING A BLOOD SPECIMEN OBTAINED UNDER SUBSECTION (9) IN A SAFE PLACE.

(C) THE DEPARTMENT’S SCHEDULE FOR RETAINING AND DISPOSING OF BLOOD SPECIMENS DEVELOPED UNDER SUBSECTION (7)(A).

(D) THAT THE BLOOD SPECIMENS TAKEN FOR PURPOSES OF CONDUCT-ING THE TESTS REQUIRED UNDER SUBSECTION (1) MAY BE USED FOR MEDI-CAL RESEARCH PURSUANT TO SUBSECTION (7)(B).

(9) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1), THE HEALTH PROFESSIONAL DESCRIBED IN SUBSECTION (1) OR THE HOSPITAL

OR OTHER FACILITY IN WHICH THE BIRTH OF AN INFANT TAKES PLACE, OR BOTH, MAY OFFER TO DRAW AN ADDITIONAL BLOOD SPECIMEN FROM THE INFANT. IF SUCH AN OFFER IS MADE, IT SHALL BE MADE TO THE INFANT'S PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS AT THE TIME THE BLOOD SPECIMENS ARE DRAWN FOR PURPOSES OF SUBSECTION (1). IF THE INFANT'S PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS ACCEPTS THE OFFER OF AN ADDITIONAL BLOOD SPECIMEN, THE BLOOD SPECIMEN SHALL BE PRESERVED IN A MANNER THAT DOES NOT REQUIRE SPECIAL STORAGE CONDITIONS OR TECHNIQUES, INCLUDING, BUT NOT LIMITED TO, LAMINATION. THE HEALTH PROFESSIONAL OR HOSPITAL OR OTHER FACILITY EMPLOYEE MAKING THE OFFER SHALL EXPLAIN TO THE PARENT, GUARDIAN, OR PERSON IN LOCO PARENTIS AT THE TIME THE OFFER IS MADE THAT THE ADDITIONAL BLOOD SPECIMEN CAN BE USED FOR FUTURE IDENTIFICATION PURPOSES AND SHOULD BE KEPT IN A SAFE PLACE. THE HEALTH PROFESSIONAL OR HOSPITAL OR OTHER FACILITY MAKING THE OFFER MAY CHARGE A FEE THAT IS NOT MORE THAN THE ACTUAL COST OF OBTAINING AND PRESERVING THE ADDITIONAL BLOOD SPECIMEN.