HOUSE BILL NO. 5140

October 12, 2023, Introduced by Reps. VanderWall, Rheingans, Roth, Smit, Borton and Brabec and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 5431 and 5432 (MCL 333.5431 and 333.5432), section 5431 as amended by 2002 PA 691 and section 5432 as added by 2006 PA 31, and by adding section 5143.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 5143. (1) The department shall develop and disseminate informational materials on cytomegalovirus to educate women who may become pregnant, expectant parents, parents of infants, and other

individuals about cytomegalovirus and to raise awareness of cytomegalovirus among health care professionals that provide health care services to expectant mothers or infants. The department shall include all of the following in the informational materials required under this subsection:

(a) The incidence of cytomegalovirus.

(b) The transmission of cytomegalovirus to pregnant women and women who may become pregnant.

(c) Birth defects caused by congenital cytomegalovirus.

(d) Methods of diagnosing congenital cytomegalovirus.

(e) Testing opportunities and options for congenital cytomegalovirus, including, but not limited to, testing under section 5431.

(f) Available preventative measures to avoid the infection of cytomegalovirus in women who are pregnant or may become pregnant.

(g) Resources available for a parent of an infant with congenital cytomegalovirus.

(2) The department shall obtain expert review of the informational materials under subsection (1) and update the informational materials as needed.

(3) As used in this section:

(a) "Congenital cytomegalovirus" means the transmission of a cytomegalovirus infection from a pregnant mother to her fetus.

(b) "Cytomegalovirus" means the human herpesvirus cytomegalovirus, also known as human herpesvirus 5 and HHV-5.

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) Medium-chain acyl-coenzyme A dehydrogenase deficiency.

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

(j) Congenital cytomegalovirus.

(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~~ **must** 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)~~ **(1)(a) to (i)** are positive, the results ~~shall~~ **must** be reported to the infant's parents, guardian, or person in loco parentis. **If the results of a test administered under subsection (1)(j) are positive, the results must be reported to the department as required under section 5432 and to the infant's parents, guardian, or person in loco parentis.** A person is in compliance with ~~this subsection~~ **the requirement to report the results of a test to an infant's parents, guardian, or person in loco parentis** if the person makes a ~~good faith~~ **good-faith** effort to report the positive test results to the infant's parents, guardian, or person in loco parentis.

(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 $53.71. The department shall adjust the amount prescribed by this subsection annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit ~~consumer price index.~~ **Consumer Price Index.** As used in this subsection, "Detroit ~~consumer price index"~~ **Consumer Price Index"** means the most comprehensive index of consumer prices available for the Detroit area from the ~~bureau of labor statistics~~ **Bureau of Labor Statistics** of the United States ~~department of labor.~~**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~~ **must** 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.~~**45 CFR 46.101 to 46.124.**

(8) The department shall rewrite its pamphlet explaining the requirements of this section when the supply of pamphlets in existence on March 15, 2000 is exhausted. When the department rewrites the explanatory pamphlet, ~~it~~ **the department** shall include at least all of the following 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 conducting the tests required under subsection (1) may be used for medical 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~~ **must** 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~~ **must** 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.

Sec. 5432. **(1)** If 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, the hospital, the **local** health department, or other facility administers or causes to be administered to the infant a hearing test and screening, then that person or facility shall report to the department, on a form as prescribed by the department, the results of all hearing tests and ~~screens~~ **screenings** conducted on infants who are less than 12 months of age and on children who have been diagnosed with hearing loss and are less than 3 years of age. The report ~~shall~~ **under this**

subsection must include the type, degree, and symmetry of the diagnosis, ~~along with~~ **and** where and when the diagnosis **of hearing loss** was made.

(2) If the results of a test under section 5431(1)(j) are positive, the health professional described under section 5431(1) shall report to the department, on a form as prescribed by the department, the results of the test.