



Department of Legislative Services names Birth Injury Fund among major issues in 2016 Legislative Session

“Medical liability risks and associated costs have been identified as a major issue affecting access to obstetrical care”

For Immediate Release

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BALTIMORE, MD (December 9, 2015) – The 2016 Legislative Issue Papers released by the Department of Legislative Services (DLS) this month named a birth injury fund among major topics coming before the Maryland General Assembly in the 2016 Legislative Session. The inclusion of the birth injury fund in the report signals that the fund could become a key focus among Maryland legislators this session.

According to the independent, nonpartisan analysis, “Medical liability risks and associated costs have been identified as a major issue affecting access to obstetrical care in Maryland. One proposed approach to address the issue is the establishment of a no-fault birth injury fund.”

The new DLS analysis comes on the heels of another report commissioned by the Maryland General Assembly concerning obstetrical care. The report, authored by a working group of Maryland healthcare and legal experts, [recommends the creation of No-Fault Birth Injury Fund](#) in order to protect access to healthcare for mothers and babies in Maryland. According to the report, “Such a fund would provide direct, timely compensation, medical care and other services, without the uncertainty of protracted litigation, to children who suffer a devastating birth injury.”

The DLS analysis references longstanding birth injury funds in Virginia and Florida – established in 1987 and 1988, respectively – as well as New York’s more nascent fund established in 2011. The DLS analysis acknowledges that “liability rates for OB/GYNs in Florida and Virginia fell soon after those states implemented their compensation programs, and have remained low compared to national averages.”

In both Florida and Virginia, the funds have been commended for their ability to cut back on the time families wait to obtain medical assistance, as well as the costly legal fees associated with litigation. The DLS analysis notes that in Florida, “...birth injury cases were resolved under the state’s compensation program in about two-thirds of the time needed for tort cases,” and that

“administrative expenses accounted for only 10.3% of total cost per case under the compensation program, compared with 46.9% in a typical medical malpractice case.”

Finally, the DLS analysis cited results from a 2013 Maryland Hospital Association (MHA) survey showing a 108% increase in total settlement costs for birth injury claims between 2009 and 2013. The findings are consistent with the state agency that regulates all Maryland hospitals which expressed serious concerns regarding liability costs. “...Costs related to birth injury, have been increasing in recent years...the Commission is concerned about the high cost of claims in Maryland and impact those costs could have on access to critical services, such as obstetrics, in certain jurisdictions in the state,” the Health Services Cost Review commission wrote in a letter to legislators last session.

“There is clearly a growing consensus among independent policy experts that a No-Fault Birth Injury Fund is a viable and tested solution for Maryland to address rising medical liability costs that threaten hospital maternity programs and access to obstetrical care,” said **Beth Laverick, President of the Maryland Maternity Access Coalition**. “The simple truth is that with a No-Fault Birth Injury Fund, we can protect access to care while ensuring more babies will get the lifetime care they need because it is based on the injury, not the outcome of a lawsuit.”

The proposed fund enjoys bi-partisan support from voters across the state. [A statewide poll of voters released earlier this year](#) – conducted by OpinionWorks of Annapolis - found that Maryland voters support creating a birth injury fund by a 3-to-1 margin, with 62 percent in favor and only 21 percent opposed. In the poll, voters strongly support the concept of families giving up their right to sue in exchange for being guaranteed an award from the fund if a child suffers a permanent birth injury.

The Maryland Maternity Access Coalition is a broad coalition of concerned citizens, organizations, and healthcare providers formed to protect and preserve access to high-quality maternity care for the women of Maryland. For more information on the Maryland Maternity Access Coalition, visit the coalition’s Facebook page and website at www.facebook.com/MarylandMaternityAccess and www.Mdmaternityaccess.org

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Resources:

National Experts on Birth Injury Funds

- Kenney Shipley, Executive Director, Florida Birth-Related Neurological Injury Compensation Association, [850-488-8191](tel:850-488-8191), kshipley@nica.com
- George Deebo, Executive Director, Virginia Birth-Related Neurological Injury Compensation Program, [804-330-2471](tel:804-330-2471), gdeebo@vabirthinjury.com

- Michelle Mellow, Professor of Law, Stanford Law School, and Professor of Health Research and Policy, Stanford University School of Medicine, 650-715-3894, mmello@law.stanford.edu

Documents & Reports:

- [Department of Legislative Services 2016 Legislative Issue Papers](#)
- [2015 Report on Access to Obstetric Services in Maryland](#)
- [2014 Report on Access to Obstetric Services in Maryland](#)