

As Introduced

**134th General Assembly
Regular Session
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S. B. No. 151

Senator Johnson

Cosponsors: Senators Hoagland, Brenner, Huffman, S., Lang, O'Brien, Cirino

A BILL

To enact sections 3727.25 and 4765.392 of the
Revised Code to establish standards for the
medical treatment of certain infants and to name
the act Emery and Elliot's Law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3727.25 and 4765.392 of the
Revised Code be enacted to read as follows:

Sec. 3727.25. (A) As used in this section:

(1) "Aggressive life-sustaining treatment" means all
appropriate medical care, procedures, or techniques performed in
an effort to sustain life.

(2) "Level three neonatal intensive care unit" means a
unit of a hospital capable of providing neonatal intensive care
described as level three by the American academy of pediatrics
and presented in the document titled "Levels of Neonatal Care"
or a successor document.

(3) "Level four neonatal intensive care unit" means a unit
of a hospital capable of providing neonatal intensive care

described as level four by the American academy of pediatrics 18
and presented in the document titled "Levels of Neonatal Care" 19
or a successor document. 20

(4) "Paramedic" has the same meaning as in section 4765.01 21
of the Revised Code. 22

(5) "Physician" means an individual authorized under 23
Chapter 4731. of the Revised Code to practice medicine and 24
surgery or osteopathic medicine and surgery. 25

(B) This section establishes standards and conditions for 26
the medical care and treatment to be provided by a hospital or 27
physician under the circumstances described in divisions (C) and 28
(D) of this section to a woman or infant who is one of the 29
following: 30

(1) At least twenty-one weeks pregnant but not more than 31
twenty-six weeks pregnant; 32

(2) Less than twenty-one weeks pregnant but at a point in 33
pregnancy for which an infant's survival has been demonstrated; 34

(3) Pregnant and expecting an infant with a disability; 35

(4) Delivered of a woman described in division (B) (1), 36
(2), or (3) of this section. 37

(C) If a woman who is pregnant as described in division 38
(B) of this section presents with labor symptoms to a hospital 39
without a level three or level four neonatal intensive care 40
unit, all of the following apply: 41

(1) If possible without endangering the life of the 42
pregnant woman, the hospital shall transfer the woman within one 43
hour to the nearest hospital with a level three or level four 44
neonatal intensive care unit, to the extent the transfer is 45

permitted under federal law. 46

(2) The transfer shall be performed only by a paramedic. 47

(3) The transfer cannot be denied without the infant's 48
parent or parent's representative completing a form in which the 49
parent or representative indicates that the parent or 50
representative understands that the transfer is against medical 51
advice. 52

(4) If the pregnant woman dies while in transit to the 53
nearest hospital with a level three or four neonatal intensive 54
care unit, the originating hospital shall not be liable in a 55
civil action for damages for injury, death, or loss to person or 56
property. 57

(D) If a pregnant woman described in division (C) of this 58
section delivers at a hospital with a level three or level four 59
neonatal intensive care unit, the hospital shall ensure that a 60
complete assessment of the infant's condition is performed. If 61
the infant exhibits any movement or sounds or a pulsating 62
umbilical cord or heartbeat, the hospital shall, upon receiving 63
written permission from the infant's parent or parent's 64
representative, ensure that the infant is provided aggressive 65
life-sustaining treatment and shall not place a medical hold on 66
the infant's treatment. 67

If the hospital recommends that life-sustaining treatment 68
be discontinued, the hospital shall discontinue the treatment 69
only if the infant's parent or parent's representative completes 70
a form indicating informed consent to discontinue treatment. 71

At any time, the infant's parent or parent's 72
representative may request a second opinion regarding the 73
infant's condition and treatment, including in the event the 74

hospital recommends that treatment be discontinued. The infant's 75
parent or parent's representative may request the second opinion 76
from another hospital or a physician associated with another 77
hospital. 78

(E) When a pregnant woman presents with labor symptoms to 79
a hospital, the hospital shall disclose to the pregnant woman or 80
pregnant woman's representative in writing any policies the 81
hospital has adopted regarding medical treatment or lack of 82
medical treatment for preterm infants or infants with a 83
disability. The hospital shall disclose such policies before 84
admitting the pregnant woman. 85

If the pregnant woman or pregnant woman's representative 86
agrees with the hospital's policies, the pregnant woman or 87
representative shall complete, in the presence of a witness, a 88
form indicating that agreement. The witness also shall complete 89
the form. If the pregnant woman or representative does not 90
agree, the pregnant woman shall not complete the form. 91

The hospital shall maintain in the pregnant woman and 92
infant's medical records a copy of the completed form. If such a 93
form is not completed, the hospital shall note that fact in the 94
pregnant woman and infant's medical records. 95

(F) Each hospital with a level three or level four 96
neonatal intensive care unit shall provide the unit's medical 97
and nursing staff appropriate training in the intubation of and 98
provision of other life-sustaining treatment for preterm infants 99
or infants with a disability. 100

(G) Except as provided in division (C) (4) of this section, 101
a hospital that fails to comply with the requirements of this 102
section shall be liable in a civil action for damages to an 103

infant, or parent of an infant, who sustains injury, death, or 104
loss to person or property as a result of the hospital's failure 105
to comply. Any such action must be commenced within five years 106
of the hospital's failure to comply. 107

(H) In the event a hospital is found liable as described 108
in division (G) of this section, the physician who accepted 109
primary responsibility for the pregnant woman's or infant's 110
treatment shall be subject to discipline by the hospital, which 111
may include the loss of employment or admitting privileges. 112

Sec. 4765.392. For each paramedic employed by an emergency 113
medical service organization, the organization shall provide the 114
paramedic with appropriate training in the intubation of and 115
provision of other life-sustaining treatment for preterm infants 116
or infants with a disability. 117

Section 2. This act shall be known as Emery and Elliot's 118
Law. 119