

SENATE No. 1405

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to newborn screenings for congenital cytomegalovirus.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/8/2023</i>

SENATE No. 1405

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1405) of Joan B. Lovely and Sal N. DiDomenico for legislation relative to newborn screenings for congenital cytomegalovirus. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1471 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to newborn screenings for congenital cytomegalovirus.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws, as appearing in the 2020 Official Edition,
2 is hereby further amended by inserting after Section 70H the following section:-

3 Section 70I: Congenital cytomegalovirus; public information program; annual report

4 (a) The commissioner of the department shall establish, promote, and maintain a public
5 information program regarding congenital cytomegalovirus, hereinafter referred to as cCMV.

6 Such program shall be conducted throughout the commonwealth, and under said program, a
7 hospital or birthing facility as defined in section 70E or any healthcare provider, physician
8 assistant, nurse or midwife who renders prenatal or postnatal care shall give expectant or new
9 parents or guardians information provided by the department under subsection (b). Such

10 information shall be made available at the first prenatal appointment or at a preconception visit if
11 applicable, whichever is earliest.

12 (b) The department shall make available to any healthcare provider, physician assistant,
13 nurse or midwife who renders prenatal or postnatal care or offers fertility counseling or care to a
14 parent or guardian the following: (i) up-to-date evidence-based, written information about cCMV
15 and universal cCMV screening that has been vetted by an appropriate group of medical experts
16 as determined by the department in conjunction with the advisory committee as established in
17 section 110J of said Chapter 111; provided, however, that the written information provided shall
18 include preventative measures that can be taken throughout pregnancy, and (ii) contact or other
19 referral information for additional educational and support resources. The department may also
20 make such information available to any other person who seeks information about cCMV
21 infections.

22 SECTION 2. Said chapter 111 is hereby further amended by inserting after section 110C
23 the following sections:-

24 Section 110D: Required Newborn Screening for Congenital Cytomegalovirus

25 For the purposes of this section, the following words shall, unless the context clearly
26 requires otherwise, have the following meanings:-

27 “Birthing facility”, an inpatient or ambulatory health care facility licensed by the
28 department of public health that provides birthing and newborn care services.

29 “Congenital Cytomegalovirus (hereinafter referred to as cCMV) screening”, the
30 identification of a newborn who may have congenital CMV infection or has cCMV confirmed
31 through the use of a saliva or urine test.

32 “Department”, the department of public health.

33 “Newborn,” any liveborn infant who has not yet attained the age of 21 days from a birth
34 occurring in the commonwealth or from a birth prior to transfer to a hospital in the
35 commonwealth.

36 The department, in consultation with the perinatal advisory committee, shall develop
37 regulations for all hospitals and birthing facilities requiring cCMV screening within one year of
38 the passage of this legislation. These regulations shall consider evidence-based guidance.

39 The cCMV screening shall be performed using a saliva PCR test unless one is
40 unavailable in which case a urine PCR test may be used. If positive, a saliva PCR test would
41 require a confirmatory urine PCR test. The department may approve another test to conduct
42 cCMV screening; provided, however, that the test shall be, at the discretion of the department, at
43 least as accurate, widely available and cost-effective as a saliva or urine PCR test. A screening
44 shall be performed within 21 days from the date of birth and before the newborn infant is
45 discharged from the birthing facility to the care of the parent or guardian; provided, however,
46 that the screening shall not be performed if the parent or guardian of the newborn infant objects
47 to the screening based upon a sincerely held religious belief of the parent or guardian. The
48 cCMV educational materials outlined in section 70I(b) shall be provided to the parent or
49 guardian of the infant at the time of cCMV screening.

50 A hospital that provides birthing and newborn services or a birthing facility shall adopt
51 protocols for cCMV screening using a saliva or urine PCR test or another test approved by the
52 department under this section for all newborns prior to discharge, and not to exceed 21 days from
53 the date of birth, based on the department's regulations, on or before January 1, 2025.

54 The cost of providing the newborn cCMV screening shall be a covered benefit
55 reimbursable by all health insurers, except for supplemental policies that only provide coverage
56 for specific diseases, hospital indemnity, Medicare supplement or other supplemental policies. In
57 the absence of a third-party payer, the charges for the newborn cCMV screening shall be paid by
58 the Commonwealth.

59 A hospital or birthing facility shall report annually to the department data including, but
60 not limited to, the number of cCMV tests administered and the outcomes of said tests. The
61 hospital or birthing facility shall inform, orally and in writing, a parent or guardian of the
62 newborn infant the result of the cCMV screening test regardless of its outcome. This information
63 shall also be provided in writing to the newborn infant's primary care physician and to the
64 department through its electronic birth certificate system or such mechanism as specified by the
65 department.

66 The department shall review the protocols required under this section and the
67 implementation of these protocols as part of its birthing facility licensure review processes.

68 The department shall promulgate regulations to implement the cCMV screening program.

69 Nothing in this statute shall preclude newborns born at home from obtaining said cCMV
70 screening.

71 Section 110E: Advisory Committee for CMV Screening Program

72 There is hereby established an advisory committee for the purpose of implementing the
73 provisions of Section 110I. The advisory committee shall consist of the following members to be
74 appointed by the commissioner of the department: a representative of the hospital industry; a
75 primary care pediatrician or family practitioner; an otolaryngologist; a neonatologist; an
76 infectious disease specialist; a clinician representing newborn nurseries; an audiologist; an
77 ophthalmologist; an obstetrician-gynecologist; a representative of the commonwealth's early
78 intervention program; 2 parents and/or guardians of a child impacted by cCMV; 2 medical
79 professionals; a developer of preventative and/or therapeutic interventions for cCMV; a teacher
80 of the deaf; and a representative of the department.

81 The advisory committee shall advise the department regarding the validity and cost of
82 proposed cCMV regulations and/or cCMV screening, and shall recommend standards for
83 performing and interpreting screening tests based on the most current technological methods, for
84 documenting test results and follow-up, and for facilitating interaction between professionals and
85 agencies that participate in follow-up care. Members of the advisory committee shall serve
86 without compensation. The advisory committee shall be provided support services by the
87 department.