

106TH CONGRESS  
1ST SESSION

# H. R. 76

To amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Infant Protection and  
3 Baby Switching Prevention Act of 1999”.

4 **SEC. 2. MEDICARE AND MEDICAID PAYMENTS TO HOS-**  
5 **PITALS CONTINGENT ON IMPLEMENTATION**  
6 **OF SECURITY PROCEDURES REGARDING IN-**  
7 **FANT PATIENT PROTECTION AND BABY**  
8 **SWITCHING.**

9       (a) **AGREEMENTS WITH HOSPITALS.**—Section  
10 1866(a)(1) of the Social Security Act (42 U.S.C.  
11 1395cc(a)(1)) is amended—

12           (1) in subparagraph (S), by striking the period  
13 at the end and inserting “, and”, and

14           (2) by inserting after subparagraph (S) the fol-  
15 lowing new subparagraph:

16           “(T) in the case of hospitals and critical access  
17 hospitals which provide neonatal or infant care, to  
18 have in effect security procedures that meet stand-  
19 ards established by the Secretary (in consultation  
20 with appropriate organizations) to reduce the likeli-  
21 hood of infant patient abduction and baby switching,  
22 including standards for identifying all infant pa-  
23 tients in the hospital in a manner that ensures that  
24 it will be evident if infants are missing from the hos-  
25 pital.”.

26       (b) **REGULATIONS.**—

1           (1) IN GENERAL.—In promulgating regulations  
2           under subparagraph (T) of section 1866(a)(1) of  
3           such Act (42 U.S.C. 1395cc(a)(1)), as added by sub-  
4           section (a), the Secretary of Health and Human  
5           Services shall—

6                   (A) consult with various organizations rep-  
7                   resenting consumers, appropriate State and  
8                   local regulatory agencies, hospitals, and critical  
9                   access hospitals,

10                   (B) take into account variations in size  
11                   and location of hospitals and critical access hos-  
12                   pitals, and the percentage of overall services  
13                   furnished by such hospitals and critical access  
14                   hospitals that neonatal care and infant care  
15                   represent, and

16                   (C) promulgate specific regulations that  
17                   address each size and type of hospital covered.

18           (2) DEADLINE FOR PUBLICATION.—Not later  
19           than 12 months after the date of the enactment of  
20           this Act, the Secretary shall publish such regula-  
21           tions. In order to carry out this requirement in a  
22           timely manner, the Secretary may promulgate regu-  
23           lations that take effect on an interim basis, after no-  
24           tice and pending opportunity for public comment.

25           (c) PENALTIES.—

1           (1) AMOUNT OF PENALTY.—A hospital that  
2       participates in the Medicare program under title  
3       XVIII of the Social Security Act under an agree-  
4       ment pursuant to section 1866 of such Act (42  
5       U.S.C. 1395cc) that commits a violation described in  
6       paragraph (2) of this subsection is subject to a civil  
7       money penalty of not more than \$50,000 (or not  
8       more than \$25,000 in the case of a hospital with  
9       less than 100 beds) for each such violation.

10          (2) VIOLATION DESCRIBED.—A hospital de-  
11       scribed in paragraph (1) commits a violation for  
12       purposes of this subsection if the hospital fails to  
13       have in effect security procedures that meet stand-  
14       ards established by the Secretary under section  
15       1866(a)(1)(T) of such Act, as added by subsection  
16       (a), to reduce the likelihood of infant patient abduc-  
17       tion and baby switching, including standards for  
18       identifying all infant patients in the hospital in a  
19       manner that ensures that it will be evident if infants  
20       are missing from the hospital.

21          (3) ADMINISTRATIVE PROVISIONS.—The provi-  
22       sions of section 1128A of such Act (42 U.S.C.  
23       1320a–7a), other than subsections (a) and (b), shall  
24       apply to a civil money penalty under this subsection  
25       in the same manner as such provisions apply with

1       respect to a penalty or proceeding under section  
2       1128A(a).

3       (d) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect 18 months after the date of  
5 the enactment of this Act and apply to the entry and re-  
6 newal of contracts under section 1866 of such Act (42  
7 U.S.C. 1395cc) on or after such date.

8       **SEC. 2. BABY SWITCHING PROHIBITED.**

9       (a) IN GENERAL.—Chapter 55 of title 18, United  
10 States Code, is amended by adding at the end the follow-  
11 ing:

12       **“§ 1205. Baby switching**

13       “(a) Whoever being in interstate commerce knowingly  
14 alters or destroys an identification record of a newborn  
15 patient with the intention that the newborn patient be  
16 misidentified by any person shall be fined not more than  
17 \$250,000 in the case of an individual and not more than  
18 \$500,000 in the case of an organization, or imprisoned  
19 not more than ten years, or both.

20       “(b) As used in this section, the term ‘identification  
21 record’ means a record maintained by a hospital to aid  
22 in the identification of newborn patients of the hospital,  
23 including any of the following:

24               “(1) The footprint, fingerprint, or photograph  
25       of the newborn patient.

1           “(2) A written description of the infant.

2           “(3) An identification bracelet or anklet put on  
3       the newborn patient, or the mother of the newborn  
4       patient, by a staff member of the hospital.”.

5       (b) CLERICAL AMENDMENT.—The table of sections  
6   at the beginning of chapter 55 of title 18, United States  
7   Code, is amended by adding at the end the following new  
8   item:

      “1205. Baby switching.”.

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