

107TH CONGRESS  
1ST SESSION

# H. R. 72

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 3, 2001

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 Energy 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 2001”.

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 (R), by striking “and” at  
13 the end;

14           (2) in subparagraph (S), by striking the period  
15 at the end and inserting “, and”, and

16           (3) by inserting after subparagraph (S) the fol-  
17 lowing new subparagraph:

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

1 it will be evident if infants are missing from the hos-  
2 pital.”.

3 (b) REGULATIONS.—

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

9 (A) consult with various organizations rep-  
10 resenting consumers, appropriate State and  
11 local regulatory agencies, hospitals, and critical  
12 access hospitals,

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

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

21 (2) DEADLINE FOR PUBLICATION.—Not later  
22 than 12 months after the date of the enactment of  
23 this Act, the Secretary shall publish such regula-  
24 tions. In order to carry out this requirement in a  
25 timely manner, the Secretary may promulgate regu-

1       lations that take effect on an interim basis, after no-  
2       tice and pending opportunity for public comment.

3       (c) PENALTIES.—

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

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

24          (3) ADMINISTRATIVE PROVISIONS.—The provi-  
25      sions of section 1128A of such Act (42 U.S.C.

1       1320a–7a), other than subsections (a) and (b), shall  
 2       apply to a civil money penalty under this subsection  
 3       in the same manner as such provisions apply with  
 4       respect to a penalty or proceeding under section  
 5       1128A(a).

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

11   **SEC. 2. BABY SWITCHING PROHIBITED.**

12       (a) IN GENERAL.—Chapter 55 of title 18, United  
 13      States Code, is amended by adding at the end the fol-  
 14      lowing:

15   **“§ 1205. Baby switching**

16       “(a) Whoever being in interstate commerce knowingly  
 17      alters or destroys an identification record of a newborn  
 18      patient with the intention that the newborn patient be  
 19      misidentified by any person shall be fined not more than  
 20      \$250,000 in the case of an individual and not more than  
 21      \$500,000 in the case of an organization, or imprisoned  
 22      not more than ten years, or both.

23       “(b) As used in this section, the term ‘identification  
 24      record’ means a record maintained by a hospital to aid

1 in the identification of newborn patients of the hospital,  
2 including any of the following:

3           “(1) The footprint, fingerprint, or photograph  
4           of the newborn patient.

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

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

9           (b) CLERICAL AMENDMENT.—The table of sections  
10 at the beginning of chapter 55 of title 18, United States  
11 Code, is amended by adding at the end the following new  
12 item:

“1205. Baby switching.”.

