

**To: Maryland Maternity Access Coalition  
And Interested Parties**

**From: Steve Raabe, President  
OpinionWorks, LLC**

**Date: February 17, 2014**

**Subject: Maryland Voter Survey on Birth Injury Compensation**

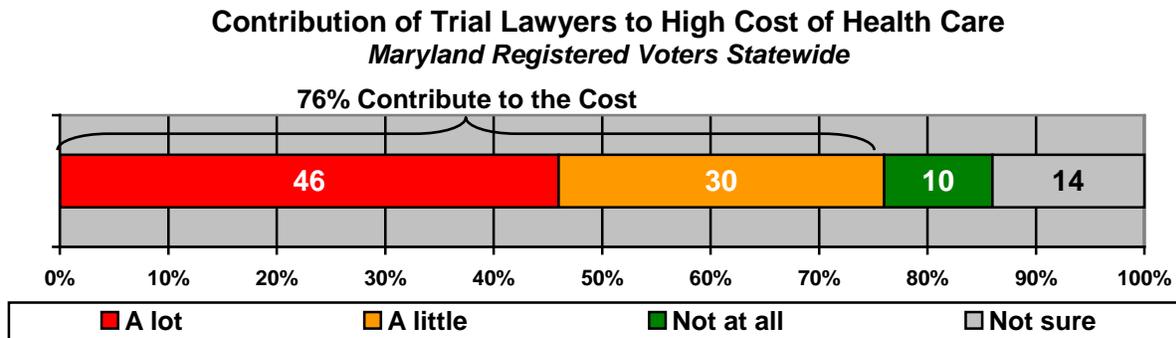
The Maryland Maternity Access Coalition commissioned this statewide voter survey to measure public attitudes about the best method of compensating families when babies experience permanent birth injuries. **The survey found that the public overwhelmingly prefers creation of an injured baby fund over compensating families through the courts.** A large majority of voters would give up the right to sue as a fair requirement of accepting compensation from such a fund. Voters have concerns about the size of jury awards and as an alternative would place hard caps on the amount of court damages.

This telephone poll of 799 randomly-selected Maryland registered voters was conducted January 14-20, 2014, using trained and supervised live interviewers. The findings have a potential sampling error of no more than ± 3.4 percent at the 95% confidence level. A more detailed methodology statement is found at the end of this summary.

**Findings**

**Concern about the Contribution of Trial Lawyers to High Health Care Costs**

As a basic outlook, voters are strongly inclined to believe that trial lawyers contribute to the high cost of health care. Three-quarters (76%) of Maryland voters think trial lawyers contribute to that cost, and a near-majority (46%) think trial lawyers contribute “a lot.”

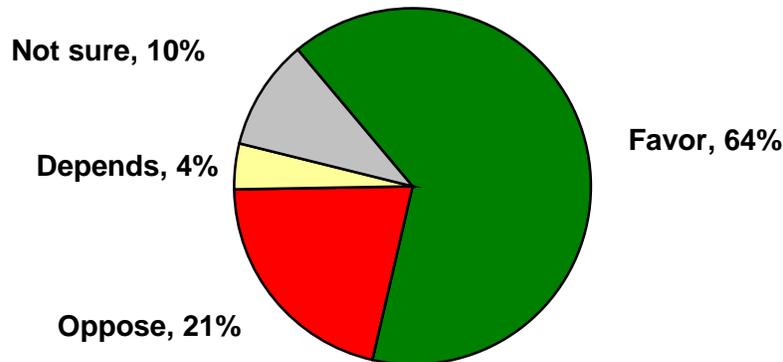


*“Do you tend to think that trial lawyers contribute a lot, a little, or not at all to the high cost of health care because of lawsuits against doctors and hospitals?”*

### Overwhelming Support for Creation of an Injured Baby Fund

To help families cope with the significant costs of care that may result from a permanent birth injury, voters overwhelmingly support the creation of an injured baby fund rather than requiring families to seek compensation through the courts. By three-to-one, a two-thirds majority of voters in Maryland favor the creation of an injured baby fund. A total of 64% favor the creation of a fund, and only 21% are opposed.

**Voter Support for an Injured Baby Fund**  
*Maryland Registered Voters Statewide*



*“When a baby is injured during birth, the family will have to cope with significant health care costs, and the child may need special care throughout its life. Right now in Maryland, the only remedies for the family are to find a lawyer and sue the doctor and hospital, or to pay the child’s expenses themselves.*

*“There is a proposal in the state legislature to create a special fund paid for by doctors and hospitals to cover the lifetime cost of care for children who experience permanent birth injuries, rather than requiring the family to seek compensation through the courts. Would you generally favor or oppose the idea of creating such an injured baby fund?”*

Support for creation of an injured baby fund is strong across the state, with particular support among registered Democrats and Independents. These subgroup numbers are found in the table on the following page.

*(See table, next page.)*

**Support for an Injured Baby Fund by Subgroup**

<b>Voter Group</b>	<b>Favor</b>	<b>Oppose</b>	<b>Depends/ Not Sure</b>
<b>All Voters</b>	64%	21%	14%
Women	67%	18%	15%
Men	61%	25%	13%
Whites	61%	24%	14%
African-Americans	74%	12%	14%
All Others	59%	26%	15%
Baltimore City	89%	6%	5%
Baltimore County	62%	23%	16%
Montgomery County	53%	29%	18%
Prince George's County	80%	11%	9%
Greater Baltimore (Anne Arundel, Baltimore City, Baltimore County, Carroll, Harford, Howard)	66%	22%	12%
Greater Washington (Charles, Frederick, Howard, Montgomery, Prince George's)	63%	24%	14%
Rural Counties (14 counties in Western Maryland, Southern Maryland, Eastern Shore)	57%	20%	23%
Democrats	70%	16%	13%
Republicans	45%	38%	17%
Unaffiliated Voters/Third Parties	68%	17%	16%

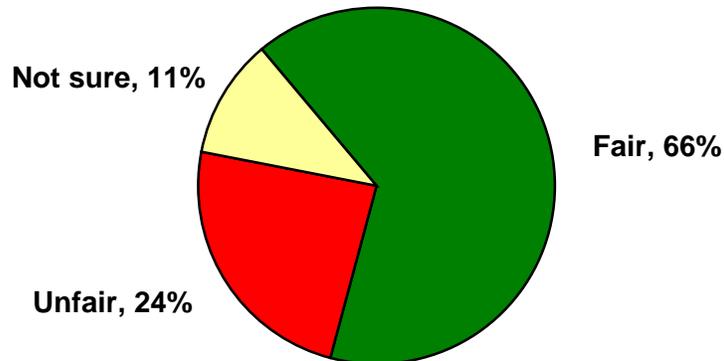
*Numbers may not always appear to add correctly due to rounding.*

*(Continued, next page.)*

### Giving up the Right to Sue

Voters are strongly inclined to believe that it is fair to give up the right to sue in exchange for accepting an award from an injured baby fund. Two-thirds of voters (66%) believe it would be a fair requirement to give up the right to sue, while only 24% think that would be unfair.

**Giving up the Right to Sue**  
*In Exchange for an Award from the Injured Baby Fund*

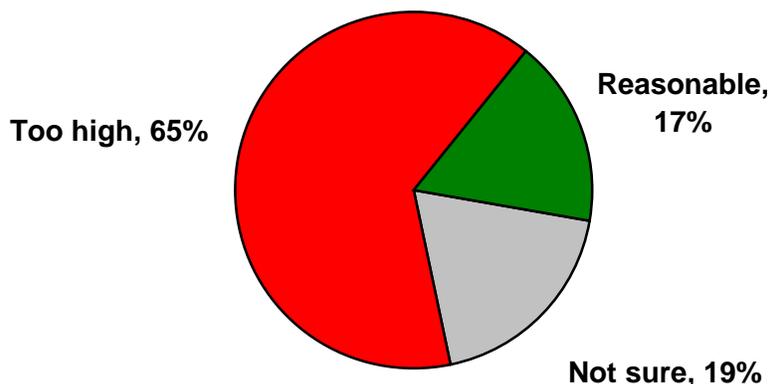


*"In accepting this award, the family would give up its right to sue. Does giving up the right to sue seem like a fair or an unfair requirement of accepting an award from the injured baby fund?"*

### Concern about the Size of Jury Awards

Voters' strong support for creation of an injured baby fund in Maryland is explained in part by their underlying concern about the size of jury awards. Only 17% believe that a recent \$55 million jury award in a birth injury case in Maryland was reasonable. A very large majority (65%) believe such an award is too high.

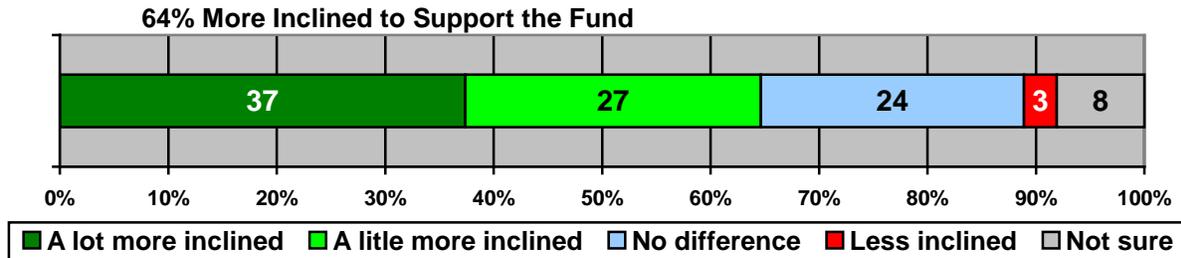
**Voter Concern about the Size of a Recent \$55 Million Jury Award**



*"Recently a family won a jury award of \$55 million against Johns Hopkins Hospital in a birth injury case. Does this seem like a reasonable award to you, or too high?"*

Voters also prefer the certainty of an injured baby fund that will compensate the family for the lifetime of care they will need, rather than the uncertainty of a lawsuit. Nearly two-thirds of voters (64%) said they are more inclined to support creating an injured baby fund for this reason, and 37% said they are “a lot more” inclined to do so.

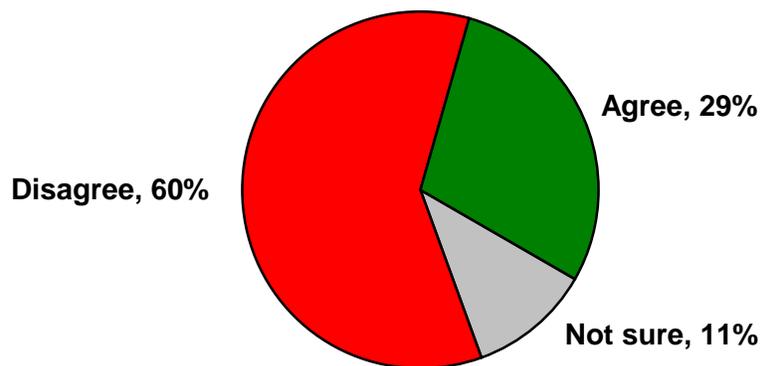
**Importance to Voters of the Certainty of an Injured Baby Fund**  
*Impact on Support for the Fund*



*“...please tell me if it would make you a lot more inclined to think the fund is a good idea, only a little more, or if it doesn't make any difference in how you feel?.. More babies who suffer birth injuries will get the lifetime care they need because acceptance into the program is based on the injury, not the outcome of a lawsuit.”*

Voters do not agree with the argument that “the only way to stop (hospitals and doctors) from making mistakes is to get their attention through large legal awards.” Only 29% agree with that assertion, while 60% of voters disagree.

**Are Large Legal Awards Needed to Stop Medical Mistakes?**



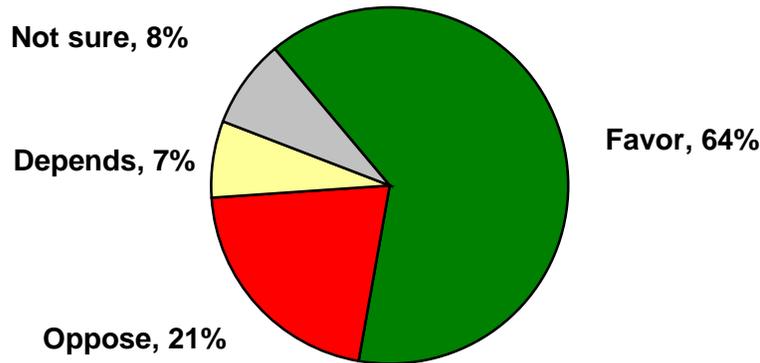
*“Trial lawyers who oppose this legislation say hospitals and doctors make a lot of money, and frequently make mistakes. The only way to stop them from making mistakes is to get their attention through large legal awards. Do you agree or disagree with this argument?”*

It is important to note that these three poll questions about the impact of lawsuits and size of legal awards were asked *after* voter support for the injured baby fund was measured. These questions did not affect the amount of support measured, but do offer context to help explain that level of support.

### Voter Support for a Hard Cap on Court Damages

Voters would also favor a hard cap on court damages. Nearly two-thirds (64%) of Maryland voters would support this approach.

**Voter Support for Placing a Hard Cap on Court Damages  
For Malpractice Awards Related to Birth Injuries**

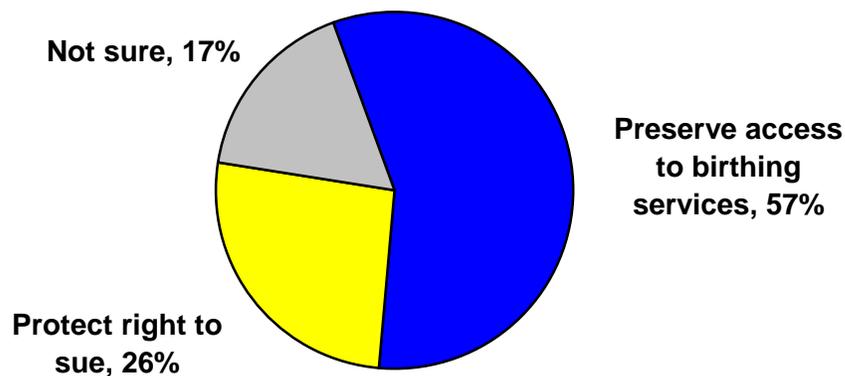


*"Would you favor or oppose placing a hard cap or limit on court damages from malpractice awards related to birth injuries?"*

### A Priority on Preserving Access to Birthing Services

Protecting the right to sue is not a priority for most voters when weighed against any possible impact on access to birthing services for expectant mothers. By more than two-to-one, voters believe it is a higher priority to preserve access to birthing services compared to protecting the right to sue.

**Limited Support for Protecting the Right to Sue  
When Compared with the Possibility that Birthing Centers Will Close**



*"As a general principal for you, is it more important (rotate): [to preserve access to birthing services for mothers or to protect the right to sue]?"*

#### **How This Poll Was Conducted**

OpinionWorks interviewed 799 randomly-selected registered voters across Maryland by telephone January 14–20, 2014. The interviews were conducted by trained and supervised live interviewers who are skilled in opinion research best practices.

The poll has a potential sampling error of no more than  $\pm 3.4\%$  at a 95% confidence level, meaning that at least 95% of the time the survey results would differ by no more than that margin if every registered voter in Maryland had been interviewed.

Interviewees were drawn randomly from the database of registered voters, supplied by the State Board of Elections and matched with landline and cellular telephone numbers by a commercial vendor. The sample was balanced geographically and by political party during interviewing, and respondents were screened to ensure that only registered voters were interviewed. Weights were applied to bring the voter sample into compliance with the demographic breakdown of the registered voter population.

#### **Brief Background on OpinionWorks**

OpinionWorks conducts frequent opinion studies in Maryland and the surrounding states. We are the polling organization for *The Baltimore Sun*, having accurately forecast the 14-point gubernatorial margin in 2010 and the Baltimore mayoral margin in 2011, and have polled for numerous other media throughout the region. We work for state and local agencies throughout the Mid-Atlantic, and for a variety of non-profit and for-profit entities within the region and nationally.