

SENATE BILL 3

Unofficial Copy  
D4

2002 Regular Session  
(2r0225)

**ENROLLED BILL**  
-- Judicial Proceedings/Judiciary --

Introduced by ~~Senator Green~~ Senators Green and Forehand, Forehand, and Ruben

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Safe Haven Act**

3 FOR the purpose of ~~establishing procedures for the relinquishment of certain~~  
4 ~~newborns; establishing immunity for certain persons under this Act;~~  
5 ~~establishing procedures for hospitals that accept a relinquished newborn;~~  
6 ~~establishing procedures for a nonrelinquishing natural parent to retain parental~~  
7 ~~rights; establishing procedures for a natural parent to revoke the intent to~~  
8 ~~relinquish a newborn; establishing procedures for a court to make certain~~  
9 ~~determinations regarding a relinquished newborn~~ providing immunity from  
10 civil liability and criminal prosecution for certain persons who leave an  
11 unharmd newborn with a certain person under certain circumstances; requiring  
12 the approval of a certain person to leave a newborn under certain circumstances;  
13 requiring certain persons who accept a newborn to take certain actions within a  
14 certain time; providing immunity from civil liability and criminal prosecution  
15 for certain persons, hospitals, and other facilities under certain circumstances;  
16 requiring the Secretary of Human Resources to adopt certain regulations;

1 ~~defining certain terms~~; providing that the provisions of this Act are severable;  
 2 and generally relating to ~~relinquishment~~ safe abandonment of a newborn.

3 ~~BY adding to~~  
 4 ~~Article Family Law~~  
 5 ~~Section 5-7B-01 through 5-7B-04, inclusive, to be under the new subtitle~~  
 6 ~~"Subtitle 7B. Safe Havens for Newborns"~~  
 7 ~~Annotated Code of Maryland~~  
 8 ~~(1999 Replacement Volume and 2001 Supplement)~~

9 BY adding to  
 10 Article - Courts and Judicial Proceedings  
 11 Section 5-641  
 12 Annotated Code of Maryland  
 13 (1998 Replacement Volume and 2001 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 15 MARYLAND, That the Laws of Maryland read as follows:

16 ~~Article Family Law~~

17 ~~SUBTITLE 7B. SAFE HAVENS FOR NEWBORNS.~~

18 ~~5-7B-01.~~

19 (A) (1) ~~IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~  
 20 ~~INDICATED.~~

21 (2) ~~"LOCAL DEPARTMENT" MEANS THE DEPARTMENT OF SOCIAL~~  
 22 ~~SERVICES THAT HAS JURISDICTION IN THE COUNTY WHERE A NEWBORN IS~~  
 23 ~~RELINQUISHED.~~

24 (3) ~~"NEWBORN" MEANS A CHILD THAT A PHYSICIAN REASONABLY~~  
 25 ~~BELIEVES TO BE APPROXIMATELY 3 DAYS OLD OR YOUNGER.~~

26 (B) ~~IF AN UNHARMED NEWBORN IS VOLUNTARILY DELIVERED TO THE CARE~~  
 27 ~~OF AN INDIVIDUAL AT A SAFE LOCATION IN A HOSPITAL BY A PARENT OF THE~~  
 28 ~~NEWBORN AND THE PARENT DOES NOT EXPRESS AN INTENT TO RETURN FOR THE~~  
 29 ~~NEWBORN, THE ACT SHALL BE CONSIDERED RELINQUISHMENT OF A NEWBORN.~~

30 (C) (1) ~~A PARENT WHO RELINQUISHES AN UNHARMED NEWBORN IN~~  
 31 ~~ACCORDANCE WITH THIS SECTION SHALL BE IMMUNE FROM CIVIL LIABILITY OR~~  
 32 ~~CRIMINAL PROSECUTION FOR THE ACT.~~

33 (2) ~~NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE~~  
 34 ~~RELINQUISHMENT OF A NEWBORN MAY BE GROUNDS FOR TERMINATION OF~~  
 35 ~~PARENTAL RIGHTS UNDER § 5-313 OF THIS TITLE.~~

1           (3)     ~~EXCEPT WHERE THERE IS ACTUAL OR SUSPECTED CHILD ABUSE, A~~  
2 ~~PARENT WHO RELINQUISHES A NEWBORN AT A HOSPITAL AND EXPRESSES AN~~  
3 ~~INTENT TO LEAVE THE NEWBORN AND NOT RETURN HAS THE ABSOLUTE RIGHT TO~~  
4 ~~REMAIN ANONYMOUS AND TO LEAVE AT ANY TIME AND MAY NOT BE PURSUED OR~~  
5 ~~FOLLOWED.~~

6 ~~5-7B-02.~~

7           (A)     ~~A HOSPITAL THAT ACCEPTS A NEWBORN UNDER § 5-7B-01 OF THIS~~  
8 ~~SUBTITLE SHALL:~~

9           (1)     ~~PROVIDE THE NEWBORN WITH ANY NECESSARY CARE, INCLUDING~~  
10 ~~EMERGENCY MEDICAL CARE, TO PROTECT THE PHYSICAL HEALTH OR SAFETY OF~~  
11 ~~THE NEWBORN; AND~~

12           (2)     ~~NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS AFTER~~  
13 ~~ACCEPTING THE NEWBORN.~~

14           (B)     ~~AFTER NOTIFICATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE~~  
15 ~~LOCAL DEPARTMENT SHALL:~~

16           (1)     ~~TAKE CUSTODY AND CONTROL OF THE RELINQUISHED NEWBORN~~  
17 ~~WITHIN 24 HOURS; AND~~

18           (2)     ~~COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN~~  
19 ~~INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING~~  
20 ~~MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN~~  
21 ~~REPORTED MISSING.~~

22           (C)     ~~AFTER DETERMINING THAT THE NEWBORN HAS NOT BEEN REPORTED~~  
23 ~~MISSING, AND AS SOON AS PRACTICABLE FOLLOWING AN INITIAL 30-DAY~~  
24 ~~PLACEMENT PERIOD, THE LOCAL DEPARTMENT SHALL FILE A PETITION TO~~  
25 ~~TERMINATE THE PARENTAL RIGHTS OF THE RELINQUISHED NEWBORN IN~~  
26 ~~ACCORDANCE WITH § 5-313 OF THIS TITLE.~~

27           (D)     ~~A HOSPITAL THAT ACCEPTS A NEWBORN UNDER THIS SUBTITLE OR AN~~  
28 ~~EMPLOYEE OR AGENT OF THE HOSPITAL SHALL BE IMMUNE FROM CIVIL LIABILITY~~  
29 ~~FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF OR~~  
30 ~~MEDICAL TREATMENT AND CARE OF THE NEWBORN UNLESS DAMAGE OR INJURY TO~~  
31 ~~THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON MISCONDUCT OR GROSS~~  
32 ~~NEGLIGENCE.~~

33 ~~5-7B-03.~~

34           (A)     ~~A NATURAL PARENT WHO HAS NOT PARTICIPATED IN THE~~  
35 ~~RELINQUISHMENT OF A NEWBORN MAY NOTIFY THE LOCAL DEPARTMENT OF THAT~~  
36 ~~PARENT'S INTENT TO RETAIN PARENTAL RIGHTS WITHIN 30 DAYS AFTER THE DATE~~  
37 ~~OF THE RELINQUISHMENT.~~

~~1 (B) A NATURAL PARENT WHO HAS RELINQUISHED A NEWBORN MAY REVOKE  
2 THAT PARENT'S INTENT TO RELINQUISH THE NEWBORN BY NOTIFYING THE LOCAL  
3 DEPARTMENT WITHIN 30 DAYS AFTER THE DATE OF RELINQUISHMENT.~~

~~4 (C) (1) IF A CLAIM OF PARENTAL RIGHTS IS MADE BEFORE INVOLUNTARY  
5 TERMINATION UNDER § 5-313 OF THIS TITLE, THE COURT MAY STAY THE ACTION FOR  
6 INVOLUNTARY TERMINATION FOR A PERIOD NOT TO EXCEED 60 DAYS.~~

~~7 (2) IN DETERMINING WHETHER IT IS IN THE BEST INTEREST OF THE  
8 CHILD TO RETURN THE CHILD TO THE OBJECTING PARENT DURING THE STAY:~~

~~9 (4) THE COURT SHALL ORDER GENETIC TESTING TO ESTABLISH  
10 MATERNITY OR PATERNITY; AND~~

~~11 (H) THE LOCAL DEPARTMENT SHALL CONDUCT AN INVESTIGATION  
12 AND HOME EVALUATION TO DEVELOP RECOMMENDATIONS FOR THE COURT.~~

~~13 (D) THE COURT SHALL MAKE A SPECIFIC FINDING, BASED ON THE FACTS IN  
14 THE RECORD, AS TO WHETHER OR NOT THE RETURN OF THE CHILD TO THE CUSTODY  
15 OF THE NATURAL PARENT POSES AN UNACCEPTABLE RISK TO THE FUTURE AND  
16 SAFETY OF THE CHILD.~~

~~17 5-7B-04.~~

~~18 THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO  
19 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS TO  
20 PROTECT THE HEALTH AND WELFARE OF NEWBORNS RELINQUISHED UNDER THIS  
21 SUBTITLE.~~

22 *Article - Courts and Judicial Proceedings*

23 *5-641.*

24 *(A) (1) A PERSON WHO LEAVES AN UNHARMED NEWBORN WITH A  
25 RESPONSIBLE ADULT WITHIN 3 DAYS AFTER THE BIRTH OF THE NEWBORN, AS  
26 DETERMINED WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY, AND DOES  
27 NOT EXPRESS AN INTENT TO RETURN FOR THE NEWBORN SHALL BE IMMUNE FROM  
28 CIVIL LIABILITY OR CRIMINAL PROSECUTION FOR THE ACT.*

29 *(2) IF THE PERSON LEAVING A NEWBORN UNDER THIS SUBSECTION IS  
30 NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE APPROVAL OF  
31 THE MOTHER TO DO SO.*

32 *(B) (1) A PERSON WITH WHOM A NEWBORN IS LEFT UNDER THE  
33 CIRCUMSTANCES DESCRIBED IN SUBSECTION (A) OF THIS SECTION AS SOON AS  
34 REASONABLY POSSIBLE SHALL TAKE THE NEWBORN TO A HOSPITAL OR OTHER  
35 FACILITY DESIGNATED BY THE SECRETARY OF HUMAN RESOURCES BY  
36 REGULATION.*

1           (2)     A HOSPITAL OR OTHER DESIGNATED FACILITY THAT ACCEPTS A  
2 NEWBORN UNDER THIS SUBSECTION SHALL NOTIFY THE LOCAL DEPARTMENT OF  
3 SOCIAL SERVICES WITHIN 24 HOURS AFTER ACCEPTING THE NEWBORN.

4           (C)     A RESPONSIBLE ADULT AND A HOSPITAL OR OTHER DESIGNATED  
5 FACILITY THAT ACCEPTS A NEWBORN UNDER THIS SECTION AND AN EMPLOYEE OR  
6 AGENT OF THE HOSPITAL OR FACILITY SHALL BE IMMUNE FROM CIVIL LIABILITY OR  
7 CRIMINAL PROSECUTION FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE  
8 ACCEPTANCE OF OR MEDICAL TREATMENT OR CARE OF THE NEWBORN UNLESS  
9 INJURY TO THE NEWBORN WAS CAUSED BY GROSS NEGLIGENCE OR WILLFUL OR  
10 WANTON MISCONDUCT.

11          (D)     THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO  
12 IMPLEMENT THE PROVISIONS OF THIS SECTION.

13          SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
14 Act or the application thereof to any person or circumstance is held invalid for any  
15 reason in a court of competent jurisdiction, the invalidity does not affect other  
16 provisions or any other application of this Act which can be given effect without the  
17 invalid provision or application, and for this purpose the provisions of this Act are  
18 declared severable.

19          SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2002.