

HOUSE BILL 857

N2

(3lr1921)

ENROLLED BILL

— *Judiciary/Judicial Proceedings* —

Introduced by **Delegate Waldstreicher**

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.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts – Posthumously Conceived Child**

3 FOR the purpose of requiring copies of certain documents concerning posthumous
4 conception and birth of a child to be filed with a certain register of wills within
5 certain times *under certain circumstances*; providing that a person who
6 distributes or delivers certain property and a transferee of the property may not
7 be liable under certain circumstances for certain claims by a child who is
8 posthumously conceived; altering a certain definition; providing for the
9 application of this Act; and generally relating to certain property and the
10 posthumous conception and birth of a child.

11 BY repealing and reenacting, with amendments,
12 Article – Estates and Trusts
13 Section 1–205(a) and 3–107(b)
14 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 (2011 Replacement Volume and 2012 Supplement)

2 BY adding to

3 Article – Estates and Trusts

4 Section 11–112

5 Annotated Code of Maryland

6 (2011 Replacement Volume and 2012 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Health – General

9 Section 20–111

10 Annotated Code of Maryland

11 (2009 Replacement Volume and 2012 Supplement)

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

14 **Article – Estates and Trusts**

15 1–205.

16 (a) A child includes:

17 (1) A legitimate child, an adopted child, and an illegitimate child to
18 the extent provided in §§ 1–206 through 1–208 of this subtitle; and

19 (2) A child conceived from the genetic material of a person after the
20 death of the person if:

21 (i) The person consented in a written record to use of the
22 person’s genetic material for posthumous conception in accordance with the
23 requirements of § 20–111 of the Health – General Article; ~~and~~

24 (ii) The person consented in a written record to be the parent of
25 a child posthumously conceived using the person’s genetic material;

26 **(III) THE CHILD IS BORN WITHIN 2 YEARS OF THE PERSON’S**
27 **DEATH; AND**

28 **(IV) WITH RESPECT TO ANY TRUST, IF THE PERSON WAS THE**
29 **CREATOR OF THE TRUST AND THE TRUST BECAME IRREVOCABLE ON OR AFTER**
30 **OCTOBER 1, 2012.**

31 3–107.

1 (b) No other after-born relation may be considered as entitled to distribution
2 in the relation's own right unless:

3 (1) The decedent had consented in a written record to use of the
4 decedent's genetic material for posthumous conception in accordance with the
5 requirements of § 20-111 of the Health – General Article;

6 (2) The [person] DECEDENT consented in a written record to be the
7 parent of a child posthumously conceived using the person's genetic material; and

8 (3) The child posthumously conceived using the decedent's genetic
9 material is born within 2 years after the death of the decedent.

10 11-112.

11 (A) ~~THE~~ IF A DECEDENT CONSENTED IN A WRITTEN RECORD TO USE OF
12 THE DECEDENT'S GENETIC MATERIAL FOR POSTHUMOUS CONCEPTION IN
13 ACCORDANCE WITH THE REQUIREMENTS OF § 20-111 OF THE HEALTH –
14 GENERAL ARTICLE, THE FOLLOWING SHALL BE FILED WITH THE REGISTER OF
15 WILLS FOR THE COUNTY IN WHICH THE DECEDENT'S ESTATE IS PROBATED IN
16 THE STATE OR, IF THERE IS NO PROBATE ESTATE FILED, WITH THE REGISTER
17 OF WILLS FOR THE COUNTY IN WHICH THE DECEDENT WAS DOMICILED IN THE
18 STATE AT THE DATE OF DEATH:

19 (1) A COPY OF ~~THE~~ A POSTHUMOUSLY CONCEIVED CHILD'S BIRTH
20 RECORD; AND

21 (2) THE WRITTEN CONSENTS REQUIRED BY § 1-205(A)(2) OR §
22 3-107(B) OF THIS ARTICLE.

23 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
24 WRITTEN CONSENTS REQUIRED BY § 1-205(A)(2) OR § 3-107(B) OF THIS
25 ARTICLE SHALL BE FILED ~~AS DESCRIBED~~ UNDER SUBSECTION (A) OF THIS
26 SECTION WITHIN 6 MONTHS ~~OF~~ AFTER THE DATE OF THE DECEDENT'S DEATH.

27 (2) WITH RESPECT TO A DECEDENT WHO DIES BETWEEN
28 OCTOBER 1, 2012, AND MAY 30, 2013, INCLUSIVE, THE WRITTEN CONSENTS
29 REQUIRED BY § 1-205(A)(2) OR § 3-107(B) OF THIS ARTICLE SHALL BE FILED ~~AS~~
30 ~~DESCRIBED~~ UNDER SUBSECTION (A) OF THIS SECTION BY DECEMBER 1, 2013.

31 (3) ~~THE~~ A COPY OF ~~THE~~ A POSTHUMOUSLY CONCEIVED CHILD'S
32 BIRTH RECORD SHALL BE FILED WITHIN 2 YEARS AND 60 DAYS ~~OF~~ AFTER THE
33 DATE OF THE DECEDENT'S DEATH.

- 1 (1) For a first offense, a fine not exceeding \$1,000; and
- 2 (2) For a second or subsequent offense, a fine not exceeding \$5,000.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only
4 to a child of a decedent who dies on or after October 1, 2012, and may not be applied or
5 interpreted to have any effect on or application to any cause of action arising before
6 the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.