HOUSE BILL 857

(3lr1921) N2

ENROLLED BILL

— Judiciary/Judicial Proceedings —

1

2

3

4

5

6 7 8

9 10

Introduced by Delegate Waldstrei	icher
Read and I	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.
C	CHAPTER
AN ACT concerning	
Estates and Trusts	- Posthumously Conceived Child
conception and birth of a chi certain times <u>under certain</u> distributes or delivers certain be liable under certain circ posthumously conceived; a	pies of certain documents concerning posthumous ld to be filed with a certain register of wills within in circumstances; providing that a person who is property and a transferee of the property may not cumstances for certain claims by a child who is ltering a certain definition; providing for the digenerally relating to certain property and the pirth of a child.
BY repealing and reenacting, with a Article – Estates and Trusts Section 1–205(a) and 3–107(b Annotated Code of Maryland	o)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> 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 3 4 5 6	BY adding to Article – Estates and Trusts Section 11–112 Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement)			
7 8 9 10 11	BY repealing and reenacting, without amendments, Article – Health – General Section 20–111 Annotated Code of Maryland (2009 Replacement Volume and 2012 Supplement)			
12 13	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:			
14	Article – Estates and Trusts			
15	1-205.			
16	(a) A child includes:			
17 18	(1) A legitimate child, an adopted child, and an illegitimate child to the extent provided in $\S\S 1-206$ through $1-208$ of this subtitle; and			
19 20	(2) A child conceived from the genetic material of a person after the death of the person if:			
21 22 23	(i) The person consented in a written record to use of the person's genetic material for posthumous conception in accordance with the requirements of § 20–111 of the Health – General Article; and			
24 25	(ii) The person consented in a written record to be the parent of a child posthumously conceived using the person's genetic material;			
26 27	(III) THE CHILD IS BORN WITHIN 2 YEARS OF THE PERSON'S DEATH; AND			
28 29 30	(IV) WITH RESPECT TO ANY TRUST, $\frac{11}{12}$ THE PERSON WAS THE CREATOR OF THE TRUST AND THE TRUST BECAME IRREVOCABLE ON OR AFTER 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 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 THE IF A DECEDENT CONSENTED IN A WRITTEN RECORD TO USE OF THE DECEDENT'S GENETIC MATERIAL FOR POSTHUMOUS CONCEPTION IN 12 ACCORDANCE WITH THE REQUIREMENTS OF § 20-111 OF THE HEALTH -13 14 GENERAL ARTICLE, THE FOLLOWING SHALL BE FILED WITH THE REGISTER OF WILLS FOR THE COUNTY IN WHICH THE DECEDENT'S ESTATE IS PROBATED IN 15 THE STATE OR, IF THERE IS NO PROBATE ESTATE FILED, WITH THE REGISTER 16 OF WILLS FOR THE COUNTY IN WHICH THE DECEDENT WAS DOMICILED IN THE 17 18 STATE AT THE DATE OF DEATH:
- 19 (1) A COPY OF THE \underline{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.
- (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE WRITTEN CONSENTS REQUIRED BY § 1–205(A)(2) OR § 3–107(B) OF THIS ARTICLE SHALL BE FILED AS DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION WITHIN 6 MONTHS OF AFTER THE DATE OF THE DECEDENT'S DEATH.
- 27 (2) WITH RESPECT TO A DECEDENT WHO DIES BETWEEN OCTOBER 1, 2012, AND MAY 30, 2013, INCLUSIVE, THE WRITTEN CONSENTS REQUIRED BY § 1–205(A)(2) OR § 3–107(B) OF THIS ARTICLE SHALL BE FILED AS 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 (C) ABSENT THE FILING OF AS REQUIRED IN THIS SECTION OF THE A
 2 POSTHUMOUSLY CONCEIVED CHILD'S BIRTH RECORD AND THE WRITTEN
 3 CONSENTS REQUIRED BY § 1–205(A)(2) OR § 3–107(B) OF THIS ARTICLE:
- 4 (1) A PERSON HOLDING PROPERTY THAT PASSES BY REASON OF
 5 THE DEATH OF THE DECEDENT MAY DISTRIBUTE OR DELIVER THE PROPERTY
 6 WITHOUT LIABILITY FOR A CLAIM BY ANY POSTHUMOUSLY CONCEIVED CHILD
 7 UNKNOWN TO THE PERSON; AND
- 8 (2) THE TRANSFEREE OF ANY SUCH PROPERTY SHALL BE
 9 ENTITLED TO RECEIVE THE PROPERTY WITHOUT LIABILITY FOR A CLAIM BY ANY
 10 POSTHUMOUSLY CONCEIVED CHILD UNKNOWN TO THE TRANSFEREE.

Article - Health - General

12 20–111.

11

- 13 (a) (1) This section applies to the use of sperm or eggs from a donor 14 known to the individual who intends to become a parent through the use of the sperm 15 or eggs.
- 16 (2) This section does not apply to the use of sperm or eggs donated to a 17 tissue bank or fertility clinic by a donor who intended to remain anonymous either 18 indefinitely or until a child that results from the use of the sperm or eggs becomes an 19 adult.
- 20 (b) A person may not use sperm or eggs from a known donor for the purpose 21 of assisted reproduction, if:
- 22 (1) The person knows that the known donor died and did not give 23 consent for the posthumous use of the sperm or eggs; or
- 24 (2) The donor or the individual who intends to become a parent 25 through the use of the sperm or eggs receives any remuneration for the donation or use of the sperm or eggs.
- 27 (c) A donor's consent to the posthumous use of the donor's sperm or eggs 28 given on or after October 1, 2012 is not valid unless it is:
- 29 (1) In writing; and
- 30 (2) Signed by the donor or by some other person for the donor, in the 31 presence of the donor, and at the express direction of the donor.
- 32 (d) A person who violates this section is guilty of a misdemeanor and on 33 conviction is subject to:

(1)	For a first offense, a fine not exceeding \$1,000; and	
(2)	For a second or subsequent offense, a fine not exceeding \$5,000.	
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to a child of a decedent who dies on or after October 1, 2012, and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.		
SECTION June 1, 2013.	3. AND BE IT FURTHER ENACTED, That this Act shall take effect	
Approved:		
	Governor.	
	Speaker of the House of Delegates.	
	President of the Senate.	