

# SENATE BILL 873

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CF 4r3187

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By: **Senator McKay**

Introduced and read first time: February 2, 2024

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Immunity From Liability – Maryland Safe Haven Program**

3 FOR the purpose of altering, clarifying, and expanding certain provisions of law relating to  
4 the immunity from liability of a parent who leaves an unharmed newborn with a  
5 responsible adult under certain circumstances; requiring the Secretary of Human  
6 Services to develop, implement, and maintain a public information program to  
7 inform the public about the Maryland Safe Haven Program; requiring the Secretary  
8 to submit a report to the General Assembly; and generally relating to immunity from  
9 liability and the Maryland Safe Haven Program.

10 BY repealing and reenacting, with amendments,  
11 Article – Courts and Judicial Proceedings  
12 Section 5–641  
13 Annotated Code of Maryland  
14 (2020 Replacement Volume and 2023 Supplement)

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

17 **Article – Courts and Judicial Proceedings**

18 5–641.

19 (a) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
20 **INDICATED.**

21 **(2) “DESIGNATED FACILITY” MEANS:**

22 **(I) A HOSPITAL;**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   **(II) THE OFFICE OF A MEDICAL PROVIDER LICENSED BY THE**  
2 **STATE;**

3                   **(III) A POLICE DEPARTMENT OR STATE POLICE BARRACKS;**

4                   **(IV) A PROFESSIONAL OR VOLUNTEER FIRE COMPANY THAT IS**  
5 **INSURED; OR**

6                   **(V) ANY OTHER FACILITY DESIGNATED BY THE SECRETARY OF**  
7 **HUMAN SERVICES BY REGULATION.**

8                   **(3) "PROGRAM" MEANS THE MARYLAND SAFE HAVEN PROGRAM**  
9 **DESCRIBED UNDER THIS SECTION.**

10           **(B) (1)** A person who leaves an unharmed newborn with a responsible adult  
11 **OR AT A DESIGNATED FACILITY** within [10] **60** days after the birth of the newborn, as  
12 determined within a reasonable degree of medical certainty, and does not express an intent  
13 to return for the newborn shall be immune from civil liability or criminal prosecution for  
14 the act.

15                   (2) If the person leaving a newborn under this subsection is not the mother  
16 of the newborn, the person [shall] **MUST** have the approval of the mother to do so.

17           **[(b)] (C) (1)** A person with whom a newborn is left under the circumstances  
18 described in subsection **[(a)] (B)** of this section as soon as reasonably possible shall take  
19 the newborn to a [hospital or other] **DESIGNATED** facility [designated by the Secretary of  
20 Human Services by regulation].

21                   (2) A [hospital or other] designated facility that accepts a newborn under  
22 this subsection shall notify the local department of social services within 24 hours after  
23 accepting the newborn.

24                   **(3) A DESIGNATED FACILITY MAY RECEIVE A NEWBORN IN A**  
25 **NEWBORN SAFETY DEVICE PROVIDED THAT THE DEVICE IS:**

26                   **(I) CLIMATE CONTROLLED;**

27                   **(II) PHYSICALLY AFFIXED TO AN EXTERIOR WALL OR LOCATED**  
28 **INSIDE THE DESIGNATED FACILITY;**

29                   **(III) LOCATED IN AN AREA THAT IS CONSPICUOUS AND VISIBLE**  
30 **TO THE EMPLOYEES OF THE DESIGNATED FACILITY;**

31                   **(IV) CLEARLY MARKED WITH APPROPRIATE SIGNAGE; AND**

1                   **(V) EQUIPPED WITH:**

2                   1.     **AN ALERT SYSTEM SUCH THAT WHEN THE NEWBORN**  
3 **SAFETY DEVICE IS OPENED, IT AUTOMATICALLY CONNECTS TO THE 9-1-1 SYSTEM**  
4 **AND TRANSMITS A REQUEST FOR IMMEDIATE DISPATCH OF AN EMERGENCY**  
5 **MEDICAL SERVICES PROVIDER TO THE LOCATION OF THE NEWBORN SAFETY**  
6 **DEVICE;**

7                   2.     **A VIDEO SURVEILLANCE SYSTEM THAT ALLOWS**  
8 **EMPLOYEES OF THE DESIGNATED FACILITY TO MONITOR THE INTERIOR OF THE**  
9 **NEWBORN SAFETY DEVICE 24 HOURS A DAY; AND**

10                  3.     **AN AUTOMATED LOCK THAT SECURES THE NEWBORN**  
11 **INSIDE THE DEVICE AFTER DEPOSIT.**

12            [(c)] (D)     A responsible adult and a [hospital or other] designated facility that  
13 accepts a newborn under this section and an employee or agent of the [hospital or] facility  
14 shall be immune from civil liability or criminal prosecution for good faith actions taken  
15 related to the acceptance of or medical treatment or care of the newborn unless injury to  
16 the newborn was caused by gross negligence or willful or wanton misconduct.

17            **(E) SUBJECT TO EXISTING FUNDING FOR THE PROGRAM, THE SECRETARY**  
18 **OF HUMAN SERVICES SHALL DEVELOP, IMPLEMENT, AND MAINTAIN A PUBLIC**  
19 **INFORMATION PROGRAM TO INFORM THE PUBLIC ABOUT THE PROGRAM,**  
20 **INCLUDING:**

21                  **(1) THE MAINTENANCE OF AN INTERACTIVE WEBSITE THAT**  
22 **PROVIDES PERTINENT INFORMATION ABOUT THE PROGRAM, INCLUDING:**

23                       **(i) AUTHORIZED DESIGNATED FACILITIES;**

24                       **(ii) INSTRUCTIONS FOR THE METHOD BY WHICH THE PARENT**  
25 **OF A NEWBORN MAY SURRENDER THE NEWBORN;**

26                       **(iii) THE MANNER IN WHICH THE PARENT OF A NEWBORN**  
27 **SURRENDERED UNDER THE PROGRAM MAY ANONYMOUSLY PROVIDE INFORMATION**  
28 **TO A LOCAL DEPARTMENT OF SOCIAL SERVICES REGARDING THE MEDICAL HISTORY**  
29 **OF THE NEWBORN OR THE NEWBORN'S FAMILY MEDICAL HISTORY; AND**

30                       **(iv) A METHOD:**

31                               **1. BY WHICH THE PARENT OF A NEWBORN**  
32 **SURRENDERED UNDER THE PROGRAM MAY RECONSIDER THE SURRENDER; AND**

1                   **2. THAT ALLOWS THE PARENT TO UNDERGO PATERNITY**  
2 **TESTING FOR THE PURPOSES OF REUNIFICATION WITH THE NEWBORN;**

3                   **(2) PROMOTION OF EDUCATIONAL AND INFORMATIONAL MATERIALS**  
4 **IN PRINT, AUDIO, ELECTRONIC, AND OTHER MEDIA FORMATS THAT DESCRIBE THE**  
5 **MISSION AND PURPOSE OF THE PROGRAM AND INCLUDE THE PROGRAM'S**  
6 **TOLL-FREE TELEPHONE NUMBER;**

7                   **(3) REGULAR DISTRIBUTION OF PROGRAM LITERATURE AT:**

8                   **(I) STATE AND COUNTY HEALTH DEPARTMENT OFFICES;**

9                   **(II) EACH LOCAL DEPARTMENT OF SOCIAL SERVICES; AND**

10                   **(III) EACH PUBLICLY FUNDED EDUCATIONAL INSTITUTION IN**  
11 **THE STATE;**

12                   **(4) CREATION AND DISTRIBUTION OF DECALS AND PLACARDS**  
13 **LISTING DESIGNATED FACILITIES AND THE TOLL-FREE TELEPHONE NUMBER OF**  
14 **THE PROGRAM; AND**

15                   **(5) TRAINING FOR EMERGENCY MEDICAL SERVICE PROVIDERS,**  
16 **9-1-1 OPERATORS, HOSPITAL STAFF, FIREFIGHTERS, LAW ENFORCEMENT**  
17 **OFFICERS, OR ANY OTHER EMPLOYEE OF A DESIGNATED FACILITY ON HOW TO**  
18 **IMPLEMENT AND FOLLOW THE PROGRAM.**

19                   **[(d)] (F) The Secretary of Human Services shall adopt regulations to implement**  
20 **the provisions of this section.**

21                   **(G) ON OR BEFORE DECEMBER 31, 2025, AND EACH DECEMBER 31**  
22 **THEREAFTER, THE SECRETARY OF HUMAN SERVICES SHALL, IN ACCORDANCE WITH**  
23 **§ 2-1257 OF THE STATE GOVERNMENT ARTICLE, PROVIDE A REPORT TO THE**  
24 **GENERAL ASSEMBLY ON PROGRAM METRICS, INCLUDING:**

25                   **(1) THE NUMBER OF NEWBORNS SURRENDERED IN THE PRIOR YEAR;**

26                   **(2) THE DISPOSITION OF THE CUSTODY OF EACH NEWBORN**  
27 **SURRENDERED THROUGH THE PROGRAM IN THE PRIOR YEAR; AND**

28                   **(3) THE COST OF MAINTAINING EQUIPMENT RELATED TO AND USED**  
29 **BY THE PROGRAM.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2024.