

HOUSE BILL 74

Unofficial Copy  
D4

2001 Regular Session  
11r0230  
CF 11r0229

(PRE-FILED)

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By: **Delegate Pitkin**  
Requested: June 26, 2000  
Introduced and read first time: January 10, 2001  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Safe Haven Act of 2001**

3 FOR the purpose of establishing procedures for the relinquishment of a newborn;  
4 requiring certain facilities to accept a relinquished newborn; establishing  
5 immunity for certain persons under this Act; establishing procedures for certain  
6 facilities accepting a relinquished newborn; establishing procedures for a  
7 natural parent to revoke the intent to relinquish a newborn; establishing  
8 procedures for a court to make a determination regarding a relinquished  
9 newborn; requiring the Department of Human Resources to prepare a public  
10 information program about the process established under this Act; requiring the  
11 Secretary of Human Resources to establish regulations; defining certain terms;  
12 providing that provision of this Act are severable; and generally relating to  
13 relinquishment of a newborn.

14 BY adding to  
15 Article - Family Law  
16 Section 5-7B-01 through 5-7B-04, inclusive, to be under the new subtitle  
17 "Subtitle 7B. Newborn Relinquishment"  
18 Annotated Code of Maryland  
19 (1999 Replacement Volume and 2000 Supplement)

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

22 **Article - Family Law**

23 **SUBTITLE 7B. NEWBORN RELINQUISHMENT.**

24 5-7B-01.

25 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
26 INDICATED.

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

3 (3) "DESIGNATED EMERGENCY CARE FACILITY" MEANS A HOSPITAL,  
4 FIRE STATION, POLICE STATION, OR PREGNANCY CRISIS FACILITY IN THE STATE.

5 (4) "NEWBORN" MEANS A CHILD THAT A HOSPITAL OR PHYSICIAN  
6 REASONABLY BELIEVES TO BE APPROXIMATELY 3 DAYS OLD OR YOUNGER.

7 (B) IF A NEWBORN IS VOLUNTARILY DELIVERED TO THE CARE OF AN  
8 INDIVIDUAL AT A DESIGNATED EMERGENCY CARE FACILITY BY A PARENT OF THE  
9 NEWBORN AND A PARENT DOES NOT EXPRESS AN INTENT TO RETURN FOR THE  
10 NEWBORN, THE ACT SHALL BE CONSIDERED RELINQUISHMENT OF A NEWBORN.

11 (C) (1) THE RELINQUISHMENT OF A NEWBORN IN ACCORDANCE WITH THIS  
12 SECTION MAY NOT BE CONSIDERED A CRIMINAL ACT.

13 (2) RELINQUISHMENT IN ACCORDANCE WITH THIS SECTION SHALL BE  
14 AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION FOR THE ACT.

15 (3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (1) AND (2) OF  
16 THIS SUBSECTION, THE RELINQUISHMENT OF A NEWBORN MAY BE GROUNDS FOR  
17 TERMINATION OF PARENTAL RIGHTS UNDER § 5-313 OF THIS TITLE.

18 (4) EXCEPT WHERE THERE IS ACTUAL OR SUSPECTED CHILD ABUSE, A  
19 PARENT WHO LEAVES A NEWBORN AT A DESIGNATED EMERGENCY CARE FACILITY  
20 AND EXPRESSES AN INTENT TO LEAVE THE NEWBORN AND NOT RETURN, HAS THE  
21 ABSOLUTE RIGHT TO REMAIN ANONYMOUS AND TO LEAVE AT ANY TIME AND MAY  
22 NOT BE PURSUED OR FOLLOWED.

23 5-7B-02.

24 (A) A DESIGNATED EMERGENCY CARE FACILITY THAT ACCEPTS A NEWBORN  
25 UNDER § 5-7B-01 OF THIS SUBTITLE SHALL:

26 (1) PROVIDE THE NEWBORN WITH ANY NECESSARY CARE, INCLUDING  
27 ANY EMERGENCY MEDICAL CARE, TO PROTECT THE PHYSICAL HEALTH OR SAFETY  
28 OF THE NEWBORN; AND

29 (2) NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS OF ACCEPTING  
30 THE NEWBORN.

31 (B) AFTER NOTIFICATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE  
32 LOCAL DEPARTMENT SHALL:

33 (1) TAKE CUSTODY AND CONTROL OF THE RELINQUISHED NEWBORN  
34 WITHIN 24 HOURS; AND

35 (2) COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN  
36 INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING

1 MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN  
2 REPORTED MISSING.

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

8 (D) NO CAUSE OF ACTION SHALL EXIST AGAINST A DESIGNATED EMERGENCY  
9 CARE FACILITY OR ANYONE ASSOCIATED WITH THE DESIGNATED EMERGENCY CARE  
10 FACILITY FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF  
11 OR MEDICAL TREATMENT AND CARE OF A NEWBORN UNLESS DAMAGE OR INJURY TO  
12 THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON MISCONDUCT OR GROSS  
13 NEGLIGENCE.

14 5-7B-03.

15 (A) A NATURAL PARENT WHO HAS RELINQUISHED A NEWBORN MAY REVOKE  
16 THE INTENT TO RELINQUISH A NEWBORN BY FILING A PETITION TO ESTABLISH  
17 PARENTAL RIGHTS BEFORE PARENTAL RIGHTS HAVE BEEN TERMINATED UNDER §  
18 5-313 OF THIS TITLE.

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

22 (2) IN DETERMINING WHETHER IT IS IN THE BEST INTEREST OF THE  
23 CHILD TO RETURN THE CHILD TO THE PETITIONING PARENT DURING THE STAY:

24 (I) THE COURT SHALL ORDER GENETIC TESTING TO ESTABLISH  
25 MATERNITY OR PATERNITY; AND

26 (II) THE LOCAL DEPARTMENT SHALL CONDUCT AN INVESTIGATION  
27 AND HOME EVALUATION TO DEVELOP RECOMMENDATIONS FOR THE COURT.

28 (C) THE COURT SHALL MAKE A SPECIFIC FINDING, BASED ON THE FACTS IN  
29 THE RECORD, AS TO WHETHER OR NOT THE RETURN OF THE CHILD TO THE CUSTODY  
30 OF THE NATURAL PARENT POSES AN UNACCEPTABLE RISK TO THE FUTURE AND  
31 SAFETY OF THE CHILD.

32 5-7B-04.

33 (A) THE DEPARTMENT SHALL PREPARE A PUBLIC INFORMATION PROGRAM  
34 ABOUT THE PROCESS ESTABLISHED UNDER THIS SUBTITLE.

35 (B) THE PUBLIC INFORMATION PROGRAM SHALL INCLUDE DISTRIBUTION OF  
36 A PAMPHLET THAT HAS THE FOLLOWING INFORMATION:

1 (1) AN EXPLANATION OF THE PROCESS ESTABLISHED BY §§ 5-7B-01  
2 THROUGH 5-7B-03 OF THIS SUBTITLE;

3 (2) THE LEGAL RAMIFICATIONS AND PROTECTIONS FOR THE NATURAL  
4 PARENT;

5 (3) WHAT WILL HAPPEN TO THE NEWBORN;

6 (4) HOW TO CONTACT THE LOCAL DEPARTMENT WITH QUESTIONS AND  
7 THE PROCEDURES FOR REUNIFICATION;

8 (5) THE TIMELINES INVOLVED IN TERMINATION OF PARENTAL RIGHTS  
9 AND ADOPTION; AND

10 (6) ANY OTHER RELEVANT INFORMATION.

11 (C) TO THE EXTENT POSSIBLE, THE GOVERNOR SHALL INCLUDE IN THE  
12 ANNUAL STATE BUDGET FUNDS FOR THE ESTABLISHMENT OF A PUBLIC  
13 INFORMATION PROGRAM UNDER THIS SECTION.

14 (D) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO  
15 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS TO  
16 PROTECT THE HEALTH AND WELFARE OF NEWBORNS RELINQUISHED UNDER THIS  
17 SUBTITLE.

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

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2001.