

HOUSE BILL 252

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2001 Regular Session  
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By: **Delegates Grosfeld, R. Baker, Barkley, Barve, Billings, Bronrott, Carlson, Cole, Cryor, D. Davis, Dembrow, Franchot, Giannetti, Goldwater, Gordon, Hecht, Hixson, Hurson, Kagan, Kopp, Mandel, Menes, Phillips, Sher, and Turner ~~Turner~~, Amedori, Baldwin, W. Baker, Benson, Bobo, Boschert, Boutin, Brinkley, Cadden, Clagett, Conroy, Conway, DeCarlo, Dobson, Elliott, Frush, Glassman, Hammen, Harrison, Healey, Heller, Howard, Hubbard, Hubers, James, V. Jones, Krysiak, Love, Malone, Marriott, McHale, McIntosh, Moe, Mohorovic, Montague, Parrott, Patterson, Petzold, Pitkin, Proctor, Rawlings, Riley, Rosenberg, Rosso, Rudolph, Shriver, Sophocleus, Stocksdales, Valderrama, Walkup, and Weir**

Introduced and read first time: January 24, 2001  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 14, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Safe Haven Act of 2001**

3 FOR the purpose of establishing ~~an exemption~~ certain exemptions from prosecution  
4 for certain persons who abandon a newborn under certain circumstances;  
5 requiring the approval of a certain person to abandon a newborn under certain  
6 circumstances; ~~establishing immunity for certain persons under this Act~~  
7 providing certain immunity for certain persons and entities under certain  
8 circumstances; establishing that a claim against certain persons and entities  
9 shall be governed by certain provisions of law; establishing that a certain  
10 provision of this Act does not create a new cause of action or substantive legal  
11 right and does not affect certain immunities or defenses; and generally relating  
12 to the abandonment of a newborn.

13 BY adding to  
14 Article - Courts and Judicial Proceedings  
15 Section 5-621.1  
16 Annotated Code of Maryland

1 (1998 Replacement Volume and 2000 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Courts and Judicial Proceedings

4 Section 3-831

5 Annotated Code of Maryland

6 (1998 Replacement Volume and 2000 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Family Law

9 Section 10-219

10 Annotated Code of Maryland

11 (1999 Replacement Volume and 2000 Supplement)

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

14 **Article - Courts and Judicial Proceedings**

15 3-831.

16 (a) [It] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IT IS  
17 unlawful for an adult wilfully to contribute to, encourage, cause or tend to cause any  
18 act, omission, or condition which results in a violation, renders a child delinquent, in  
19 need of supervision, or in need of assistance.

20 (b) A person may be convicted under this section even if the child has not been  
21 found to have committed a violation, adjudicated delinquent, in need of supervision,  
22 or in need of assistance. However, the court may expunge a delinquent adjudication  
23 from the child's record and enter it as a finding in the adult's case.

24 (c) An adult convicted under this section is subject to a fine of not more than  
25 \$2,500 or imprisonment for not more than 3 years, or both. The court may suspend  
26 sentence and place the adult on probation subject to the terms and conditions it  
27 deems to be in the best interests of the child and the public.

28 (D) (1) THIS SECTION DOES NOT APPLY WHEN A PERSON LEAVES AN  
29 UNHARMED NEWBORN WITH A HOSPITAL, ~~POLICE LAW ENFORCEMENT, SOCIAL~~  
30 SERVICES, OR FIRE AND RESCUE EMPLOYEE WITHIN 72 HOURS 3 DAYS OF THE BIRTH  
31 OF THE NEWBORN, AS DETERMINED WITHIN A REASONABLE DEGREE OF MEDICAL  
32 CERTAINTY, AND THE PERSON DOES NOT EXPRESS AN INTENT TO RETURN FOR THE  
33 NEWBORN.

34 (2) WHEN THE PERSON LEAVING A NEWBORN UNDER THIS SUBSECTION  
35 IS NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE APPROVAL  
36 OF THE MOTHER TO DO SO.

1 (3) A HOSPITAL, ~~POLICE~~ LAW ENFORCEMENT, SOCIAL SERVICES, OR  
2 FIRE AND RESCUE EMPLOYEE WHO ACCEPTS OR TREATS A NEWBORN UNDER THIS  
3 SUBSECTION SHALL HAVE THE IMMUNITY DESCRIBED UNDER § 5-621.1 OF THE  
4 COURTS AND JUDICIAL PROCEEDINGS ARTICLE FROM CIVIL LIABILITY OR CRIMINAL  
5 PENALTY.

6 5-621.1.

7 ~~A HOSPITAL, POLICE, OR FIRE AND RESCUE EMPLOYEE WHO ACCEPTS OR~~  
8 ~~TREATS A CHILD UNDER § 3-831(D) OF THIS ARTICLE OR § 10-219(C) OF THE FAMILY~~  
9 ~~LAW ARTICLE IS IMMUNE FROM ANY CIVIL LIABILITY OR CRIMINAL PENALTY THAT~~  
10 ~~MAY RESULT FROM ANY GOOD FAITH ACTION TAKEN RELATED TO THE~~  
11 ~~ABANDONMENT OF OR MEDICAL TREATMENT AND CARE OF A NEWBORN UNLESS~~  
12 ~~DAMAGE OR INJURY TO THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON~~  
13 ~~MISCONDUCT OR GROSS NEGLIGENCE.~~

14 (A) A HOSPITAL, LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF  
15 SOCIAL SERVICES, OR FIRE OR RESCUE COMPANY OR AN EMPLOYEE OF A HOSPITAL,  
16 LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF SOCIAL SERVICES, OR FIRE  
17 OR RESCUE COMPANY ACTING IN GOOD FAITH SHALL BE IMMUNE FROM CRIMINAL  
18 PROSECUTION FOR ANY ACTION TAKEN RELATED TO THE ABANDONMENT OF A  
19 NEWBORN UNDER § 3-831(D) OF THIS ARTICLE OR § 10-219(C) OF THE FAMILY LAW  
20 ARTICLE, INCLUDING CARE AND MEDICAL TREATMENT OF THE NEWBORN.

21 (B) (1) A HOSPITAL OR AN EMPLOYEE OF A HOSPITAL ACTING IN GOOD  
22 FAITH SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY ACTION TAKEN RELATED  
23 TO THE ABANDONMENT OF A NEWBORN UNDER § 3-831(D) OF THIS ARTICLE OR §  
24 10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL  
25 TREATMENT OF THE NEWBORN, UNLESS INJURY TO THE NEWBORN WAS CAUSED BY  
26 WILLFUL OR WANTON MISCONDUCT OR GROSS NEGLIGENCE.

27 (2) A CLAIM AGAINST A LAW ENFORCEMENT AGENCY OR LOCAL  
28 DEPARTMENT OF SOCIAL SERVICES OR AN EMPLOYEE OF A LAW ENFORCEMENT  
29 AGENCY OR LOCAL DEPARTMENT OF SOCIAL SERVICES FOR AN ACTION TAKEN  
30 RELATED TO THE ABANDONMENT OF A NEWBORN UNDER § 3-831(D) OF THIS ARTICLE  
31 OR § 10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL  
32 TREATMENT OF THE NEWBORN, SHALL BE GOVERNED BY THE MARYLAND TORT  
33 CLAIMS ACT UNDER TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE OR  
34 THE LOCAL GOVERNMENT TORT CLAIMS ACT UNDER TITLE 5, SUBTITLE 3 OF THIS  
35 ARTICLE.

36 (3) A FIRE OR RESCUE COMPANY OR AN EMPLOYEE OF A FIRE OR  
37 RESCUE COMPANY SHALL HAVE THE IMMUNITY FROM CIVIL LIABILITY DESCRIBED  
38 IN § 5-604 OF THIS SUBTITLE FOR ANY ACTION TAKEN RELATED TO THE  
39 ABANDONMENT OF A NEWBORN UNDER § 3-831(D) OF THIS ARTICLE OR § 10-219(C) OF  
40 THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL TREATMENT OF THE  
41 NEWBORN.

1 (C) (1) THIS SECTION DOES NOT CREATE, AND MAY NOT BE CONSTRUED AS  
 2 CREATING, A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST THE  
 3 STATE, A LOCAL GOVERNMENT, OR ANY PERSON OR ENTITY SPECIFIED IN THIS  
 4 SECTION.

5 (2) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS  
 6 AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION  
 7 OR DEFENSES ESTABLISHED BY ANY OTHER PROVISION OF THE CODE OR AT  
 8 COMMON LAW, TO WHICH THE STATE, A LOCAL GOVERNMENT, OR ANY PERSON OR  
 9 ENTITY SPECIFIED IN THIS SECTION MAY BE ENTITLED.

10 **Article - Family Law**

11 10-219.

12 (a) [An] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN  
 13 individual who has care, custody, or control of a minor child may not desert the child:

14 (1) with the intent that the child become a public charge; or

15 (2) without providing for the child's support for at least 3 years by a  
 16 responsible individual or a licensed child care facility.

17 (b) A person who violates this section is guilty of a misdemeanor and on  
 18 conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding 1  
 19 year.

20 (C) (1) THIS SECTION DOES NOT APPLY WHEN A PERSON LEAVES AN  
 21 UNHARMED NEWBORN WITH A HOSPITAL, ~~POLICE LAW ENFORCEMENT, SOCIAL~~  
 22 SERVICES, OR FIRE AND RESCUE EMPLOYEE WITHIN ~~72 HOURS~~ 3 DAYS OF THE BIRTH  
 23 OF THE NEWBORN, AS DETERMINED WITHIN A REASONABLE DEGREE OF MEDICAL  
 24 CERTAINTY, AND THE PERSON DOES NOT EXPRESS AN INTENT TO RETURN FOR THE  
 25 NEWBORN.

26 (2) WHEN THE PERSON LEAVING A NEWBORN UNDER THIS SUBSECTION  
 27 IS NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE APPROVAL  
 28 OF THE MOTHER TO DO SO.

29 (3) A HOSPITAL, ~~POLICE LAW ENFORCEMENT, SOCIAL SERVICES, OR~~  
 30 FIRE AND RESCUE EMPLOYEE WHO ACCEPTS OR TREATS A NEWBORN UNDER THIS  
 31 SUBSECTION SHALL HAVE THE IMMUNITY DESCRIBED UNDER § 5-621.1 OF THE  
 32 COURTS AND JUDICIAL PROCEEDINGS ARTICLE FROM CIVIL LIABILITY OR CRIMINAL  
 33 PENALTY.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
 35 to a person who leaves a newborn on or after the effective date of this Act and only to  
 36 an act or omission related to the leaving of a newborn that occurs on or after the  
 37 effective date of this Act.

1 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2001.