
By: **Delegates Pitkin, Amedori, Baldwin, W. Baker, Barkley, Bobo, Bronrott, Cadden, Carlson, Conroy, Cryor, DeCarlo, Frush, Giannetti, Glassman, Howard, Hubers, Hurson, James, Marriott, Parrott, Patterson, Petzold, Rawlings, Riley, Rosso, Sophocleus, Stocksdales, Turner, Valderrama, Walkup, Moe, R. Baker, and Clagett**

Introduced and read first time: February 2, 2001
Assigned to: Judiciary

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:

1 **Article - Family Law**2 **SUBTITLE 7B. NEWBORN RELINQUISHMENT.**

3 5-7B-01.

4 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (2) "LOCAL DEPARTMENT" MEANS A DEPARTMENT OF SOCIAL SERVICES
7 THAT HAS JURISDICTION IN THE COUNTY WHERE A NEWBORN IS RELINQUISHED.8 (3) "DESIGNATED EMERGENCY CARE FACILITY" MEANS A HOSPITAL,
9 FIRE STATION, POLICE STATION, OR PREGNANCY CRISIS FACILITY IN THE STATE.10 (4) "NEWBORN" MEANS A CHILD THAT A HOSPITAL OR PHYSICIAN
11 REASONABLY BELIEVES TO BE APPROXIMATELY 3 DAYS OLD OR YOUNGER.12 (B) IF A NEWBORN IS VOLUNTARILY DELIVERED TO THE CARE OF AN
13 INDIVIDUAL AT A DESIGNATED EMERGENCY CARE FACILITY BY A PARENT OF THE
14 NEWBORN AND A PARENT DOES NOT EXPRESS AN INTENT TO RETURN FOR THE
15 NEWBORN, THE ACT SHALL BE CONSIDERED RELINQUISHMENT OF A NEWBORN.16 (C) (1) THE RELINQUISHMENT OF A NEWBORN IN ACCORDANCE WITH THIS
17 SECTION MAY NOT BE CONSIDERED A CRIMINAL ACT.18 (2) RELINQUISHMENT IN ACCORDANCE WITH THIS SECTION SHALL BE
19 AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION FOR THE ACT.20 (3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (1) AND (2) OF
21 THIS SUBSECTION, THE RELINQUISHMENT OF A NEWBORN MAY BE GROUNDS FOR
22 TERMINATION OF PARENTAL RIGHTS UNDER § 5-313 OF THIS TITLE.23 (4) EXCEPT WHERE THERE IS ACTUAL OR SUSPECTED CHILD ABUSE, A
24 PARENT WHO LEAVES A NEWBORN AT A DESIGNATED EMERGENCY CARE FACILITY
25 AND EXPRESSES AN INTENT TO LEAVE THE NEWBORN AND NOT RETURN, HAS THE
26 ABSOLUTE RIGHT TO REMAIN ANONYMOUS AND TO LEAVE AT ANY TIME AND MAY
27 NOT BE PURSUED OR FOLLOWED.

28 5-7B-02.

29 (A) A DESIGNATED EMERGENCY CARE FACILITY THAT ACCEPTS A NEWBORN
30 UNDER § 5-7B-01 OF THIS SUBTITLE SHALL:31 (1) PROVIDE THE NEWBORN WITH ANY NECESSARY CARE, INCLUDING
32 ANY EMERGENCY MEDICAL CARE, TO PROTECT THE PHYSICAL HEALTH OR SAFETY
33 OF THE NEWBORN; AND34 (2) NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS OF ACCEPTING
35 THE NEWBORN.

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

3 (1) TAKE CUSTODY AND CONTROL OF THE RELINQUISHED NEWBORN
4 WITHIN 24 HOURS; AND

5 (2) COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN
6 INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING
7 MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN
8 REPORTED MISSING.

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

14 (D) NO CAUSE OF ACTION SHALL EXIST AGAINST A DESIGNATED EMERGENCY
15 CARE FACILITY OR ANYONE ASSOCIATED WITH THE DESIGNATED EMERGENCY CARE
16 FACILITY FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF
17 OR MEDICAL TREATMENT AND CARE OF A NEWBORN UNLESS DAMAGE OR INJURY TO
18 THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON MISCONDUCT OR GROSS
19 NEGLIGENCE.

20 5-7B-03.

21 (A) A NATURAL PARENT WHO HAS RELINQUISHED A NEWBORN MAY REVOKE
22 THE INTENT TO RELINQUISH A NEWBORN BY FILING A PETITION TO ESTABLISH
23 PARENTAL RIGHTS BEFORE PARENTAL RIGHTS HAVE BEEN TERMINATED UNDER §
24 5-313 OF THIS TITLE.

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

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

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

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

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

1 5-7B-04.

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

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

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

8 (2) THE LEGAL RAMIFICATIONS AND PROTECTIONS FOR THE NATURAL
9 PARENT;

10 (3) WHAT WILL HAPPEN TO THE NEWBORN;

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

13 (5) THE TIMELINES INVOLVED IN TERMINATION OF PARENTAL RIGHTS
14 AND ADOPTION; AND

15 (6) ANY OTHER RELEVANT INFORMATION.

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

19 (D) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO
20 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS TO
21 PROTECT THE HEALTH AND WELFARE OF NEWBORNS RELINQUISHED UNDER THIS
22 SUBTITLE.

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

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