

SENATE BILL 32

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2001 Regular Session
11r0742
CF 11r0280

(PRE-FILED)

By: **Senator Forehand**

Requested: October 26, 2000

Introduced and read first time: January 10, 2001

Assigned to: Judicial Proceedings

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 adopt regulations; defining certain terms; and
12 generally relating to relinquishment of a newborn.

13 BY adding to
14 Article - Courts and Judicial Proceedings
15 Section 5-621.1
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 2000 Supplement)

18 BY adding to
19 Article - Family Law
20 Section 5-7B-01 through 5-7B-04, inclusive, to be under the new subtitle
21 "Subtitle 7B. Newborn Relinquishment"
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2000 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 5-621.1.

3 A STAFF MEMBER OF A HOSPITAL, FIRE STATION, POLICE STATION, OR OTHER
4 FACILITY DESIGNATED BY A COUNTY OR MUNICIPAL CORPORATION TO ACCEPT A
5 RELINQUISHED NEWBORN WHO ACCEPTS TEMPORARY CUSTODY OF A
6 RELINQUISHED NEWBORN UNDER § 5-7B-02 OF THE FAMILY LAW ARTICLE IS
7 IMMUNE FROM ANY CIVIL LIABILITY OR CRIMINAL PENALTY THAT MAY RESULT
8 FROM ANY GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF OR
9 MEDICAL TREATMENT AND CARE OF A NEWBORN UNLESS DAMAGE OR INJURY TO
10 THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON MISCONDUCT OR GROSS
11 NEGLIGENCE.

12 **Article - Family Law**

13 SUBTITLE 7B. NEWBORN RELINQUISHMENT.

14 5-7B-01.

15 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (2) "DESIGNATED EMERGENCY CARE FACILITY" MEANS A HOSPITAL,
18 FIRE STATION, POLICE STATION, OR OTHER FACILITY DESIGNATED BY A COUNTY OR
19 MUNICIPAL CORPORATION.

20 (3) "LOCAL DEPARTMENT" MEANS THE DEPARTMENT OF SOCIAL
21 SERVICES THAT HAS JURISDICTION IN THE COUNTY WHERE A NEWBORN IS
22 RELINQUISHED.

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

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

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

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

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

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

6 5-7B-02.

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

9 (1) PROVIDE THE NEWBORN WITH ANY NECESSARY CARE, INCLUDING
10 ANY EMERGENCY MEDICAL CARE, TO PROTECT THE PHYSICAL HEALTH OR SAFETY
11 OF THE NEWBORN; AND

12 (2) NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS AFTER
13 ACCEPTING THE NEWBORN.

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

16 (1) TAKE CUSTODY AND CONTROL OF THE RELINQUISHED NEWBORN
17 WITHIN 24 HOURS; AND

18 (2) COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN
19 INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING
20 MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN
21 REPORTED MISSING.

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

28 (D) A DESIGNATED EMERGENCY CARE FACILITY STAFF MEMBER WHO TAKES
29 ACTIONS IN GOOD FAITH RELATED TO THE RELINQUISHMENT OF OR MEDICAL
30 TREATMENT AND CARE OF A NEWBORN SHALL HAVE THE IMMUNITY DESCRIBED
31 UNDER § 5-621.1 OF THE COURTS ARTICLE FROM CIVIL LIABILITY OR CRIMINAL
32 PENALTY.

33 5-7B-03.

34 (A) A NATURAL PARENT WHO HAS RELINQUISHED A NEWBORN MAY REVOKE
35 THE INTENT TO RELINQUISH THE NEWBORN BY FILING A PETITION TO ESTABLISH
36 PARENTAL RIGHTS WITHIN 30 DAYS AFTER RELINQUISHING THE NEWBORN AND
37 BEFORE PARENTAL RIGHTS HAVE BEEN TERMINATED UNDER § 5-313 OF THIS TITLE.

1 (B) (1) IF A CLAIM OF PARENTAL RIGHTS IS MADE WITHIN 30 DAYS OF THE
2 RELINQUISHMENT OF A NEWBORN AND BEFORE INVOLUNTARY TERMINATION
3 UNDER § 5-313 OF THIS TITLE, THE COURT MAY STAY THE ACTION FOR INVOLUNTARY
4 TERMINATION FOR A PERIOD NOT TO EXCEED 60 DAYS.

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

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

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

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

15 5-7B-04.

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

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

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

22 (2) THE LEGAL RAMIFICATIONS AND PROTECTIONS FOR THE NATURAL
23 PARENT;

24 (3) WHAT WILL HAPPEN TO THE NEWBORN;

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

27 (5) THE TIME LINES INVOLVED IN TERMINATION OF PARENTAL RIGHTS
28 AND ADOPTION; AND

29 (6) ANY OTHER RELEVANT INFORMATION.

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

33 (D) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO
34 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS TO
35 PROTECT THE HEALTH AND WELFARE OF NEWBORNS RELINQUISHED UNDER THIS
36 SUBTITLE.

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