

SENATE BILL 82

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2001 Regular Session
11r0229
CF 11r0230

By: **Senators Green, Ruben, and Stone**
Introduced and read first time: January 11, 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 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.

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

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

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

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

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

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

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

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

21 5-7B-02.

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

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

27 (2) NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS OF ACCEPTING
28 THE NEWBORN.

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

31 (1) TAKE CUSTODY AND CONTROL OF THE RELINQUISHED NEWBORN
32 WITHIN 24 HOURS; AND

33 (2) COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN
34 INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING
35 MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN
36 REPORTED MISSING.

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

6 (D) NO CAUSE OF ACTION SHALL EXIST AGAINST A DESIGNATED EMERGENCY
7 CARE FACILITY OR ANYONE ASSOCIATED WITH THE DESIGNATED EMERGENCY CARE
8 FACILITY FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF
9 OR 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 5-7B-03.

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

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

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

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

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

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

30 5-7B-04.

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

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

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

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

3 (3) WHAT WILL HAPPEN TO THE NEWBORN;

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

6 (5) THE TIMELINES INVOLVED IN TERMINATION OF PARENTAL RIGHTS
7 AND ADOPTION; AND

8 (6) ANY OTHER RELEVANT INFORMATION.

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

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

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

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