

SENATE BILL 82

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2001 Regular Session  
11r0229  
CF 11r0230

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By: **Senators Green, Ruben, and Stone Stone, Forehand, Teitelbaum, and Hoffman**

Introduced and read first time: January 11, 2001  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 22, 2001

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CHAPTER \_\_\_\_\_

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~~ hospitals to accept a relinquished newborn;  
5 establishing immunity for certain persons under this Act; establishing  
6 procedures for ~~certain facilities~~ hospitals accepting a relinquished newborn;  
7 establishing procedures for a natural parent to revoke the intent to relinquish a  
8 newborn; establishing procedures for a court to make a determination regarding  
9 a relinquished newborn; ~~requiring the Department of Human Resources to~~  
10 ~~prepare a public information program about the process established under this~~  
11 ~~Act~~; requiring the Secretary of Human Resources to establish adopt regulations;  
12 defining certain terms; providing that the provisions of this Act are severable;  
13 and generally relating to 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, OR POLICE STATION 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~~ HOSPITAL BY A PARENT  
14 OF THE NEWBORN AND A PARENT DOES NOT EXPRESS AN INTENT TO RETURN FOR  
15 THE 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 HOSPITAL AND EXPRESSES AN INTENT TO LEAVE THE NEWBORN AND NOT RETURN,  
26 HAS THE ABSOLUTE RIGHT TO REMAIN ANONYMOUS AND TO LEAVE AT ANY TIME  
27 AND MAY NOT BE PURSUED OR FOLLOWED.

28 5-7B-02.

29 (A) A ~~DESIGNATED EMERGENCY CARE FACILITY~~ HOSPITAL THAT ACCEPTS A  
30 NEWBORN 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 HOSPITAL~~ OR ANYONE ASSOCIATED WITH THE ~~DESIGNATED~~  
16 ~~EMERGENCY CARE FACILITY HOSPITAL~~ FOR GOOD FAITH ACTIONS TAKEN RELATED  
17 TO THE RELINQUISHMENT OF OR MEDICAL TREATMENT AND CARE OF A NEWBORN  
18 UNLESS DAMAGE OR INJURY TO THE NEWBORN WAS CAUSED BY WILLFUL OR  
19 WANTON MISCONDUCT OR GROSS 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.

