

**Department of Legislative Services**

Maryland General Assembly

2001 Session

**FISCAL NOTE**

**Revised**

House Bill 252

(Delegate Grosfeld, *et al.*)

Judiciary

Judicial Proceedings

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**Maryland Safe Haven Act of 2001**

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This bill exempts a mother or other person authorized by the mother who relinquishes a newborn in accordance with the provisions of the bill from certain criminal penalties and grants immunity to certain entities and individuals from any civil liability and criminal penalty for good faith acts taken related to the relinquishment or medical treatment of the newborn.

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**Fiscal Summary**

**State Effect:** The bill's changes could be handled with existing budgeted resources.

**Local Effect:** Compliance could be handled with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill provides that it is not unlawful for the mother of a newborn, or person authorized by the mother, to leave an unharmed newborn, without expressing an intent to return, with a hospital, law enforcement, social services, or fire and rescue employee within three days of the birth of the newborn. A hospital, law enforcement agency, local department of social services, or fire or rescue company, or an employee of such who accepts or treats a newborn under these circumstances in good faith will have immunity from civil liability or criminal penalty unless injury to the newborn was caused by willful or wanton misconduct or gross negligence. Any claim asserted for an action taken related to the abandonment of a newborn shall be governed by the Maryland Tort

Claims Act or the Local Government Tort Claims Act. This bill, however, does not created a new cause of action or substantive legal right against the State, a local government, or any person or entity specified in this bill, and does not affect any immunities from civil liability or criminal prosecution or defenses established under other provisions of the law.

**Current Law:** Maryland has multiple laws related to desertion of a minor child. First, a parent may not desert his or her minor child. An individual who does so is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding three years or both. Second, an individual who has care, custody, or control of a minor child may not desert the child with the intent that the child become a public charge or without providing for the child's support for at least three years by a responsible individual or a licensed child care facility. A person who violates this law is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding one year. Third, an adult who willfully renders a child in need of supervision or assistance may be convicted and subject to a fine of not more than \$2,500 or imprisonment for not more than three years or both. Additionally, child abandonment may, depending on the circumstances of the case, be considered child abuse. Child abuse includes "[t]he sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act ... under circumstance that indicate that the child's health or welfare is harmed or threatened thereby."

**Background:** According to the U.S. Department of Health and Human Services, there were media reports of 105 infants abandoned in public places in 1998, including 33 found dead. In addition, about 9,000 infants were abandoned in hospitals that year after their mothers left without them. More recent reports from a nonprofit organization indicate that in the past 2 years at least 161 babies have been abandoned nationwide, 103 of them found dead.

In an effort to prevent newborn deaths, 32 states, including Maryland and Virginia, have recently introduced and/or passed legislation that allows mothers to safely relinquish custody of their unwanted newborns to staff at hospitals or other specified locations. States that have successfully enacted safe haven laws include Alabama, Florida, Louisiana, New Jersey, South Carolina, Texas and West Virginia.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** SB 32 (Senator Forehand – Judicial Proceedings) is identified as a cross file although it is different.

**Information Source(s):** *Southern States' Safe Child Abandonment Laws and Proposed Legislation*, Regional Resource, Council of State Governments South, November 2000, *Safe-haven Legislation Sought to Avert Tragedy*, Washington Times, January 15, 2001, Department of Human Resources, Judiciary (Administrative Office of the Courts), Kent County, Montgomery County, Washington County, Takoma Park, Worcester County, City of Annapolis, Town of Elkton, Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader – February 13, 2001  
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