

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 32 (Senator Forehand)

Judicial Proceedings

Maryland Safe Haven Act of 2001

This bill provides that the relinquishment of a “newborn” by its parent in accordance with the bill’s provisions is not a criminal act and is an affirmative defense to any prosecution for such. Specified individuals are granted immunity from any civil liability and criminal penalty for good faith acts taken related to the relinquishment or medical treatment of the newborn. This bill also requires the Department of Human Resources (DHR) to prepare a public information program regarding the provisions of this bill.

Fiscal Summary

State Effect: General fund expenditures could increase by an estimated \$500,000 in FY 2002 for a public information program. Future year estimates reflect reduced public awareness campaign expenditures and inflation. Revenues would not be affected.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	500,000	176,800	178,500	180,300	182,100
Net Effect	(\$500,000)	(\$176,800)	(\$178,500)	(\$180,300)	(\$182,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Compliance could be handled within existing resources.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that the relinquishment of a newborn by its parent at a “designated emergency care facility” in accordance with the provisions of this bill is not a

criminal act and is an affirmative defense to any prosecution for such. The relinquishment, however, may be grounds for termination of parental rights. A parent who leaves a newborn at a designated emergency care facility and expresses an intent to leave the newborn and not return has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed.

Newborn is defined as a child that a hospital or physician reasonably believes is three days old or younger. Designated emergency care facility is defined as a fire station, police station, hospital, or other facility designated by a county or municipality.

A staff member of an emergency care facility (hospital, fire station, police station, or other designated facility) who takes temporary custody of a relinquished newborn is immune from civil liability and criminal penalty for good faith acts taken related to the relinquishment or the medical treatment of the newborn unless damage or injury to the newborn was caused by willful or wanton misconduct or gross negligence. The designated emergency facility is required to provide the newborn with any necessary care and notify the local department within 24 hours. The local department must then take custody and control of the newborn within 24 hours, and commence a thorough search to ensure that the newborn has not been reported missing. After determining that the newborn has not been reported missing and as soon as practicable following an initial 30-day placement period, the local department is required to file a petition to terminate the parental rights of the biological parents.

The parent may revoke the intent to relinquish the newborn by filing a petition to establish parental rights within 30 days after relinquishing the newborn and before parental rights have been terminated. If a parent does so, the court may stay the action for involuntary termination for 60 days, during which time it may or may not return the child to the petitioning parent, depending on what is in the best interest of the child. In making this determination, the court will order genetic testing to establish maternity or paternity, and the local department shall conduct an investigation and home evaluation to develop recommendations for the court. The court will then make a specific finding as to whether or not the return of the child poses an unacceptable risk to the child.

DHR is required to adopt regulations to implement the provisions of this bill and establish a public information program, including pamphlet distribution, explaining the process established under this bill.

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.

State Expenditures: General fund expenditures could increase by an estimated \$500,000 in fiscal 2002. This estimate reflects the costs of creating a statewide public information program including the following:

- pamphlets/brochures for statewide distribution - 100,000 @ \$60,000 per year;
- posters for high schools - 50,000 @ \$60,000 per year;
- billboard advertisements - 24 billboards for 3 months each @ \$100,000;
- radio time - 3 months @ \$75,000;
- cable television buys - \$150,000; and
- bus/transit ads - \$55,000.

Future years reflect the cost of printing 100,000 pamphlets annually, providing replacement posters to high schools, purchasing bus/transit ads and miscellaneous advertisement, and 1% annual increases in inflation.

The remainder of the bill's requirements could be absorbed within existing budgeted resources. This bill may lead to an increase in the number of abandoned newborns in Maryland, thus increasing the number of Termination of Parental Rights Petitions that are

filed, creating a need for baby care products be kept at police and fire stations, and placing other miscellaneous demands on the current system. Any such increases are expected to be minimal, and offset by savings incurred as a result of not having to search for, prosecute and incarcerate those who would have otherwise illegally abandoned a newborn, and by costs associated with the increased degree of medical treatment often required by illegally abandoned newborns.

Additional Comments: New Jersey allocated \$500,000 to fund its public education effort when it enacted a similar bill in 2000. The New Jersey public information program also included a 24-hour toll-free hotline.

Additional Information

Prior Introductions: None.

Cross File: HB 252 – (Delegate Grosfeld, *et al.* –Judiciary) 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 (Social Services Administration); Judiciary (Administrative Office of the Courts); Kent County; Montgomery County; Washington County; Takoma Park; Worchester County; City of Annapolis; Town of Elkton; Baltimore City; Department of Legislative Services

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ef/jr

Analysis by: Sandra Steele

Direct Inquires to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510