

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 363
Judiciary

(Delegate Rosenberg, *et al.*)

Safe Haven for Newborns Act

This allows hospitals, fire stations, or police stations to take temporary custody of a newborn baby under certain circumstances, and provides immunity for certain persons relinquishing the newborn and persons receiving the relinquished newborn. The bill requires the person receiving the relinquished newborn to care for the infant and to notify the Department of Human Resources (DHR) within 24 hours.

Fiscal Summary

State Effect: The bill's requirements could be absorbed within existing budgeted resources.

Local Effect: Compliance could be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill allows a hospital, fire station, or police station to take temporary physical custody of a newborn relinquished to hospital staff members, emergency service personnel, or police personnel while in their workplace if the newborn is: (1) not more than 72 hours old; (2) relinquished by a natural parent or a person authorized by a natural parent; and (3) the person relinquishing the newborn does not express an intent to return for the newborn.

Such facilities and personnel are immune from civil liability and criminal penalty for any good faith acts or omissions that occur while the newborn is in their custody, and are

required to: (1) inform the person relinquishing the newborn that the person may remain anonymous; (2) care for the health and safety of the newborn; and (3) notify the local department of social services within 24 hours after the relinquishment. A hospital, fire station, or police station that takes such temporary physical custody of a newborn may ask the person relinquishing the newborn about the medical history of the natural parents or of the newborn, but the person relinquishing the newborn is not required to provide any information.

The local department must take the relinquished newborn into temporary physical custody and as soon as possible place the newborn with a potential adoptive parent and proceed with a petition to terminate the parental rights of the natural parents. The local department may not attempt to locate the natural parents of a relinquished newborn by any means except by publication.

A natural parent who relinquishes a newborn may not be prosecuted for that act, and may revoke the relinquishment within 30 days after the date of the relinquishment by notifying the local department of social services. A natural parent who revokes the relinquishment has standing to participate in a hearing on the termination of the parental rights and custody of the newborn. DHR is required to adopt regulations to implement the legislation.

The bill also expands the current standards by which the court may determine child abandonment. The court may, under certain circumstances, find that a child is abandoned if within 30 days after the child is relinquished no one has claimed to be the natural parent of the child or revoked the relinquishment.

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."

The court may find that a child is abandoned if the identity of the child's natural parents is unknown and no one has claimed to be the child's natural parent within two months of the alleged abandonment of the child.

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, South Carolina, Texas, New Jersey, and West Virginia.

State Fiscal Effect: The bill's requirements could be absorbed within existing budgeted resources. This bill may lead to a marginal increase in the number of abandoned newborns in Maryland, thus increasing the number of Termination of Parental Rights Petitions that are filed, creating the need for baby care products to be kept at police and fire stations, and placing other miscellaneous demands on the current system. Any such increases, however, 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 Information

Prior Introductions: None.

Cross File: SB 704 (Senator Forehand, *et al.*) – Judicial Proceedings.

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; Department of Health and Mental Hygiene (Maryland Health Care Commission); Department of State Police; Baltimore City; Allegany and Wicomico counties; Department of Legislative Services

Fiscal Note History: First Reader – February 13, 2001
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