

Department of Legislative Services

Maryland General Assembly

2001 Session

FISCAL NOTE

House Bill 515 (Delegate Pitkin, *et al.*)

Judiciary

Maryland Safe Haven Act of 2001

This bill provides that under certain circumstances, the voluntary relinquishment of a “newborn” is not a criminal act, grants immunity to certain individuals and entities from any cause of action that may result from good faith acts related to the care of the newborn, outlines procedures for a parent to revoke the relinquishment, and requires the Department of Human Resources (DHR) to implement a public information program regarding the provisions of the 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 program 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 with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that the voluntary relinquishment of a newborn, by its parent, to an individual at a “designated emergency care facility” is not a criminal act. Except where there is actual or suspected child abuse, the parent has the right to remain anonymous. The designated emergency care facility is required to provide care for the newborn and to notify the local department of social services within 24 hours of accepting the newborn.

Newborn is defined as a child that a hospital or physician believes to be approximately three days old or younger. Designated emergency care facility is defined as a hospital, police station, fire station, or pregnancy crisis center.

The local department of social services is required to take custody of the newborn within 24 hours and commence a thorough search of the missing children information clearinghouse and State and national resources listing missing children to ensure that the relinquished newborn has not been reported missing. After determining the newborn has not been reported missing, the local department is required to file a petition to terminate parental rights.

The designated emergency facility and anyone associated with the facility are immune from liability for good faith actions taken related to the relinquishment or medical treatment of the child unless the damage or injury was caused by willful or wanton misconduct or gross negligence.

A natural parent may revoke the intent to relinquish a newborn by filing a petition to establish parental rights before parental rights have been terminated. If such petition is filed, the court may stay the termination action for up to 60 days. In determining whether it is in the best interest of the child to return the child to the petitioning parent during the stay, the court is required to order genetic testing to establish maternity or paternity, and the local department of social services must conduct an investigation and home evaluation to develop recommendations for the court.

DHR is required to prepare a public information program regarding the process established under this bill, including distribution of pamphlets, and to adopt regulations to implement the provisions of the 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 advertisements, 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 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 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: None.

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); Baltimore City; Department of Legislative Services

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