

HOUSE BILL 602

Unofficial Copy
D4

2002 Regular Session
(21r0229)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by ~~Delegates Grosfeld, Pitkin, Rosenberg, R. Baker, Barkley, Barve, Benson, Billings, Bronrott, Brown, Burns, Cadden, Carlson, Cole, Conroy, Cryor, D. Davis, DeCarlo, Dobson, Franchot, Fulton, Gladden, Goldwater, Gordon, Griffith, Healey, Hecht, Heller, Hixson, Howard, Hubbard, Hurson, Hutchins, James, A. Jones, V. Jones, Kagan, Kirk, Kopp, Krysiak, Love, Mandel, Marriott, McHale, McIntosh, Menes, Montague, Nathan-Pulliam, Petzold, Rawlings, Riley, Rosso, and Sher, and Shriver~~

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Safe Haven Act of 2002**

3 FOR the purpose of ~~establishing certain exemptions from prosecution for certain~~
4 ~~persons who abandon a newborn under certain circumstances; requiring the~~
5 ~~approval of a certain person to abandon a newborn under certain circumstances;~~
6 ~~requiring a certain person who accepts a newborn to take certain action within~~
7 ~~a certain time providing immunity from civil liability and criminal prosecution~~
8 ~~for certain persons who leave an unharmed newborn with a certain person under~~
9 ~~certain circumstances; requiring the approval of a certain person to leave a~~
10 ~~newborn under certain circumstances; requiring certain persons who accept a~~

1 ~~*newborn to take certain actions within a certain time; providing immunity from*~~
2 ~~*civil liability and criminal prosecution for certain persons, hospitals, and other*~~
3 ~~*facilities under certain circumstances; requiring the Secretary of Human*~~
4 ~~*Resources to adopt certain regulations; providing that the provisions of this Act*~~
5 ~~*are severable; providing certain immunity for certain persons and entities under*~~
6 ~~*certain circumstances; requiring a certain entity to develop certain protocol*~~
7 ~~*procedures for certain persons; establishing that a claim against certain persons*~~
8 ~~*and entities shall be governed by certain provisions of law; establishing that a*~~
9 ~~*certain provision of this Act does not create a new cause of action or substantive*~~
10 ~~*legal right and does not affect certain immunities or defenses; providing for the*~~
11 ~~*application of this Act; and generally relating to the safe abandonment of a*~~
12 ~~*newborn.*~~

13 ~~BY adding to~~
14 ~~Article—Courts and Judicial Proceedings~~
15 ~~Section 5-621.1~~
16 ~~Annotated Code of Maryland~~
17 ~~(1998 Replacement Volume and 2001 Supplement)~~

18 ~~BY repealing and reenacting, with amendments,~~
19 ~~Article—Courts and Judicial Proceedings~~
20 ~~Section 3-828~~
21 ~~Annotated Code of Maryland~~
22 ~~(1998 Replacement Volume and 2001 Supplement)~~

23 ~~BY repealing and reenacting, with amendments,~~
24 ~~Article—Family Law~~
25 ~~Section 10-219~~
26 ~~Annotated Code of Maryland~~
27 ~~(1999 Replacement Volume and 2001 Supplement)~~

28 BY adding to
29 Article - Courts and Judicial Proceedings
30 Section 5-641
31 Annotated Code of Maryland
32 (1998 Replacement Volume and 2001 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
34 MARYLAND, That the Laws of Maryland read as follows:

1 Article - Courts and Judicial Proceedings

2 ~~3-828.~~

3 (a) ~~[An] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN~~
4 ~~adult may not wilfully contribute to, encourage, cause or tend to cause any act,~~
5 ~~omission, or condition that renders a child in need of assistance.~~

6 (b) ~~A person may be convicted under this section even if the child is not~~
7 ~~adjudicated a CINA.~~

8 (C) (1) ~~THIS SECTION DOES NOT APPLY WHEN A PERSON LEAVES AN~~
9 ~~UNHARMED NEWBORN WITH A HOSPITAL, LAW ENFORCEMENT, LOCAL DEPARTMENT~~
10 ~~OF SOCIAL SERVICES, OR FIRE AND RESCUE EMPLOYEE RESPONSIBLE PERSON~~
11 ~~WITHIN 3 DAYS AFTER THE BIRTH OF THE NEWBORN, AS DETERMINED WITHIN A~~
12 ~~REASONABLE DEGREE OF MEDICAL CERTAINTY, AND THE PERSON DOES NOT~~
13 ~~EXPRESS AN INTENT TO RETURN FOR THE NEWBORN.~~

14 (2) ~~WHEN IF THE PERSON LEAVING A NEWBORN UNDER THIS~~
15 ~~SUBSECTION IS NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE~~
16 ~~APPROVAL OF THE MOTHER TO DO SO.~~

17 (3) ~~A HOSPITAL, LAW ENFORCEMENT, SOCIAL SERVICES, OR FIRE AND~~
18 ~~RESCUE EMPLOYEE WHO ACCEPTS OR TREATS A NEWBORN UNDER THIS~~
19 ~~SUBSECTION SHALL HAVE THE IMMUNITY DESCRIBED UNDER § 5-621.1 OF THIS~~
20 ~~ARTICLE FROM CIVIL LIABILITY OR CRIMINAL PENALTY.~~

21 (4) ~~THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES~~
22 ~~SYSTEMS SHALL DEVELOP AND ESTABLISH APPROPRIATE PROTOCOL PROCEDURES~~
23 ~~FOR FIRE AND RESCUE EMPLOYEES WHO ACCEPT OR TREAT A NEWBORN UNDER~~
24 ~~THIS SUBSECTION.~~

25 (3) ~~A PERSON WITH WHOM A NEWBORN IS LEFT UNDER THE~~
26 ~~CIRCUMSTANCES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, WITHIN 3~~
27 ~~DAYS AFTER THE NEWBORN WAS LEFT, SHALL TAKE THE NEWBORN TO A HOSPITAL,~~
28 ~~LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF SOCIAL SERVICES, OR FIRE~~
29 ~~AND RESCUE COMPANY.~~

30 (c) (D) ~~An adult who violates this section is guilty of a misdemeanor and on~~
31 ~~conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3~~
32 ~~years or both.~~

33 (d) (E) ~~A petition alleging a violation of this section shall be prepared and~~
34 ~~filed by the State's Attorney.~~

35 (e) (F) ~~If an adult is charged under this section, the allegations shall be~~
36 ~~proved beyond a reasonable doubt.~~

1 ~~5-641.~~

2 (A) (1) A PERSON WHO LEAVES AN UNHARMED NEWBORN WITH A
3 RESPONSIBLE ADULT WITHIN 3 DAYS AFTER THE BIRTH OF THE NEWBORN, AS
4 DETERMINED WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY, AND DOES
5 NOT EXPRESS AN INTENT TO RETURN FOR THE NEWBORN SHALL BE IMMUNE FROM
6 CIVIL LIABILITY OR CRIMINAL PROSECUTION FOR THE ACT.

7 (2) IF THE PERSON LEAVING A NEWBORN UNDER THIS SUBSECTION IS
8 NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE APPROVAL OF
9 THE MOTHER TO DO SO.

10 (B) (1) A PERSON WITH WHOM A NEWBORN IS LEFT UNDER THE
11 CIRCUMSTANCES DESCRIBED IN SUBSECTION (A) OF THIS SECTION AS SOON AS
12 REASONABLY POSSIBLE SHALL TAKE THE NEWBORN TO A HOSPITAL OR OTHER
13 FACILITY DESIGNATED BY THE SECRETARY OF HUMAN RESOURCES BY
14 REGULATION.

15 (2) A HOSPITAL OR OTHER DESIGNATED FACILITY THAT ACCEPTS A
16 NEWBORN UNDER THIS SUBSECTION SHALL NOTIFY THE LOCAL DEPARTMENT OF
17 SOCIAL SERVICES WITHIN 24 HOURS AFTER ACCEPTING THE NEWBORN.

18 (C) A RESPONSIBLE ADULT AND A HOSPITAL OR OTHER DESIGNATED
19 FACILITY THAT ACCEPTS A NEWBORN UNDER THIS SECTION AND AN EMPLOYEE OR
20 AGENT OF THE HOSPITAL OR FACILITY SHALL BE IMMUNE FROM CIVIL LIABILITY OR
21 CRIMINAL PROSECUTION FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE
22 ACCEPTANCE OF OR MEDICAL TREATMENT OR CARE OF THE NEWBORN UNLESS
23 INJURY TO THE NEWBORN WAS CAUSED BY GROSS NEGLIGENCE OR WILLFUL OR
24 WANTON MISCONDUCT.

25 (D) THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO
26 IMPLEMENT THE PROVISIONS OF THIS SECTION.

27 ~~5-621.1.~~

28 (A) ~~A HOSPITAL, LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF~~
29 ~~SOCIAL SERVICES, OR FIRE OR RESCUE COMPANY OR AN EMPLOYEE OF A HOSPITAL,~~
30 ~~LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF SOCIAL SERVICES, OR FIRE~~
31 ~~OR RESCUE COMPANY ACTING IN GOOD FAITH SHALL BE IMMUNE FROM CRIMINAL~~
32 ~~PROSECUTION FOR ANY ACTION TAKEN RELATED TO THE ABANDONMENT OF A~~
33 ~~NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR § 10-219(C) OF THE FAMILY LAW~~
34 ~~ARTICLE, INCLUDING CARE AND MEDICAL TREATMENT OF THE NEWBORN.~~

35 (B) (1) ~~A HOSPITAL OR AN EMPLOYEE OF A HOSPITAL ACTING IN GOOD~~
36 ~~FAITH SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY ACTION TAKEN RELATED~~
37 ~~TO THE ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR §~~
38 ~~10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL~~
39 ~~TREATMENT OF THE NEWBORN, UNLESS INJURY TO THE NEWBORN WAS CAUSED BY~~
40 ~~WILLFUL OR WANTON MISCONDUCT OR GROSS NEGLIGENCE.~~

1 (C) (1) ~~THIS SECTION DOES NOT APPLY WHEN A PERSON LEAVES AN~~
2 ~~UNHARMED NEWBORN WITH A HOSPITAL, LAW ENFORCEMENT, LOCAL DEPARTMENT~~
3 ~~OF SOCIAL SERVICES, OR FIRE AND RESCUE EMPLOYEE RESPONSIBLE PERSON~~
4 ~~WITHIN 3 DAYS AFTER THE BIRTH OF THE NEWBORN, AS DETERMINED WITHIN A~~
5 ~~REASONABLE DEGREE OF MEDICAL CERTAINTY, AND THE PERSON DOES NOT~~
6 ~~EXPRESS AN INTENT TO RETURN FOR THE NEWBORN.~~

7 (2) ~~WHEN IF THE PERSON LEAVING A NEWBORN UNDER THIS~~
8 ~~SUBSECTION IS NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE~~
9 ~~APPROVAL OF THE MOTHER TO DO SO.~~

10 (3) A HOSPITAL, LAW ENFORCEMENT, LOCAL DEPARTMENT OF SOCIAL
11 SERVICES, OR FIRE AND RESCUE EMPLOYEE WHO ACCEPTS OR TREATS A NEWBORN
12 UNDER THIS SUBSECTION SHALL HAVE THE IMMUNITY DESCRIBED UNDER § 5-621.1
13 OF THE COURTS ARTICLE FROM CIVIL LIABILITY OR CRIMINAL PENALTY.

14 (4) THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES
15 SHALL DEVELOP AND ESTABLISH APPROPRIATE PROTOCOL PROCEDURES FOR FIRE
16 AND RESCUE EMPLOYEES WHO ACCEPT OR TREAT A NEWBORN UNDER THIS
17 SUBSECTION.

18 (3) A PERSON WITH WHOM A NEWBORN IS LEFT UNDER THE
19 CIRCUMSTANCES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, WITHIN 3
20 DAYS AFTER THE NEWBORN WAS LEFT, SHALL TAKE THE NEWBORN TO A HOSPITAL,
21 LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF SOCIAL SERVICES, OR FIRE
22 AND RESCUE COMPANY.

23 SECTION 2. AND BE IT FURTHER ENACTED, That ~~this Act shall apply only~~
24 ~~to a person who leaves a newborn on or after the effective date of this Act if any~~
25 ~~provision of this Act or the application thereof to any person or circumstance is held~~
26 ~~invalid for any reason in a court of competent jurisdiction, the invalidity does not~~
27 ~~affect other provisions or any other application of this Act which can be given effect~~
28 ~~without the invalid provision or application, and for this purpose the provisions of this~~
29 ~~Act are declared severable and only to an act or omission related to the leaving of a~~
30 ~~newborn that occurs on or after the effective date of this Act.~~

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2002.