

HOUSE BILL 602

Unofficial Copy  
D4  
HB 252/01 - JUD

2002 Regular Session  
2lr0229  
CF 2lr0375

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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, Sher, and Shriver**

Introduced and read first time: February 4, 2002  
Assigned to: Judiciary

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A BILL ENTITLED

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 providing certain immunity for certain persons and entities under certain  
7 circumstances; requiring a certain entity to develop certain protocol procedures  
8 for certain persons; establishing that a claim against certain persons and  
9 entities shall be governed by certain provisions of law; establishing that a  
10 certain provision of this Act does not create a new cause of action or substantive  
11 legal right and does not affect certain immunities or defenses; providing for the  
12 application of this Act; and generally relating to the abandonment of a 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

1 Section 10-219  
2 Annotated Code of Maryland  
3 (1999 Replacement Volume and 2001 Supplement)

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

6 **Article - Courts and Judicial Proceedings**

7 3-828.

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

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

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

19 (2) WHEN THE PERSON LEAVING A NEWBORN UNDER THIS SUBSECTION  
20 IS NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE APPROVAL  
21 OF THE MOTHER TO DO SO.

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

26 (4) THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES  
27 SYSTEMS SHALL DEVELOP AND ESTABLISH APPROPRIATE PROTOCOL PROCEDURES  
28 FOR FIRE AND RESCUE EMPLOYEES WHO ACCEPT OR TREAT A NEWBORN UNDER  
29 THIS SUBSECTION.

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 5-621.1.

2 (A) A HOSPITAL, LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF  
3 SOCIAL SERVICES, OR FIRE OR RESCUE COMPANY OR AN EMPLOYEE OF A HOSPITAL,  
4 LAW ENFORCEMENT AGENCY, LOCAL DEPARTMENT OF SOCIAL SERVICES, OR FIRE  
5 OR RESCUE COMPANY ACTING IN GOOD FAITH SHALL BE IMMUNE FROM CRIMINAL  
6 PROSECUTION FOR ANY ACTION TAKEN RELATED TO THE ABANDONMENT OF A  
7 NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR § 10-219(C) OF THE FAMILY LAW  
8 ARTICLE, INCLUDING CARE AND MEDICAL TREATMENT OF THE NEWBORN.

9 (B) (1) A HOSPITAL OR AN EMPLOYEE OF A HOSPITAL ACTING IN GOOD  
10 FAITH SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY ACTION TAKEN RELATED  
11 TO THE ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR §  
12 10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL  
13 TREATMENT OF THE NEWBORN, UNLESS INJURY TO THE NEWBORN WAS CAUSED BY  
14 WILLFUL OR WANTON MISCONDUCT OR GROSS NEGLIGENCE.

15 (2) A CLAIM AGAINST A LAW ENFORCEMENT AGENCY OR LOCAL  
16 DEPARTMENT OF SOCIAL SERVICES OR AN EMPLOYEE OF A LAW ENFORCEMENT  
17 AGENCY OR LOCAL DEPARTMENT OF SOCIAL SERVICES FOR AN ACTION TAKEN  
18 RELATED TO THE ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE  
19 OR § 10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL  
20 TREATMENT OF THE NEWBORN, SHALL BE GOVERNED BY THE MARYLAND TORT  
21 CLAIMS ACT UNDER TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE OR  
22 THE LOCAL GOVERNMENT TORT CLAIMS ACT UNDER TITLE 5, SUBTITLE 3 OF THIS  
23 ARTICLE.

24 (3) A FIRE OR RESCUE COMPANY OR AN EMPLOYEE OF A FIRE OR  
25 RESCUE COMPANY SHALL HAVE THE IMMUNITY FROM CIVIL LIABILITY DESCRIBED  
26 IN § 5-604 OF THIS SUBTITLE FOR ANY ACTION TAKEN RELATED TO THE  
27 ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR § 10-219(C) OF  
28 THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL TREATMENT OF THE  
29 NEWBORN.

30 (4) THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES  
31 SYSTEMS SHALL DEVELOP AND ESTABLISH APPROPRIATE PROTOCOL PROCEDURES  
32 FOR FIRE AND RESCUE EMPLOYEES WHO TAKE ANY ACTION RELATED TO THE  
33 ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE, INCLUDING  
34 CARE AND MEDICAL TREATMENT OF THE NEWBORN.

35 (C) (1) THIS SECTION DOES NOT CREATE, AND MAY NOT BE CONSTRUED AS  
36 CREATING, A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST THE  
37 STATE, A LOCAL GOVERNMENT, OR ANY PERSON OR ENTITY SPECIFIED IN THIS  
38 SECTION.

39 (2) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS  
40 AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION  
41 OR DEFENSES ESTABLISHED BY ANY OTHER PROVISION OF THE CODE OR AT

1 COMMON LAW, TO WHICH THE STATE, A LOCAL GOVERNMENT, OR ANY PERSON OR  
2 ENTITY SPECIFIED IN THIS SECTION MAY BE ENTITLED.

3

**Article - Family Law**

4 10-219.

5 (a) [An] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN  
6 individual who has care, custody, or control of a minor child may not desert the child:

7 (1) with the intent that the child become a public charge; or

8 (2) without providing for the child's support for at least 3 years by a  
9 responsible individual or a licensed child care facility.

10 (b) A person who violates this section is guilty of a misdemeanor and on  
11 conviction is subject to a fine not exceeding \$100 or imprisonment not exceeding 1  
12 year.

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

19 (2) WHEN THE PERSON LEAVING A NEWBORN UNDER THIS SUBSECTION  
20 IS NOT THE MOTHER OF THE NEWBORN, THE PERSON SHALL HAVE THE APPROVAL  
21 OF THE MOTHER TO DO SO.

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

26 (4) THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES  
27 SHALL DEVELOP AND ESTABLISH APPROPRIATE PROTOCOL PROCEDURES FOR FIRE  
28 AND RESCUE EMPLOYEES WHO ACCEPT OR TREAT A NEWBORN UNDER THIS  
29 SUBSECTION.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only  
31 to a person who leaves a newborn on or after the effective date of this Act and only to  
32 an act or omission related to the leaving of a newborn that occurs on or after the  
33 effective date of this Act.

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