

HOUSE BILL 602

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HB 252/01 - JUD

2002 Regular Session
2lr0229
CF 2lr0375

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~~

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

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: February 28, 2002

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

15 ~~BY adding to~~
16 ~~Article Courts and Judicial Proceedings~~
17 ~~Section 5-621.1~~
18 ~~Annotated Code of Maryland~~
19 ~~(1998 Replacement Volume and 2001 Supplement)~~

1 BY repealing and reenacting, with amendments,
2 Article - Courts and Judicial Proceedings
3 Section 3-828
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Family Law
8 Section 10-219
9 Annotated Code of Maryland
10 (1999 Replacement Volume and 2001 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 3-828.

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

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

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

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

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

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

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

6 [(c)] (D) An adult who violates this section is guilty of a misdemeanor and on
7 conviction is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3
8 years or both.

9 [(d)] (E) A petition alleging a violation of this section shall be prepared and
10 filed by the State's Attorney.

11 [(e)] (F) If an adult is charged under this section, the allegations shall be
12 proved beyond a reasonable doubt.

13 ~~5-621.1.~~

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

21 (B) (1) ~~A HOSPITAL OR AN EMPLOYEE OF A HOSPITAL ACTING IN GOOD~~
22 ~~FAITH SHALL BE IMMUNE FROM CIVIL LIABILITY FOR ANY ACTION TAKEN RELATED~~
23 ~~TO THE ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR §~~
24 ~~10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL~~
25 ~~TREATMENT OF THE NEWBORN, UNLESS INJURY TO THE NEWBORN WAS CAUSED BY~~
26 ~~WILLFUL OR WANTON MISCONDUCT OR GROSS NEGLIGENCE.~~

27 (2) ~~A CLAIM AGAINST A LAW ENFORCEMENT AGENCY OR LOCAL~~
28 ~~DEPARTMENT OF SOCIAL SERVICES OR AN EMPLOYEE OF A LAW ENFORCEMENT~~
29 ~~AGENCY OR LOCAL DEPARTMENT OF SOCIAL SERVICES FOR AN ACTION TAKEN~~
30 ~~RELATED TO THE ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE~~
31 ~~OR § 10-219(C) OF THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL~~
32 ~~TREATMENT OF THE NEWBORN, SHALL BE GOVERNED BY THE MARYLAND TORT~~
33 ~~CLAIMS ACT UNDER TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE OR~~
34 ~~THE LOCAL GOVERNMENT TORT CLAIMS ACT UNDER TITLE 5, SUBTITLE 3 OF THIS~~
35 ~~ARTICLE.~~

36 (3) ~~A FIRE OR RESCUE COMPANY OR AN EMPLOYEE OF A FIRE OR~~
37 ~~RESCUE COMPANY SHALL HAVE THE IMMUNITY FROM CIVIL LIABILITY DESCRIBED~~
38 ~~IN § 5-604 OF THIS SUBTITLE FOR ANY ACTION TAKEN RELATED TO THE~~
39 ~~ABANDONMENT OF A NEWBORN UNDER § 3-828(C) OF THIS ARTICLE OR § 10-219(C) OF~~
40 ~~THE FAMILY LAW ARTICLE, INCLUDING CARE AND MEDICAL TREATMENT OF THE~~
41 ~~NEWBORN.~~

1 ~~(4) THE MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES~~
2 ~~SHALL DEVELOP AND ESTABLISH APPROPRIATE PROTOCOL PROCEDURES FOR FIRE~~
3 ~~AND RESCUE EMPLOYEES WHO ACCEPT OR TREAT A NEWBORN UNDER THIS~~
4 ~~SUBSECTION.~~

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

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

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