

SENATE BILL 3

Unofficial Copy  
D4  
SB 82/01 - JPR

2002 Regular Session  
2lr0225

(PRE-FILED)

---

By: **Senator Green**

Requested: July 2, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Safe Haven Act**

3 FOR the purpose of establishing procedures for the relinquishment of certain  
4 newborns; establishing immunity for certain persons under this Act;  
5 establishing procedures for hospitals that accept a relinquished newborn;  
6 establishing procedures for a nonrelinquishing natural parent to retain parental  
7 rights; establishing procedures for a natural parent to revoke the intent to  
8 relinquish a newborn; establishing procedures for a court to make certain  
9 determinations regarding a relinquished newborn; requiring the Secretary of  
10 Human Resources to adopt certain regulations; defining certain terms;  
11 providing that the provisions of this Act are severable; and generally relating to  
12 relinquishment of a newborn.

13 BY adding to

14 Article - Family Law

15 Section 5-7B-01 through 5-7B-04, inclusive, to be under the new subtitle

16 "Subtitle 7B. Safe Havens for Newborns"

17 Annotated Code of Maryland

18 (1999 Replacement Volume and 2001 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Family Law**

22 **SUBTITLE 7B. SAFE HAVENS FOR NEWBORNS.**

23 5-7B-01.

24 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
25 INDICATED.

1 (2) "LOCAL DEPARTMENT" MEANS THE DEPARTMENT OF SOCIAL  
2 SERVICES THAT HAS JURISDICTION IN THE COUNTY WHERE A NEWBORN IS  
3 RELINQUISHED.

4 (3) "NEWBORN" MEANS A CHILD THAT A PHYSICIAN REASONABLY  
5 BELIEVES TO BE APPROXIMATELY 3 DAYS OLD OR YOUNGER.

6 (B) IF AN UNHARMED NEWBORN IS VOLUNTARILY DELIVERED TO THE CARE  
7 OF AN INDIVIDUAL AT A HOSPITAL BY A PARENT OF THE NEWBORN AND THE PARENT  
8 DOES NOT EXPRESS AN INTENT TO RETURN FOR THE NEWBORN, THE ACT SHALL BE  
9 CONSIDERED RELINQUISHMENT OF A NEWBORN.

10 (C) (1) A PARENT WHO RELINQUISHES AN UNHARMED NEWBORN IN  
11 ACCORDANCE WITH THIS SECTION SHALL BE IMMUNE FROM CIVIL LIABILITY OR  
12 CRIMINAL PROSECUTION FOR THE ACT.

13 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, THE  
14 RELINQUISHMENT OF A NEWBORN MAY BE GROUNDS FOR TERMINATION OF  
15 PARENTAL RIGHTS UNDER § 5-313 OF THIS TITLE.

16 (3) EXCEPT WHERE THERE IS ACTUAL OR SUSPECTED CHILD ABUSE, A  
17 PARENT WHO RELINQUISHES A NEWBORN AT A HOSPITAL AND EXPRESSES AN  
18 INTENT TO LEAVE THE NEWBORN AND NOT RETURN HAS THE ABSOLUTE RIGHT TO  
19 REMAIN ANONYMOUS AND TO LEAVE AT ANY TIME AND MAY NOT BE PURSUED OR  
20 FOLLOWED.

21 5-7B-02.

22 (A) A HOSPITAL THAT ACCEPTS A NEWBORN UNDER § 5-7B-01 OF THIS  
23 SUBTITLE SHALL:

24 (1) PROVIDE THE NEWBORN WITH ANY NECESSARY CARE, INCLUDING  
25 EMERGENCY MEDICAL CARE, TO PROTECT THE PHYSICAL HEALTH OR SAFETY OF  
26 THE NEWBORN; AND

27 (2) NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS AFTER  
28 ACCEPTING THE NEWBORN.

29 (B) AFTER NOTIFICATION UNDER SUBSECTION (A)(2) OF THIS SECTION, THE  
30 LOCAL DEPARTMENT SHALL:

31 (1) TAKE CUSTODY AND CONTROL OF THE RELINQUISHED NEWBORN  
32 WITHIN 24 HOURS; AND

33 (2) COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN  
34 INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING  
35 MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN  
36 REPORTED MISSING.

1 (C) AFTER DETERMINING THAT THE NEWBORN HAS NOT BEEN REPORTED  
2 MISSING, AND AS SOON AS PRACTICABLE FOLLOWING AN INITIAL 30-DAY  
3 PLACEMENT PERIOD, THE LOCAL DEPARTMENT SHALL FILE A PETITION TO  
4 TERMINATE THE PARENTAL RIGHTS OF THE RELINQUISHED NEWBORN IN  
5 ACCORDANCE WITH § 5-313 OF THIS TITLE.

6 (D) A HOSPITAL THAT ACCEPTS A NEWBORN UNDER THIS SUBTITLE OR AN  
7 EMPLOYEE OR AGENT OF THE HOSPITAL SHALL BE IMMUNE FROM CIVIL LIABILITY  
8 FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF OR  
9 MEDICAL TREATMENT AND CARE OF THE NEWBORN UNLESS DAMAGE OR INJURY TO  
10 THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON MISCONDUCT OR GROSS  
11 NEGLIGENCE.

12 5-7B-03.

13 (A) A NATURAL PARENT WHO HAS NOT PARTICIPATED IN THE  
14 RELINQUISHMENT OF A NEWBORN MAY NOTIFY THE LOCAL DEPARTMENT OF THAT  
15 PARENT'S INTENT TO RETAIN PARENTAL RIGHTS WITHIN 30 DAYS AFTER THE DATE  
16 OF THE RELINQUISHMENT.

17 (B) A NATURAL PARENT WHO HAS RELINQUISHED A NEWBORN MAY REVOKE  
18 THAT PARENT'S INTENT TO RELINQUISH THE NEWBORN BY NOTIFYING THE LOCAL  
19 DEPARTMENT WITHIN 30 DAYS AFTER THE DATE OF RELINQUISHMENT.

20 (C) (1) IF A CLAIM OF PARENTAL RIGHTS IS MADE BEFORE INVOLUNTARY  
21 TERMINATION UNDER § 5-313 OF THIS TITLE, THE COURT MAY STAY THE ACTION FOR  
22 INVOLUNTARY TERMINATION FOR A PERIOD NOT TO EXCEED 60 DAYS.

23 (2) IN DETERMINING WHETHER IT IS IN THE BEST INTEREST OF THE  
24 CHILD TO RETURN THE CHILD TO THE OBJECTING PARENT DURING THE STAY:

25 (I) THE COURT SHALL ORDER GENETIC TESTING TO ESTABLISH  
26 MATERNITY OR PATERNITY; AND

27 (II) THE LOCAL DEPARTMENT SHALL CONDUCT AN INVESTIGATION  
28 AND HOME EVALUATION TO DEVELOP RECOMMENDATIONS FOR THE COURT.

29 (D) THE COURT SHALL MAKE A SPECIFIC FINDING, BASED ON THE FACTS IN  
30 THE RECORD, AS TO WHETHER OR NOT THE RETURN OF THE CHILD TO THE CUSTODY  
31 OF THE NATURAL PARENT POSES AN UNACCEPTABLE RISK TO THE FUTURE AND  
32 SAFETY OF THE CHILD.

33 5-7B-04.

34 THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO  
35 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS TO  
36 PROTECT THE HEALTH AND WELFARE OF NEWBORNS RELINQUISHED UNDER THIS  
37 SUBTITLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
2 Act or the application thereof to any person or circumstance is held invalid for any  
3 reason in a court of competent jurisdiction, the invalidity does not affect other  
4 provisions or any other application of this Act which can be given effect without the  
5 invalid provision or application, and for this purpose the provisions of this Act are  
6 declared severable.

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