

SENATE BILL 3

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SB 82/01 - JPR

2002 Regular Session
2lr0225
CF 2lr2203

(PRE-FILED)

By: ~~Senator Green~~ **Senators Green and Forehand**

Requested: July 2, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2002

CHAPTER _____

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:

1

Article - Family Law

2

SUBTITLE 7B. SAFE HAVENS FOR NEWBORNS.

3 5-7B-01.

4 (A) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

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

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

11 (B) IF AN UNHARMED NEWBORN IS VOLUNTARILY DELIVERED TO ~~THE CARE~~
12 ~~OF AN INDIVIDUAL AT A SAFE LOCATION IN~~ A HOSPITAL BY A PARENT OF THE
13 NEWBORN AND THE PARENT DOES NOT EXPRESS AN INTENT TO RETURN FOR THE
14 NEWBORN, THE ACT SHALL BE CONSIDERED RELINQUISHMENT OF A NEWBORN.

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

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

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

26 5-7B-02.

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

29 (1) PROVIDE THE NEWBORN WITH ANY NECESSARY CARE, INCLUDING
30 EMERGENCY MEDICAL CARE, TO PROTECT THE PHYSICAL HEALTH OR SAFETY OF
31 THE NEWBORN; AND

32 (2) NOTIFY THE LOCAL DEPARTMENT WITHIN 24 HOURS AFTER
33 ACCEPTING THE NEWBORN.

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

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

3 (2) COMMENCE A THOROUGH SEARCH OF THE MISSING CHILDREN
4 INFORMATION CLEARINGHOUSE AND STATE AND NATIONAL RESOURCES LISTING
5 MISSING CHILDREN TO ENSURE THAT THE RELINQUISHED NEWBORN HAS NOT BEEN
6 REPORTED MISSING.

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

12 (D) A HOSPITAL THAT ACCEPTS A NEWBORN UNDER THIS SUBTITLE OR AN
13 EMPLOYEE OR AGENT OF THE HOSPITAL SHALL BE IMMUNE FROM CIVIL LIABILITY
14 FOR GOOD FAITH ACTIONS TAKEN RELATED TO THE RELINQUISHMENT OF OR
15 MEDICAL TREATMENT AND CARE OF THE NEWBORN UNLESS DAMAGE OR INJURY TO
16 THE NEWBORN WAS CAUSED BY WILLFUL OR WANTON MISCONDUCT OR GROSS
17 NEGLIGENCE.

18 5-7B-03.

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

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

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

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

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

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

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

1 5-7B-04.

2 THE SECRETARY OF HUMAN RESOURCES SHALL ADOPT REGULATIONS TO
3 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS TO
4 PROTECT THE HEALTH AND WELFARE OF NEWBORNS RELINQUISHED UNDER THIS
5 SUBTITLE.

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

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