

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1323 (Delegates Wivell and Valentine)
Judiciary

Courts - Immunity From Liability - Maryland Safe Haven Program

This bill extends, from 10 to 60 days after the birth of a newborn, the timeframe during which a person can leave an unharmed newborn with a responsible adult without the intent to return for the newborn, without being subject to civil liability or criminal prosecution. A person is also authorized to leave an unharmed newborn at a "designated facility." The bill authorizes a designated facility to receive a newborn in a newborn safety device, as specified. Subject to existing funding, the Secretary of Human Services must develop, implement, and maintain a public information program about the Maryland Safe Haven Program. By December 31, 2025, and annually thereafter, the Secretary must provide a report to the General Assembly on program metrics, as specified.

Fiscal Summary

State Effect: The Department of Human Services (DHS) can complete the required report with existing budgeted resources. DHS general fund expenditures increase by \$250,000 annually beginning in FY 2025 for the public information program, as discussed below. Program literature can be distributed at State health department offices and publicly funded educational institutions using existing budgeted resources. Revenues are not affected.

Table with 6 columns: (in dollars), FY 2025, FY 2026, FY 2027, FY 2028, FY 2029. Rows include Revenues, GF Expenditure, and Net Effect.

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: “Designated facility” means a hospital, the office of a licensed medical provider, a police department or State Police barracks, a professional or volunteer fire company that is insured, or any other facility designated by the Secretary by regulation.

A designated facility may receive a newborn in a newborn safety device, provided that the device is:

- climate controlled;
- physically affixed to an exterior wall or located inside the designated facility;
- located in an area that is conspicuous and visible to the employees of the designated facility;
- clearly marked with appropriate signage; and
- equipped with (1) an alert system such that when the newborn safety device is opened, it automatically connects to the 9-1-1 system and transmits a request for immediate dispatch of an emergency medical services (EMS) provider to the location of the newborn safety device; (2) a video surveillance system that allows employees of the designated facility to monitor the interior of the newborn safety device 24 hours a day; and (3) an automated lock that secures the newborn inside the device after deposit.

The public information program about the Maryland Safe Haven Program must include:

- the maintenance of an interactive website that provides pertinent information about the program, including (1) authorized designated facilities; (2) instructions for the method by which the parent of a newborn may surrender the newborn; (3) the manner in which the parent of a newborn surrendered under the program may anonymously provide information to a local department of social services (LDSS) regarding the medical history of the newborn or the newborn’s family medical history; and (4) a method by which the parent of a newborn surrendered under the program may reconsider the surrender and that allows the parent to undergo paternity testing for the purposes of the reunification with the newborn;
- promotion of educational and informational materials in print, audio, electronic, and other media formats that describe the mission and purpose of the program and include the program’s toll-free telephone number;
- regular distribution of program literature at State and local health department offices, each LDSS, and each publicly funded educational institution in the State;
- creation and distribution of decals and placards listing designated facilities and the toll-free telephone number of the program; and

- training for EMS providers, 9-1-1 operators, hospital staff, firefighters, law enforcement officers, or any other employee of a designated facility on how to implement and follow the program.

The Secretary's annual report to the General Assembly must include (1) the number of newborns surrendered in the prior year; (2) the disposition of the custody of each newborn surrendered through the program in the prior year; and (3) the cost of maintaining equipment related to and used by the program.

Current Law: Under Maryland regulations (COMAR [07.02.27.01](#)), the Maryland Safe Haven Program is intended to provide the mother of a newborn the opportunity to provide a safe abandonment of her newborn by (1) providing immunity from civil liability and criminal prosecution for a mother who leaves an unharmed newborn with a responsible adult person under certain circumstances; (2) requiring the approval of the responsible adult with whom the newborn is left; (3) requiring a responsible adult who accepts the newborn to take certain action as soon as reasonably possible; and (4) providing immunity from civil liability and criminal prosecution for certain persons, hospitals, and other facilities under certain circumstances. These provisions are codified under § 5-641 of the Courts and Judicial Proceedings Article as described below.

A person who leaves an unharmed newborn with a responsible adult within 10 days after the birth of the newborn, and does not express an intent to return for the newborn, is immune from civil liability or criminal prosecution for the act. If the person leaving a newborn is not the mother of the newborn, the person must have the approval of the mother to do so.

A person with whom a newborn is left must take the newborn as soon as reasonably possible to a hospital or other facility designated by the Secretary by regulations. A hospital or other designated facility that accepts a newborn must notify the LDSS within 24 hours after accepting the newborn.

A responsible adult and a hospital or other designated facility that accepts a newborn and an employee or agent of the hospital or facility is immune from civil liability or criminal prosecution for good faith actions taken related to the acceptance of or medical treatment or care of the newborn unless injury to the newborn was caused by gross negligence or willful or wanton misconduct.

Maryland regulations (COMAR [07.02.27.03](#)) specify that a hospital presented with an abandoned newborn must make an effort to obtain information on a voluntary basis pertaining to the newborn's medical history or risk factors from the individual presenting the newborn. The hospital must make reasonable, diligent efforts to obtain information as to why the mother of the newborn has no intention of returning for the newborn. The

hospital or other designated facility that accepts a newborn must notify the LDSS within 24 hours after accepting the newborn.

The LDSS in the jurisdiction where the hospital is located must take responsibility of the newborn when the newborn is medically ready for discharge under an order of shelter care (OSC). A child in need of assistance (CINA) petition must be filed by the LDSS on behalf of the abandoned newborn in the jurisdiction where the hospital is located with the request for an OSC. A Child Protective Services investigation must be initiated if the mother, father, or relative of the newborn comes forth to identify the newborn and requests that the newborn be placed in the individual's care. The child must remain in the care of the LDSS under an OSC with a CINA finding and commitment to the LDSS pending the outcome of the investigation. The LDSS must pursue the legal process for the termination of parental rights on the newborn relating to the involuntary termination of parental rights if the LDSS believes the newborn to be abandoned.

State Expenditures: DHS general fund expenditures increase by \$250,000 annually beginning in fiscal 2025 to develop, implement, and maintain a public awareness program for the Maryland Safe Haven Program. DHS estimates that an extensive campaign will be necessary to meet the bill's requirement to promote educational and informational materials in print, audio, electronic, and other media formats. Additionally, the bill requires regular distribution of program literature at State and local health department offices, each LDSS, and each publicly funded educational institution in the State, as well as the creation and distribution of decals and placards listing designated facilities and the toll-free telephone number of the program.

Local Expenditures: The bill requires local health departments, each LDSS, and publicly funded education institutions (including community colleges) to distribute program literature, which can be implemented using existing budgeted resources.

The Secretary, as part of the public information program, must include training for, among other entities, EMS providers, 9-1-1 operators, firefighters, and law enforcement officers on how to implement and follow the program. This analysis assumes that any training developed by the Secretary can be shared with or implemented by these entities with existing budgeted resources. To the extent that additional resources are required for such training, local government expenditures may increase by an indeterminate but likely minimal amount, beginning in fiscal 2025.

The bill authorizes, but does not require, designated facilities to receive a newborn in a newborn safety device. DHS estimates that a newborn safety device that meets the requirements of the bill costs approximately \$15,000 to install, with ongoing annual maintenance fees ranging between \$500 and \$5,000. To the extent that a local government

installs a newborn safety device in a designated facility, expenditures increase accordingly, beginning as early as fiscal 2025.

Additional Comments: The DHS [website](#) includes pertinent safe haven information and lists several hospitals and police stations.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 873 (Senator McKay) - Judicial Proceedings.

Information Source(s): Maryland Association of County Health Officers; Maryland Institute for Emergency Medical Services Systems; Harford and Montgomery counties; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland School for the Deaf; Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Maryland Independent College and University Association; Maryland Department of Health; Department of Human Services; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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