

STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

**Introduced by Reps. Rendon, McCready, Leutheuser, Kahle, Hughes, Noble, Miller, Theis, Allor, Frederick,
Wentworth, Vaupel, Canfield and Tedder**

ENROLLED HOUSE BILL No. 5751

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending sections 5, 7, 10, 17, and 20 of chapter XII (MCL 712.5, 712.7, 712.10, 712.17, and 712.20), section 5 as added by 2000 PA 232, sections 7 and 10 as amended by 2006 PA 488, section 17 as amended by 2010 PA 348, and section 20 as amended by 2003 PA 245, and by adding section 3a.

The People of the State of Michigan enact:

CHAPTER XII

Sec. 3a. (1) A parent may voluntarily deliver his or her newborn to a newborn safety device provided by an emergency service provider. In order to receive a newborn using a newborn safety device, the emergency service provider must have 24-hour, 7 days per week emergency responder staff or must be a hospital. The newborn safety device must meet the requirements provided in rules promulgated under this section.

(2) Not later than 180 days after the effective date of the amendatory act that added this section, the department shall promulgate rules governing newborn safety devices. The rules shall provide for all of the following:

- (a) Sanitation standards.
- (b) Procedures to provide emergency care for a newborn delivered to a newborn safety device.
- (c) Manufacturing and manufacturer standards.
- (d) Design and function requirements that include the following:
 - (i) Take into account installation at a fire department, hospital, or police station.
 - (ii) Allow a newborn to be placed anonymously from the outside of the facility.
 - (iii) Lock the newborn safety device after a newborn is placed in it so that a person outside the facility is unable to access the newborn.
 - (iv) Provide a controlled environment for the care and protection of the newborn.

(v) Trigger a 9-1-1 call and provide notification to a centralized location in the facility within 30 seconds of a newborn being placed in the newborn safety device.

(e) Operating policies, supervision, and maintenance requirements for a newborn safety device, including requirements that only an emergency service provider supervise the newborn safety device and take custody of a newborn placed in it.

(f) Qualifications required for a person to install a newborn safety device.

(g) Procedures and forms for registration of a qualified newborn safety device installer.

(h) Costs for registering and regulating newborn safety devices and fees to cover those costs.

(i) Creating and posting signs to be placed near or on a newborn safety device to provide information about using it.

(j) Enforcement of and remedies for violations for failure to comply with the requirements governing newborn safety devices.

(k) Any other requirement the department considers necessary to ensure the safety and welfare of a newborn placed in a newborn safety device.

(l) A publicly accessible list with the location of all available newborn safety devices.

(m) An accessible form that allows a surrendering parent the option to input the following and includes notification to the surrendering parent that this information shall not be published publicly, but shall be accessible to a child placing agency:

(i) The known date and time of surrender of the newborn.

(ii) The address of the location of surrender of the newborn.

(iii) Name and contact information.

(iv) Family medical information.

(v) Whether or not the information provided may be shared with the child and prospective adoptive parent.

(3) The manufacturer is liable for any damages for personal injury, including death, that result from the use of or a malfunction of a newborn safety device.

Sec. 5. (1) An emergency service provider that is not a hospital and that takes a newborn into temporary protective custody under section 3 or 3a of this chapter shall transfer the newborn to a hospital. The hospital shall accept a newborn who an emergency service provider transfers to the hospital in compliance with this chapter, taking the newborn into temporary protective custody.

(2) A hospital that takes a newborn into temporary protective custody under this chapter shall have the newborn examined by a physician. If a physician who examines the newborn either determines that there is reason to suspect the newborn has experienced child abuse or child neglect, other than being surrendered to an emergency service provider under section 3 of this chapter or surrendered to a newborn safety device under section 3a of this chapter, or comes to a reasonable belief that the child is not a newborn, the physician shall immediately report to the department as required by section 3 of the child protection law, 1975 PA 238, MCL 722.623.

(3) If a physician is not required to report to the department as provided in subsection (2), the hospital shall notify a child placing agency that the hospital has taken a newborn into temporary protective custody under this chapter.

Sec. 7. Upon receipt of notice from a hospital under section 5 of this chapter, the child placing agency shall do all of the following:

(a) Immediately assume the care, control, and temporary protective custody of the newborn.

(b) If a parent is known and willing, immediately meet with the parent.

(c) Unless otherwise provided in this subdivision, make a temporary placement of the newborn with a prospective adoptive parent who has an approved preplacement assessment. If a petition for custody is filed under section 10 of this chapter, the child placing agency may make a temporary placement of the newborn with a licensed foster parent.

(d) Unless the birth was witnessed by the emergency service provider, immediately request assistance from law enforcement officials to investigate and determine, through the missing children information clearinghouse, the National Center for Missing and Exploited Children, and any other national and state resources, whether the newborn is a missing child.

(e) Not later than 48 hours after a transfer of physical custody to a prospective adoptive parent, petition the court in the county in which the prospective adoptive parent resides to provide authority to place the newborn and provide care for the newborn. The petition shall include all of the following:

(i) The date of the transfer of physical custody.

(ii) The name and address of the emergency service provider to whom the newborn was surrendered or the name and address of the location of the newborn safety device to which the newborn was surrendered.

(iii) Any information, either written or verbal, that was provided by and to the parent who surrendered the newborn. The emergency service provider that originally accepted the newborn as required by section 3 of this chapter shall provide this information to the child placing agency. This subparagraph does not apply to a newborn surrendered to a newborn safety device under section 3a of this chapter if there was no information left with the newborn.

(f) Within 28 days, make reasonable efforts to identify, locate, and provide notice of the surrender of the newborn to the nonsurrendering parent. The child placing agency shall file a written report with the court that issued the order placing the child. The report shall state the efforts the child placing agency made in attempting to identify and locate the nonsurrendering parent and the results of those efforts. If the identity and address of the nonsurrendering parent are unknown, the child placing agency shall provide notice of the surrender of the newborn by publication in a newspaper of general circulation in the county where the newborn was surrendered.

Sec. 10. (1) If a surrendering parent wants custody of a newborn who was surrendered under section 3 or 3a of this chapter, the parent shall, within 28 days after the newborn was surrendered, file a petition with the court for custody. Not later than 28 days after notice of surrender of a newborn has been published, an individual claiming to be the nonsurrendering parent of that newborn may file a petition with the court for custody. The surrendering parent or nonsurrendering parent shall file the petition for custody in 1 of the following counties:

(a) If the parent has located the newborn, the county where the newborn is located.

(b) If subdivision (a) does not apply and the parent knows the location of the emergency service provider or newborn safety device to whom the newborn was surrendered, the county where the emergency service provider or newborn safety device is located.

(c) If neither subdivision (a) nor (b) applies, the county where the parent is located.

(2) If the court in which the petition for custody is filed did not issue the order placing the newborn, the court in which the petition for custody is filed shall locate and contact the court that issued the order and shall transfer the proceedings to that court.

(3) Before holding a custody hearing on a petition filed under this section and not later than 7 days after a petition for custody under this section has been filed, the court shall conduct a hearing to make the determinations of paternity or maternity as described in section 11.

Sec. 17. (1) A parent who surrenders a newborn under section 3 or 3a of this chapter and who does not file a custody action under section 10 of this chapter is presumed to have knowingly released his or her parental rights to the newborn.

(2) If the surrendering parent has not filed a petition for custody of the newborn within 28 days of the surrender, the child placing agency with authority to place the newborn shall immediately file a petition with the court to determine whether the release shall be accepted and whether the court shall enter an order terminating the rights of the surrendering parent.

(3) If the nonsurrendering parent has not filed a petition for custody of the newborn within 28 days of notice of surrender of a newborn under section 10 of this chapter, the child placing agency with authority to place the newborn shall immediately file a petition with the court to determine whether the court shall enter an order terminating the rights of the nonsurrendering parent.

(4) The court shall schedule a hearing on the petition from the child placing agency within 14 days of receipt of that petition. At the hearing, the child placing agency shall present evidence that demonstrates that the surrendering parent released the newborn and that demonstrates the efforts made by the child placing agency to identify, locate, and provide notice to the nonsurrendering parent.

(5) If the court finds by a preponderance of the evidence that the surrendering parent has knowingly released his or her rights to the child and that reasonable efforts were made to locate the nonsurrendering parent and a custody action has not been filed, the court shall enter an order terminating parental rights of the surrendering parent and the nonsurrendering parent under this chapter.

Sec. 20. The department shall establish a safe delivery program. The safe delivery program shall include, but is not limited to, both of the following:

(a) A toll-free, 24-hour telephone line. The information provided with this telephone line shall include, but is not limited to, all of the following:

(i) Information on prenatal care and the delivery of a newborn.

(ii) Names of health agencies that can assist in obtaining services and supports that provide for the pregnancy-related health of the mother and the health of the baby.

(iii) Information on adoption options and the name and telephone number of a child placing agency that can assist a parent or expecting parent in obtaining adoption services.

(iv) Information that, in order to safely provide for the health of the mother and her newborn, the best place for the delivery of a child is in a hospital, hospital-based birthing center, or birthing center that is accredited by the commission for the accreditation of birth centers.

(v) An explanation that, to the extent of the law, prenatal care and delivery services are routinely confidential within the health care system, if requested by the mother.

(vi) Information that a hospital will take into protective custody a newborn that is surrendered as provided for in this chapter and, if needed, provide emergency medical assistance to the mother, the newborn, or both.

(vii) Information regarding legal and procedural requirements related to the voluntary surrender of a child as provided for in this chapter.

(viii) Information regarding the legal consequences for endangering a child, including child protective service investigations and potential criminal penalties.

(ix) Information that surrendering a newborn for adoption as provided in this chapter is an affirmative defense to charges of abandonment as provided in section 135 of the Michigan penal code, 1931 PA 328, MCL 750.135.

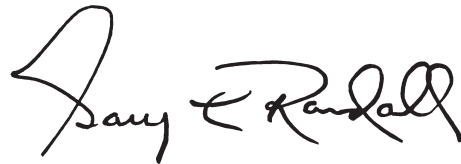
(x) Information about resources for counseling and assistance with crisis management.

(b) A pamphlet that provides information to the public concerning the safe delivery program, including information regarding newborn safety devices. The department shall publish and distribute the pamphlet. The pamphlet shall prominently display the toll-free telephone number prescribed by subdivision (a).

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5750 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor