

HOUSE BILL NO. 4523

April 30, 2019, Introduced by Reps. Kahle, Leutheuser, Frederick, Rendon, Ellison, Brenda Carter, Howell, Neeley, Tate, Meerman, Kuppa, Liberati, Vaupel, Brann, Brixie and Byrd and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," 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.

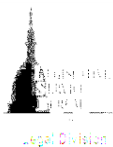
THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XII

2

Sec. 3a. (1) A parent may voluntarily deliver his or her



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1 newborn to a newborn safety device provided by a hospital. The
2 newborn safety device must meet the requirements provided in rules
3 promulgated under this section.

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

8 (a) Sanitation standards.

9 (b) Procedures to provide emergency care for a newborn
10 delivered to a newborn safety device.

11 (c) Manufacturing and manufacturer standards.

12 (d) Design and function requirements that include the
13 following:

14 (i) Allow a newborn to be placed anonymously from the outside
15 of the hospital.

16 (ii) Lock the newborn safety device after a newborn is placed
17 in it so that a person outside the hospital is unable to access the
18 newborn.

19 (iii) Provide a controlled environment for the care and
20 protection of the newborn.

21 (iv) Trigger a 9-1-1 call and provide notification to a
22 centralized location in the hospital within 30 seconds after a
23 newborn is placed in the newborn safety device.

24 (v) Requirement that the interior wall of the newborn safety
25 device be transparent so that the interior of the newborn safety
26 device is visible to staff inside the hospital.

27 (e) Operating policies, supervision, and maintenance
28 requirements for a newborn safety device.

29 (f) Qualifications required for a person to install a newborn



1 safety device.

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

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

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

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

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

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

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

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

18 (iii) Name and contact information.

19 (iv) Family medical information.

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

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

25 (3) A newborn safety device must be installed in a location
26 where the interior of the newborn safety device will be in a safe
27 and secure location that is visible to the staff. Alternatively,
28 the hospital must install, at the security desk, a video feed and
29 an audio feed to capture the newborn safety device. The camera must



1 be placed in a way that protects the anonymity of the parent
2 delivering the newborn.

3 (4) A hospital must inspect and test a newborn safety device
4 to ensure that the newborn safety device is functioning properly.
5 Inspecting and testing required under this section must be
6 performed 2 times every 24-hour period at 12-hour intervals. The
7 hospital staff person who inspects and tests the newborn safety
8 device must confirm by initialing a form, provided by the
9 department, that testing and inspecting have been completed.

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

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

19 (2) A hospital that takes a newborn into temporary protective
20 custody under this chapter **or receives a newborn through a newborn**
21 **safety device under this chapter** shall have the newborn examined by
22 a physician. If a physician who examines the newborn either
23 determines that there is reason to suspect the newborn has
24 experienced child abuse or child neglect, other than being
25 surrendered to an emergency service provider under section 3 of
26 this chapter **or surrendered to a newborn safety device under**
27 **section 3a of this chapter**, or comes to a reasonable belief that
28 the child is not a newborn, the physician shall immediately report
29 to the department as required by section 3 of the child protection



1 law, 1975 PA 238, MCL 722.623.

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

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

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

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

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

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

27 (e) Not later than 48 hours after a transfer of physical
28 custody to a prospective adoptive parent, petition the court in the
29 county in which the prospective adoptive parent resides to provide



1 authority to place the newborn and provide care for the newborn.
2 The petition shall include all of the following:

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

4 (ii) The name and address of the emergency service provider to
5 whom the newborn was surrendered **or the name and address of the**
6 **hospital where the newborn safety device, to which the newborn was**
7 **surrendered, is located.**

8 (iii) Any information, either written or verbal, that was
9 provided by and to the parent who surrendered the newborn. The
10 emergency service provider that originally accepted the newborn as
11 required by section 3 **or 3a** of this chapter shall provide this
12 information to the child placing agency.

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

24 Sec. 10. (1) If a surrendering parent wants custody of a
25 newborn who was surrendered under section 3 **or 3a** of this chapter,
26 the parent ~~shall,~~**must**, within 28 days after the newborn was
27 surrendered, file a petition with the court for custody. Not later
28 than 28 days after notice of surrender of a newborn has been
29 published, an individual claiming to be the nonsurrendering parent



1 of that newborn may file a petition with the court for custody. The
2 surrendering parent or nonsurrendering parent shall file the
3 petition for custody in 1 of the following counties:

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

6 (b) If subdivision (a) does not apply and the parent knows the
7 location of the emergency service provider **or the hospital where**
8 **the newborn safety device** to ~~whom~~**which** the newborn was
9 surrendered, the county where the emergency service provider **or**
10 **hospital where the newborn safety device** is located.

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

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

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

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

27 (2) If the surrendering parent has not filed a petition for
28 custody of the newborn within 28 days of the surrender, the child
29 placing agency with authority to place the newborn shall



1 immediately file a petition with the court to determine whether the
2 release shall be accepted and whether the court shall enter an
3 order terminating the rights of the surrendering parent.

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

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

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

24 Sec. 20. The department ~~of community health in conjunction~~
25 ~~with the department~~ shall establish a safe delivery program. The
26 safe delivery program shall include, but is not limited to, both of
27 the following:

28 (a) A toll-free, 24-hour telephone line. The information
29 provided with this telephone line shall include, but is not limited



1 to, all of the following:

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

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

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

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

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

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

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

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

27 (ix) Information that surrendering a newborn for adoption as
28 provided in this chapter is an affirmative defense to charges of



1 abandonment as provided in section 135 of the Michigan penal code,
2 1931 PA 328, MCL 750.135.

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

5 (b) A pamphlet that provides information to the public
6 concerning the safe delivery program, **including information**
7 **regarding newborn safety devices**. The department ~~of community~~
8 ~~health and the department~~ shall ~~jointly~~ publish and distribute the
9 pamphlet. The pamphlet shall prominently display the toll-free
10 telephone number prescribed by subdivision (a).

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

13 Enacting section 2. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 4524 (request no.
15 00307'19) of the 100th Legislature is enacted into law.

