

HOUSE BILL NO. 5407

January 23, 2024, Introduced by Reps. Bruck, Maddock, Alexander, Bierlein, Jaime Greene, Johnsen, Kunse, Phil Green, Fox and Wozniak 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 1, 2, 3, 5, and 17 of chapter XII (MCL 712.1, 712.2, 712.3, 712.5, and 712.17), sections 1 and 3 as amended by 2006 PA 488, sections 2 and 5 as added by 2000 PA 232, and section 17 as amended by 2010 PA 348, and by adding sections 3a and 3b to chapter XII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This chapter ~~shall be known and~~ may be cited as
2 the "safe delivery of newborns law".

1 (2) As used in this chapter:

2 (a) "Baby drop box" means a protective container in which a
3 parent may anonymously place and surrender the parent's newborn as
4 provided under section 3b.

5 (b) ~~(a)~~—"Child placing agency" means that term as defined in
6 section 1 of 1973 PA 116, MCL 722.111.

7 (c) ~~(b)~~—"Court" means the family division of circuit court.

8 (d) ~~(e)~~—"Department" means the department of **health and** human
9 services.

10 (e) ~~(d)~~—"DNA identification profile" and "DNA identification
11 profiling" mean those terms as defined in section 1 of the
12 paternity act, 1956 PA 205, MCL 722.711.

13 (f) ~~(e)~~—"Domestic violence" means that term as defined in
14 section 1 of 1978 PA 389, MCL 400.1501.

15 (g) ~~(f)~~—"Emergency service provider" means a uniformed or
16 otherwise identified employee or contractor of a fire department,
17 hospital, or police station when that individual is inside the
18 premises and on duty. Emergency service provider also includes a
19 paramedic or an emergency medical technician when either of those
20 individuals is responding to a 9-1-1 emergency call.

21 (h) ~~(g)~~—"Fire department" means an organized fire department
22 as that term is defined in section 1 of the fire prevention code,
23 1941 PA 207, MCL 29.1.

24 (i) ~~(h)~~—"Gross negligence" means conduct so reckless as to
25 demonstrate a substantial lack of concern for whether an injury
26 results.

27 (j) ~~(i)~~—"Hospital" means a hospital that is licensed under
28 ~~article 17~~ **part 215** of the public health code, 1978 PA 368, MCL
29 ~~333.20101 to 333.22260~~ **333.21501 to 333.21571**.

1 (k) ~~(j)~~—"Lawyer-guardian ad litem" means an attorney appointed
2 under section 2 of this chapter. A lawyer-guardian ad litem
3 represents the newborn, and has the powers and duties, as set forth
4 in section 17d of chapter XIIIA.

5 (l) ~~(k)~~—"Newborn" means a child who a physician reasonably
6 believes to be not more than 72 hours old.

7 (m) ~~(l)~~—"Police station" means that term as defined in section
8 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

9 (n) ~~(m)~~—"Preplacement assessment" means an assessment of a
10 prospective adoptive parent as described in section 23f of chapter
11 X.

12 (o) ~~(n)~~—"Surrender" means to leave a newborn with an emergency
13 service provider without expressing an intent to return for the
14 newborn.

15 Sec. 2. (1) The court has jurisdiction over a newborn who is
16 surrendered to an emergency service provider as provided in section
17 3 of this chapter **and a newborn who is surrendered to a baby drop**
18 **box under section 3b of this chapter.** The court may appoint a
19 lawyer-guardian ad litem to represent a newborn in proceedings
20 under this chapter.

21 (2) Except as provided in section 5 of this chapter, the
22 reporting requirement of section 3 of the child protection law,
23 1975 PA 238, MCL 722.623, does not apply regarding a child
24 surrendered to an emergency service provider as provided in section
25 3 of this chapter **or to a newborn who is surrendered to a baby drop**
26 **box under section 3b of this chapter.**

27 (3) Unless this chapter specifically provides otherwise, a
28 provision in another chapter of this act does not apply to a
29 proceeding under this chapter. Unless this chapter specifically

1 provides otherwise, the child custody act of 1970, 1970 PA 91, MCL
2 722.21 to ~~722.30~~, **722.31**, does not apply to a proceeding under this
3 chapter.

4 (4) A hospital and a child placing agency, and their agents
5 and employees, are immune in a civil action for damages for an act
6 or omission in accepting or transferring a newborn under this
7 chapter, except for an act or omission constituting gross
8 negligence or willful or wanton misconduct. To the extent not
9 protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to
10 ~~691.1415~~, **691.1419**, an employee or contractor of a fire department
11 or police station has the same immunity that this subsection
12 provides to a hospital's or child placing agency's agent or
13 employee.

14 Sec. 3. (1) If a parent surrenders a child who may be a
15 newborn to an emergency service provider, the emergency service
16 provider shall comply with the requirements of this section under
17 the assumption that the child is a newborn. The emergency service
18 provider shall, without a court order, immediately accept the
19 newborn, taking the newborn into temporary protective custody. ~~The~~
20 **Except for a newborn surrendered to a baby drop box under section**
21 **3b, the** emergency service provider shall make a reasonable effort
22 to do all of the following:

23 (a) Take action necessary to protect the physical health and
24 safety of the newborn.

25 (b) Inform the parent that by surrendering the newborn, the
26 parent is releasing the newborn to a child placing agency to be
27 placed for adoption.

28 (c) Inform the parent that the parent has 28 days to petition
29 the court to regain custody of the newborn.

1 (d) Provide the parent with written material approved by or
2 produced by the department that includes, but is not limited to,
3 all of the following statements:

4 (i) By surrendering the newborn, the parent is releasing the
5 newborn to a child placing agency to be placed for adoption.

6 (ii) The parent has 28 days after surrendering the newborn to
7 petition the court to regain custody of the newborn.

8 (iii) After the 28-day period to petition for custody elapses,
9 there will be a hearing to determine and terminate parental rights.

10 (iv) There will be public notice of this hearing, and the
11 notice will not contain the parent's name.

12 (v) The parent will not receive personal notice of this
13 hearing.

14 (vi) Information the parent provides to an emergency service
15 provider will not be made public.

16 (vii) A parent can contact the safe delivery line established
17 under section 20 of this chapter for more information.

18 (2) After providing a parent with the information described in
19 subsection (1), an emergency service provider, **except for a fire**
20 **department that receives a newborn under section 3b**, shall make a
21 reasonable attempt to do all of the following:

22 (a) Encourage the parent to provide any relevant family or
23 medical information.

24 (b) Provide the parent with the pamphlet produced under
25 section 20 of this chapter and inform the parent that ~~he or she~~ **the**
26 **parent** can receive counseling or medical attention.

27 (c) Inform the parent that information that ~~he or she~~ **the**
28 **parent** provides will not be made public.

29 (d) Ask the parent to identify himself or herself.

1 (e) Inform the parent that in order to place the newborn for
2 adoption the state is required to make a reasonable attempt to
3 identify the other parent, and then ask the parent to identify the
4 other parent.

5 (f) Inform the parent that the child placing agency that takes
6 temporary protective custody of the newborn can provide
7 confidential services to the parent.

8 (g) Inform the parent that the parent may sign a release for
9 the newborn that may be used at the parental rights termination
10 hearing under this chapter.

11 (3) A newborn whose birth is described in the born alive
12 infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and
13 who is in a hospital setting or transferred to a hospital under
14 section 3(1) of the born alive infant protection act, 2002 PA 687,
15 MCL 333.1073, is a newborn surrendered as provided in this chapter.
16 An emergency service provider who has received a newborn under the
17 born alive infant protection act, 2002 PA 687, MCL 333.1071 to
18 333.1073, shall do all of the following:

19 (a) Comply with the requirements of subsections (1) and (2) to
20 obtain information from or supply information to the surrendering
21 parent by requesting the information from or supplying the
22 information to the attending physician who delivered the newborn.

23 (b) Make no attempt to directly contact the parent or parents
24 of the newborn.

25 (c) Provide humane comfort care if the newborn is determined
26 to have no chance of survival due to gestational immaturity in
27 light of available neonatal medical treatment or other condition
28 incompatible with life.

29 **Sec. 3a. A municipality may install a baby drop box, at its**

1 own expense, at a fire department that is located within the
2 municipality.

3 Sec. 3b. (1) A parent may voluntarily and anonymously
4 surrender the parent's newborn to a baby drop box provided by a
5 fire department.

6 (2) A fire department that receives a newborn under this
7 section shall make a reasonable effort to take action necessary to
8 protect the physical health and safety of the newborn.

9 Sec. 5. (1) An emergency service provider that is not a
10 hospital and that takes a newborn into temporary protective custody
11 under section 3 of this chapter **or a fire department that receives**
12 **a newborn under section 3b** shall transfer the newborn to a
13 hospital. The hospital shall accept a newborn who an emergency
14 service provider transfers to the hospital in compliance with this
15 chapter, taking the newborn into temporary protective custody.

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

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

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

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

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

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

24 (5) If the court finds by a preponderance of the evidence that
25 the surrendering parent has knowingly released ~~his or her~~ **the**
26 **parent's** rights to the child and that reasonable efforts were made
27 to locate the nonsurrendering parent and a custody action has not
28 been filed, the court shall enter an order terminating parental
29 rights of the surrendering parent and the nonsurrendering parent

1 under this chapter.