

HOUSE _____ **AMENDMENT NO.** _____**Offered By**

AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 829, Section 209.200, Page 8, Line 20, by inserting after all of said section and line the following:

"210.950. 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2002". The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

2. As used in this section, the following terms mean:

(1) "Hospital", as defined in section 197.020, RSMo;

(2) "Nonrelinquishing parent", the biological parent who does not leave a newborn infant with any person listed in subsection 3 of this section in accordance with this section;

(3) "Relinquishing parent", the biological parent or person acting on such parent's behalf who leaves a newborn infant with any person listed in subsection 3 of this section in accordance with this section.

3. A parent shall not be prosecuted for a violation of section 568.030, 568.032, 568.045 or 568.050, RSMo, for actions related to the voluntary relinquishment of a child up to [five] thirty days old pursuant to this section [and it shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045 and 568.050, RSMo, that a parent who is a defendant voluntarily relinquished a child no more than one year old pursuant to this section] if:

(1) Expressing intent not to return for the child, the parent voluntarily delivered the child safely to the physical custody of any of the following persons:

(a) An employee, agent, or member of the staff of any hospital, in a health care provider position or on duty in a nonmedical paid or volunteer position;

(b) A firefighter or emergency medical technician on duty in a paid position or on duty in a volunteer position; or

(c) A law enforcement officer;

(2) The child was no more than [one year] thirty days old when delivered by the parent to any person listed in subdivision (1) of this subsection; and

(3) The child has not been abused or neglected by the parent prior to such voluntary delivery.

4. A parent voluntarily relinquishing a child under this section shall not be required to provide any identifying information about the child or the parent. No person shall induce or coerce, or attempt to induce or coerce, a parent into revealing his or her identity. No officer, employee, or agent of this state or any political subdivision of this state shall attempt to locate or

determine the identity of such parent. In addition, any person who obtains information on the relinquishing parent shall not disclose such information except to the following:

- (1) A birth parent who has waived anonymity or the child's adoptive parent;
- (2) The staff of the department of health and senior services, the department of social services, or any county health or social services agency or licensed child welfare agency that provides services to the child;
- (3) Persons performing juvenile court intake or dispositional services;
- (4) The attending physician;
- (5) The child's foster parent or any other person who has physical custody of the child;
- (6) A juvenile court or other court of competent jurisdiction conducting proceedings relating to the child;
- (7) The attorney representing the interests of the public in proceedings relating to the child; and
- (8) The attorney representing the interests of the child.

5. A person listed in subdivision (1) of subsection 3 of this section shall, without a court order, take physical custody of a child the person reasonably believes to be no more than [one year] thirty days old and is delivered in accordance with this section by a person purporting to be the child's parent. If delivery of a newborn is made pursuant to this section in any place other than a hospital, the person taking physical custody of the child shall arrange for the immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197, RSMo.

[5.] 6. The hospital, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health or safety of the child. The hospital shall notify the division of family services and the local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer shall immediately begin protective custody proceedings and request the child be made a ward of the court during the child's stay in the medical facility. Upon discharge of the child from the medical facility and pursuant to a protective custody order ordering custody of the child to the division, the children's division [of family services] shall take physical custody of the child. The parent's voluntary delivery of the child in accordance with this section shall constitute the parent's implied consent to any such act and a voluntary relinquishment of such parent's parental rights.

[6.] 7. In any termination of parental rights proceeding initiated after the relinquishment of a child pursuant to this section, the juvenile officer shall make public notice that a child has been relinquished, including the sex of the child, and the date and location of such relinquishment. Within thirty days of such public notice, the [nonrelinquishing] parent wishing to establish parental rights shall identify himself or herself to the court and state his or her intentions regarding the child. The court shall initiate proceedings to establish paternity, or if no person identifies himself as the father within thirty days, maternity. The juvenile officer shall make examination of the putative father registry established in section 192.016, RSMo, to determine whether attempts

1 have previously been made to preserve parental rights to the child. If such attempts have been
2 made, the juvenile officer shall make reasonable efforts to provide notice of the abandonment of
3 the child to such putative father.

4 [7.] 8. (1) If a relinquishing parent of a child relinquishes custody of the child to any
5 person listed in subsection 3 of this section in accordance with this section and to preserve the
6 parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps
7 necessary to establish parentage within thirty days after the public notice or specific notice
8 provided in subsection [6] 7 of this section.

9 (2) If [a nonrelinquishing] either parent fails to take steps to establish parentage within the
10 thirty-day period specified in subdivision (1) of this subsection, [the nonrelinquishing] either
11 parent may have all of his or her rights terminated with respect to the child.

12 (3) When [a nonrelinquishing] either parent inquires at a hospital regarding a child whose
13 custody was relinquished pursuant to this section, such facility shall refer [the nonrelinquishing]
14 either parent to the children's division [of family services] and the juvenile court exercising
15 jurisdiction over the child.

16 [8.] 9. The persons listed in subdivision (1) of subsection 3 of this section shall be
17 immune from civil, criminal, and administrative liability for accepting physical custody of a child
18 pursuant to this section if such persons accept custody in good faith. Such immunity shall not
19 extend to any acts or omissions, including negligent or intentional acts or omissions, occurring
20 after the acceptance of such child.

21 [9.] 10. The children's division [of family services] shall:

22 (1) Provide information and answer questions about the process established by this
23 section on the statewide, toll-free telephone number maintained pursuant to section 210.145;

24 (2) Provide information to the public by way of pamphlets, brochures, or by other ways to
25 deliver information about the process established by this section.

26 [10.] 11. Nothing in this section shall be construed as conflicting with section 210.125.”;
27 and

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29 Further amend said Bill, Section 211.031, Page 10, Line 90, by inserting after all of said section
30 and line the following:

31 “211.447. 1. Any information that could justify the filing of a petition to terminate
32 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall
33 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should
34 be filed, such officer shall so notify the informant in writing within thirty days of the referral.
35 Such notification shall include the reasons that the petition will not be filed. Thereupon, the
36 informant may bring the matter directly to the attention of the judge of the juvenile court by
37 presenting the information in writing, and if it appears to the judge that the information could
38 justify the filing of a petition, the judge may order the juvenile officer to take further action,

1 including making a further preliminary inquiry or filing a petition.

2 2. Except as provided for in subsection 4 of this section, a petition to terminate the
3 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,
4 or if such a petition has been filed by another party, the juvenile officer or the division shall seek
5 to be joined as a party to the petition, when:

6 (1) Information available to the juvenile officer or the division establishes that the child
7 has been in foster care for at least fifteen of the most recent twenty-two months; or

8 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
9 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
10 of filing of the petition. The court may find that an infant has been abandoned if:

11 (a) The parent has left the child under circumstances that the identity of the child was
12 unknown and could not be ascertained, despite diligent searching, and the parent has not come
13 forward to claim the child; or

14 (b) The parent has, without good cause, left the child without any provision for parental
15 support and without making arrangements to visit or communicate with the child, although able to
16 do so; or

17 (c) The parent has voluntarily relinquished a child under section 210.950; or

18 (3) A court of competent jurisdiction has determined that the parent has:

19 (a) Committed murder of another child of the parent; or

20 (b) Committed voluntary manslaughter of another child of the parent; or

21 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
22 voluntary manslaughter; or

23 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
24 another child of the parent.

25 3. A termination of parental rights petition shall be filed by the juvenile officer or the
26 division, or if such a petition has been filed by another party, the juvenile officer or the division
27 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
28 required in subsection 2 of this section, except as provided in subsection 4 of this section. Failure
29 to comply with this requirement shall not deprive the court of jurisdiction to adjudicate a petition
30 for termination of parental rights which is filed outside of sixty days.

31 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this
32 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
33 the parental rights of the child's parent or parents if:

34 (1) The child is being cared for by a relative; or

35 (2) There exists a compelling reason for determining that filing such a petition would not
36 be in the best interest of the child, as documented in the permanency plan which shall be made
37 available for court review; or

38 (3) The family of the child has not been provided such services as provided for in section

1 211.183.

2 5. The juvenile officer or the division may file a petition to terminate the parental rights of
3 the child's parent when it appears that one or more of the following grounds for termination exist:

4 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
5 child over one year of age at the time of filing of the petition. The court shall find that the child
6 has been abandoned if, for a period of six months or longer:

7 (a) The parent has left the child under such circumstances that the identity of the child was
8 unknown and could not be ascertained, despite diligent searching, and the parent has not come
9 forward to claim the child; or

10 (b) The parent has, without good cause, left the child without any provision for parental
11 support and without making arrangements to visit or communicate with the child, although able to
12 do so;

13 (2) The child has been abused or neglected. In determining whether to terminate parental
14 rights pursuant to this subdivision, the court shall consider and make findings on the following
15 conditions or acts of the parent:

16 (a) A mental condition which is shown by competent evidence either to be permanent or
17 such that there is no reasonable likelihood that the condition can be reversed and which renders
18 the parent unable to knowingly provide the child the necessary care, custody and control;

19 (b) Chemical dependency which prevents the parent from consistently providing the
20 necessary care, custody and control of the child and which cannot be treated so as to enable the
21 parent to consistently provide such care, custody and control;

22 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
23 or any child in the family by the parent, including an act of incest, or by another under
24 circumstances that indicate that the parent knew or should have known that such acts were being
25 committed toward the child or any child in the family; or

26 (d) Repeated or continuous failure by the parent, although physically or financially able,
27 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
28 care and control necessary for the child's physical, mental, or emotional health and development;

29 (3) The child has been under the jurisdiction of the juvenile court for a period of one year,
30 and the court finds that the conditions which led to the assumption of jurisdiction still persist, or
31 conditions of a potentially harmful nature continue to exist, that there is little likelihood that those
32 conditions will be remedied at an early date so that the child can be returned to the parent in the
33 near future, or the continuation of the parent-child relationship greatly diminishes the child's
34 prospects for early integration into a stable and permanent home. In determining whether to
35 terminate parental rights under this subdivision, the court shall consider and make findings on the
36 following:

37 (a) The terms of a social service plan entered into by the parent and the division and the
38 extent to which the parties have made progress in complying with those terms;

1 (b) The success or failure of the efforts of the juvenile officer, the division or other agency
2 to aid the parent on a continuing basis in adjusting his circumstances or conduct to provide a
3 proper home for the child;

4 (c) A mental condition which is shown by competent evidence either to be permanent or
5 such that there is no reasonable likelihood that the condition can be reversed and which renders
6 the parent unable to knowingly provide the child the necessary care, custody and control;

7 (d) Chemical dependency which prevents the parent from consistently providing the
8 necessary care, custody and control over the child and which cannot be treated so as to enable the
9 parent to consistently provide such care, custody and control; or

10 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566,
11 RSMo, when the child or any child in the family was a victim, or a violation of section 568.020,
12 RSMo, when the child or any child in the family was a victim. As used in this subdivision, a
13 "child" means any person who was under eighteen years of age at the time of the crime and who
14 resided with such parent or was related within the third degree of consanguinity or affinity to such
15 parent; or

16 (5) The child was conceived and born as a result of an act of forcible rape. When the
17 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such a
18 plea or conviction shall be conclusive evidence supporting the termination of the biological
19 father's parental rights; or

20 (6) The parent is unfit to be a party to the parent and child relationship because of a
21 consistent pattern of committing a specific abuse, including but not limited to, abuses as defined
22 in section 455.010, RSMo, child abuse or drug abuse before the child or of specific conditions
23 directly relating to the parent and child relationship either of which are determined by the court to
24 be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to
25 care appropriately for the ongoing physical, mental or emotional needs of the child. It is
26 presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that
27 within a three-year period immediately prior to the termination adjudication, the parent's parental
28 rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of
29 this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of
30 other states.

31 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed
32 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court
33 finds that the termination is in the best interest of the child and when it appears by clear, cogent
34 and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this
35 section.

36 7. When considering whether to terminate the parent-child relationship pursuant to
37 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section,
38 the court shall evaluate and make findings on the following factors, when appropriate and

1 applicable to the case:

2 (1) The emotional ties to the birth parent;

3 (2) The extent to which the parent has maintained regular visitation or other contact with
4 the child;

5 (3) The extent of payment by the parent for the cost of care and maintenance of the child
6 when financially able to do so including the time that the child is in the custody of the division or
7 other child-placing agency;

8 (4) Whether additional services would be likely to bring about lasting parental adjustment
9 enabling a return of the child to the parent within an ascertainable period of time;

10 (5) The parent's disinterest in or lack of commitment to the child;

11 (6) The conviction of the parent of a felony offense that the court finds is of such a nature
12 that the child will be deprived of a stable home for a period of years; provided, however, that
13 incarceration in and of itself shall not be grounds for termination of parental rights;

14 (7) Deliberate acts of the parent or acts of another of which the parent knew or should
15 have known that subjects the child to a substantial risk of physical or mental harm.

16 8. The court may attach little or no weight to infrequent visitations, communications, or
17 contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child
18 relationship may serve as an inducement for the parent's rehabilitation.

19 9. In actions for adoption pursuant to chapter 453, RSMo, the court may hear and
20 determine the issues raised in a petition for adoption containing a prayer for termination of
21 parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5
22 of this section.”; and

23
24 Further amend said bill by amending the title, enacting clause, and intersectional references
25 accordingly.