

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 76

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MURPHY.

0492H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 210.950, RSMo, and to enact in lieu thereof one new section relating to newborn safety incubators.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 210.950, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.950, to read as follows:

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;

(2) "Maternity home", the same meaning as such term is defined in section 135.600;

(3) **"Newborn safety incubator", a medical device used to**

maintain an optimal environment for the care of a newborn infant;

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

[(4)] (5) "Pregnancy resource center", the same meaning as such term is defined in section 135.630;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 [~~(5)~~] (6) "Relinquishing parent", the biological parent or person acting on such parent's
16 behalf who leaves a newborn infant **in a newborn safety incubator or** with any person listed
17 in subsection 3 of this section in accordance with this section.

18 3. A parent shall not be prosecuted for a violation of section 568.030, 568.032, 568.045
19 or 568.050 for actions related to the voluntary relinquishment of a child up to forty-five days old
20 pursuant to this section if:

21 (1) Expressing intent not to return for the child, the parent voluntarily delivered the child
22 safely to **a newborn safety incubator or to** the physical custody of any of the following persons:

23 (a) An employee, agent, or member of the staff of any hospital, maternity home, or
24 pregnancy resource center in a health care provider position or on duty in a nonmedical paid or
25 volunteer position;

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

28 (c) A law enforcement officer;

29 (2) The child was no more than forty-five days old when delivered by the parent to **the**
30 **newborn safety incubator or to** any person listed in subdivision (1) of this subsection; and

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

33 4. A parent voluntarily relinquishing a child under this section shall not be required to
34 provide any identifying information about the child or the parent. No person shall induce or
35 coerce, or attempt to induce or coerce, a parent into revealing his or her identity. No officer,
36 employee, or agent of this state or any political subdivision of this state shall attempt to locate
37 or determine the identity of such parent. In addition, any person who obtains information on the
38 relinquishing parent shall not disclose such information except to the following:

39 (1) A birth parent who has waived anonymity or the child's adoptive parent;

40 (2) The staff of the department of health and senior services, the department of social
41 services, or any county health or social services agency or licensed child welfare agency that
42 provides services to the child;

43 (3) A person performing juvenile court intake or dispositional services;

44 (4) The attending physician;

45 (5) The child's foster parent or any other person who has physical custody of the child;

46 (6) A juvenile court or other court of competent jurisdiction conducting proceedings
47 relating to the child;

48 (7) The attorney representing the interests of the public in proceedings relating to the
49 child; and

50 (8) The attorney representing the interests of the child.

51 5. A person listed in subdivision (1) of subsection 3 of this section shall, without a court
52 order, take physical custody of a child the person reasonably believes to be no more than
53 forty-five days old and is delivered in accordance with this section by a person purporting to be
54 the child's parent **or is delivered in accordance with this section to a newborn safety**
55 **incubator**. If delivery of a newborn is made pursuant to this section in any place other than a
56 hospital, the person taking physical custody of the child shall arrange for the immediate
57 transportation of the child to the nearest hospital licensed pursuant to chapter 197.

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

68 7. In any termination of parental rights proceeding initiated after the relinquishment of
69 a child pursuant to this section, the juvenile officer shall make public notice that a child has been
70 relinquished, including the sex of the child, and the date and location of such relinquishment.
71 Within thirty days of such public notice, the parent wishing to establish parental rights shall
72 identify himself or herself to the court and state his or her intentions regarding the child. The
73 court shall initiate proceedings to establish paternity, or if no person identifies himself as the
74 father within thirty days, maternity. The juvenile officer shall make examination of the putative
75 father registry established in section 192.016 to determine whether attempts have previously been
76 made to preserve parental rights to the child. If such attempts have been made, the juvenile
77 officer shall make reasonable efforts to provide notice of the abandonment of the child to such
78 putative father.

79 8. (1) If a relinquishing parent of a child relinquishes custody of the child to **a newborn**
80 **safety incubator or to** any person listed in subsection 3 of this section in accordance with this
81 section and to preserve the parental rights of the nonrelinquishing parent, the nonrelinquishing
82 parent shall take such steps necessary to establish parentage within thirty days after the public
83 notice or specific notice provided in subsection 7 of this section.

84 (2) If either parent fails to take steps to establish parentage within the thirty-day period
85 specified in subdivision (1) of this subsection, either parent may have all of his or her rights
86 terminated with respect to the child.

87 (3) When either parent inquires at a hospital regarding a child whose custody was
88 relinquished pursuant to this section, such facility shall refer such parent to the children's division
89 and the juvenile court exercising jurisdiction over the child.

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

95 10. The children's division shall:

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

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

100 11. It shall be an affirmative defense to prosecution for a violation of sections 568.030,
101 568.032, 568.045, and 568.050 that a parent who is a defendant voluntarily relinquished a child
102 no more than one year old under this section.

103 12. Nothing in this section shall be construed as conflicting with section 210.125.

104 **13. The director of the department of health and senior services may promulgate**
105 **all necessary rules and regulations for the administration of this section, including rules**
106 **governing the specifications, installation, maintenance, and oversight of newborn safety**
107 **incubators. Any rule or portion of a rule, as that term is defined in section 536.010, that**
108 **is created under the authority delegated in this section shall become effective only if it**
109 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
110 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
111 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
112 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
113 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**
114 **shall be invalid and void.**

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