

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 121

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MURPHY.

0797H.01P

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Section A. Section 210.950, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.950, to read as follows: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

(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 (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 in
17 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,
19 568.045 or 568.050 for actions related to the voluntary relinquishment of a child up to [~~forty-~~
20 ~~five~~] **ninety** days old pursuant to this section if:

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

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

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

29 (c) A law enforcement officer;

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

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

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

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

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

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

46 (4) The attending physician;

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

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

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

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

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

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

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

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

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

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

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

99 10. The children's division shall:

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

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

104 11. It shall be an affirmative defense to prosecution for a violation of sections
105 568.030, 568.032, 568.045, and 568.050 that a parent who is a defendant voluntarily
106 relinquished a child no more than one year old under this section.

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

108 13. **(1) There is hereby created in the state treasury the "Safe Place for**
109 **Newborns Fund", which shall consist of moneys appropriated by the general assembly**
110 **from general revenue and any gifts, bequests, or donations. The state treasurer shall be**
111 **custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer**
112 **may approve disbursements. The fund shall be a dedicated fund and, upon**
113 **appropriation, moneys in this fund shall be used solely for the installation of**
114 **newborn safety incubators.**

115 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
116 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
117 **general revenue fund.**

118 **(3) The state treasurer shall invest moneys in the fund in the same manner as**
119 **other funds are invested. Any interest and moneys earned on such investments shall be**
120 **credited to the fund.**

121 14. The state of Missouri shall provide matching moneys from the general
122 revenue fund for the installation of newborn safety incubators. The total amount
123 available to the fund from state sources under such a match program shall be up to ten
124 thousand dollars for each newborn safety incubator installed.

125 **15.** The director of the department of health and senior services may promulgate all
126 necessary rules and regulations for the administration of this section, including rules
127 governing the specifications, installation, maintenance, and oversight of newborn safety
128 incubators. Any rule or portion of a rule, as that term is defined in section 536.010, that is
129 created under the authority delegated in this section shall become effective only if it complies
130 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
131 This section and chapter 536 are nonseverable and if any of the powers vested with the
132 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
133 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
134 rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid
135 and void.

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