

SECOND REGULAR SESSION

# HOUSE BILL NO. 3251

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GALLICK.

7132H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

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

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Section A. Section 210.950, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 210.950, to read as follows: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

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

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.

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 ninety  
20 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 ninety days old when delivered by the parent to the  
31 newborn safety incubator or to any person listed in subdivision (1) of this subsection; and

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

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

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

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

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

45           (4) The attending physician;

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

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

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

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

53           5. A person listed in subdivision (1) of subsection 3 of this section shall, without a  
54 court order, take physical custody of a child the person reasonably believes to be no more than

55 ninety days old and is delivered in accordance with this section by a person purporting to be  
56 the child's parent or is delivered in accordance with this section to a newborn safety incubator.  
57 If delivery of a newborn is made pursuant to this section in any place other than a hospital, the  
58 person taking physical custody of the child shall arrange for the immediate transportation of  
59 the child to the nearest hospital licensed pursuant to chapter 197.

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

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

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

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

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

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

100 10. The children's division shall:

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

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

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

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

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

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

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