

1 HB529
2 218051-1
3 By Representative Mooney
4 RFD: Children and Senior Advocacy
5 First Read: 29-MAR-22

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8 SYNOPSIS: Under existing law, a parent may surrender a
9 72-hour old or younger infant to a hospital that
10 operates an emergency department.

11 Under existing law, a parent who surrenders
12 a child has an affirmative defense to the charges
13 of nonsupport, abandonment of child, and
14 endangering the welfare of a child.

15 This bill would repeal existing law relating
16 to leaving an abandoned infant with an emergency
17 medical services provider and replace it with a new
18 Safe Harbor Act.

19 This bill would allow a parent to surrender
20 a seven-day old or younger newborn infant to a fire
21 station or emergency medical services station.

22 This bill would allow a mother who gives
23 birth in a hospital to leave a newborn infant at
24 the hospital and to decline being named on the
25 infant's birth certificate.

1 This bill would require a fire station,
2 emergency medical services station, or hospital to
3 accept a surrendered newborn infant.

4 This bill would require certain hospitals to
5 provide medical care to the infant and presume that
6 the infant qualifies for Medicaid.

7 This bill would require the Department of
8 Human Resources to take custody of the surrendered
9 newborn infant and place the infant with a licensed
10 child placing agency.

11 This bill would provide that a surrendered
12 newborn is not considered abandoned and is not
13 subject to any reporting and investigation
14 requirements, unless there is actual or suspected
15 child abuse or neglect. If there is actual or
16 suspected child abuse or neglect, a hospital must
17 report it.

18 This bill would allow a parent who
19 surrenders a newborn infant to reclaim custody of
20 the infant until a court terminates parental
21 rights.

22 This bill would absolve hospitals, fire
23 stations, and emergency medical services stations
24 from certain liability relating to the care of a
25 surrendered newborn infant.

1 This bill would also authorize the
2 Department of Human Resources to adopt rules to
3 implement this chapter.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 Relating to infants; to repeal Sections 26-25-1
10 through 26-25-5, Code of Alabama 1975, relating to leaving an
11 abandoned infant with an emergency medical services provider;
12 to add a new Chapter 25A to Title 26 of the Code of Alabama
13 1975, consisting of Section 26-25A-1 through 26-25A-7; to
14 create the Alabama Safe Harbor Act; to require fire stations,
15 emergency medical services providers, and certain hospitals to
16 accept a surrendered newborn infant; to give the Department of
17 Human Resources custody of a surrendered newborn infant; to
18 allow a parent who surrenders a newborn infant to reclaim the
19 infant in certain circumstances; to exempt a surrendered
20 newborn infant from certain reporting requirements; to exempt
21 fire stations, emergency medical services providers, and
22 certain hospitals from certain liability relating to the care
23 of a surrendered newborn infant, unless there is actual or
24 suspected child abuse or neglect; and to authorize the
25 Department of Human Resources to adopt rules.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Chapter 25A is added to Title 26 of the
2 Code of Alabama 1975, to read as follows:

3 §26-25A-1.

4 This chapter shall be known and may be cited as the
5 Alabama Safe Harbor Act.

6 §26-25A-2.

7 For the purposes of this chapter, the following
8 terms have the following meanings:

9 (1) CHILD-PLACING AGENCY. The same meaning as
10 defined in Section 38-7-2, as amended by Act 2021-225, 2021
11 Regular Session.

12 (2) EMERGENCY MEDICAL SERVICES PROVIDER. A
13 paramedic, emergency medical technician - intermediate,
14 advanced emergency medical technician, or emergency medical
15 technician who is currently licensed with the Alabama
16 Department of Public Health, Office of Emergency Medical
17 Services.

18 (3) EMERGENCY MEDICAL SERVICES STATION. An
19 organization, whether public or private, that is staffed with
20 full-time emergency medical services providers and provides
21 transport or non-transport emergency medical services.

22 (4) HOSPITAL. A licensed hospital, as defined in
23 Section 22-21-20, which operates an emergency department. This
24 term does not include the offices, clinics, surgeries, or
25 treatment facilities of private physicians or dentists.

26 (5) NEWBORN INFANT. A child who a licensed physician
27 reasonably believes is approximately seven days old or younger

1 at the time the child is left at a hospital, emergency
2 services station, or fire station.

3 §26-25A-3.

4 (a) An emergency medical services station or fire
5 station staffed with full-time firefighter, without a court
6 order, shall accept any newborn infant if the newborn infant
7 is voluntarily delivered to a firefighter or emergency medical
8 services provider by the parent and the parent did not express
9 an intent to return for the newborn infant.

10 (b) After accepting a newborn infant pursuant to
11 this section, a firefighter or emergency medical services
12 provider shall take the following actions:

13 (1) Provide medical services to the newborn infant
14 to the extent that he or she is trained to provide those
15 services.

16 (2) Arrange for the immediate transfer of the
17 newborn infant to the nearest hospital having emergency
18 services.

19 (c) (1) A hospital shall accept any newborn infant
20 born in the hospital, if the mother expresses intent to leave
21 the newborn infant and not return.

22 (2) Upon the mother's request, the hospital or
23 registrar shall complete the newborn infant's birth
24 certificate without naming the mother thereon.

25 (d) There is a presumption that a parent who leaves
26 a newborn infant in accordance with this section intended to
27 leave the newborn infant, gave implied consent to the actions

1 in this section, and consented to the termination of parental
2 rights.

3 (e) (1) Each hospital shall admit and provide all
4 necessary emergency services and care to any newborn infant
5 left with the hospital in accordance with this section.

6 (2) The hospital and its licensed health care
7 professionals shall have implied consent to perform all
8 necessary emergency services, care, and treatment upon the
9 acceptance of a newborn infant pursuant to this section.

10 (3) Any newborn infant admitted to a hospital in
11 accordance with this chapter is presumed eligible for coverage
12 under Medicaid, subject to federal rules.

13 Section 2. §26-25A-4.

14 (a) Upon admitting a newborn infant under this
15 chapter, the hospital shall immediately notify the Department
16 of Human Resources that the hospital has taken possession of a
17 newborn infant. The department shall assume the care, control,
18 and custody of the child immediately on receipt of notice
19 pursuant to this section.

20 (b) Upon the newborn infant's release from the
21 hospital, the department shall coordinate the newborn infant's
22 placement with a licensed child-placing agency. The licensed
23 child-placing agency shall take physical custody of the infant
24 following release from the hospital.

25 Section 3. §26-25A-5.

26 (a) (1) A criminal investigation shall not be
27 initiated solely because a newborn infant is left at a

1 hospital under this chapter unless there is actual or
2 suspected child abuse.

3 (2) In cases where there is actual or suspected
4 child abuse or neglect, as defined in Section 26-14-1, the
5 hospital or any of its licensed health care professionals
6 shall report the actual or suspected child abuse or neglect as
7 provided in Section 26-14-3.

8 (3) It is an affirmative defense to prosecution
9 under Sections 13A-13-4, 13A-13-5, and 13A-13-6, if a parent
10 voluntarily surrenders a newborn infant pursuant to this
11 chapter.

12 (b) Except when there is actual or suspected child
13 abuse or neglect, any parent who leaves a newborn infant with
14 a firefighter or emergency medical provider at a fire station
15 or emergency medical services station, or brings a newborn
16 infant to an emergency room of a hospital and expresses an
17 intent to leave the newborn infant and not return, has the
18 absolute right to remain anonymous and leave at any time and
19 may not be pursued or followed unless the parent seeks to
20 reclaim the newborn infant.

21 (c) A parent of a newborn infant left at a hospital,
22 emergency medical services station, or fire station under this
23 section may claim his or her newborn infant until the court
24 enters a judgment terminating his or her parental rights. A
25 claim to the newborn infant must be made to the entity having
26 physical or legal custody of the newborn infant or to the

1 court of probate before whom proceedings involving the newborn
2 infant are pending.

3 Section 4. §26-25A-6.

4 (a) All of the following shall be immune from
5 criminal or civil liability for acting in good faith in
6 accordance with this section:

7 (1) A fire station, or an employee or agent of a
8 fire station.

9 (2) An emergency medical services station, or an
10 emergency medical services provider.

11 (3) A hospital, or any of its licensed health care
12 professionals.

13 (b) Nothing in this section limits liability for
14 negligence.

15 Section 5. §26-25A-7.

16 The Department of Human Resources is authorized to
17 adopt reasonable rules relating to the administration and
18 enforcement of this chapter.

19 Section 6. Chapter 25 of Title 26 of the Code of
20 Alabama 1975, consisting of Section 26-25-1 through 26-25-5,
21 relating to leaving an abandoned infant with emergency medical
22 services providers, is repealed.

23 Section 7. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.