

## SENATE BILL No. 123

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-34-2.5-1; IC 34-30-2-134.5; IC 35-46-1-4.

**Synopsis:** Newborn safety devices at fire departments. Specifies under the safe haven law that it is a defense to a claim of neglect of a dependent if the individual left the child in a newborn safety device that is located at a fire department, including a volunteer fire department, that meets specified requirements. Provides civil immunity for a fire department that operates a newborn safety device for an act or omission relating to the device: (1) if the device meets specified requirements; and (2) unless the act or omission constitutes gross negligence or willful or wanton misconduct.

**Effective:** July 1, 2018.

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January 3, 2018, read first time and referred to Committee on Civil Law.

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Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

# SENATE BILL No. 123

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-34-2.5-1, AS AMENDED BY P.L.186-2017,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 1. (a) An emergency medical services provider (as  
4 defined in IC 16-41-10-1) shall, without a court order, take custody of  
5 a child who is, or who appears to be, not more than thirty (30) days of  
6 age if:  
7 (1) the child is voluntarily left:  
8 (A) with the provider by the child's parent;  
9 (B) in a newborn safety device that:  
10 (i) has been approved by a hospital licensed under IC 16-21;  
11 (ii) is physically located inside a hospital that is staffed  
12 continuously on a twenty-four (24) hour basis every day to  
13 provide care to patients in an emergency; and  
14 (iii) is located in an area that is conspicuous and visible to  
15 hospital staff; ~~or~~  
16 (C) in a newborn safety device that was installed on or before  
17 January 1, 2017, and is located at a site that is staffed by an



1 emergency medical services provider (as defined in  
2 IC 16-41-10-1); or

3 **(D) in a newborn safety device that:**

4 **(i) is located at a fire department, including a volunteer**  
5 **fire department, that is staffed by an emergency medical**  
6 **services provider (as defined in IC 16-41-10-1) on a**  
7 **twenty-four (24) hour seven (7) day a week basis;**

8 **(ii) is located in an area that is conspicuous and visible to**  
9 **staff; and**

10 **(iii) includes an adequate dual alarm system connected**  
11 **to the site that is tested at least one (1) time per month to**  
12 **ensure the alarm system is in working order; and**

13 (2) the parent does not express an intent to return for the child.

14 (b) An emergency medical services provider who takes custody of  
15 a child under this section shall perform any act necessary to protect the  
16 child's physical health or safety.

17 (c) Any person who in good faith voluntarily leaves a child:

18 (1) with an emergency medical services provider; or

19 (2) in a newborn safety device described in subsection (a)(1)(B);  
20 is not obligated to disclose the parent's name or the person's name.

21 (d) A hospital that approves the operation of a newborn safety  
22 device that meets the requirements set forth in subsection (a)(1)(B) is  
23 immune from civil liability for an act or omission relating to the  
24 operation of the newborn safety device unless the act or omission  
25 constitutes gross negligence or willful or wanton misconduct.

26 (e) A newborn safety device described in subsection (a)(1)(C) may  
27 continue to operate without meeting the conditions set forth in  
28 subsection (a)(1)(B).

29 **(f) A fire department, including a volunteer fire department,**  
30 **that meets the requirements set forth in subsection (a)(1)(D) is**  
31 **immune from civil liability for an act or omission relating to the**  
32 **operation of the newborn safety device unless the act or omission**  
33 **constitutes gross negligence or willful or wanton misconduct.**

34 SECTION 2. IC 34-30-2-134.5, AS ADDED BY P.L.263-2017,  
35 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2018]: Sec. 134.5. IC 31-34-2.5-1 (Concerning a hospital or  
37 **fire department** operating a newborn safety device).

38 SECTION 3. IC 35-46-1-4, AS AMENDED BY P.L.252-2017,  
39 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2018]: Sec. 4. (a) A person having the care of a dependent,  
41 whether assumed voluntarily or because of a legal obligation, who  
42 knowingly or intentionally:



- 1 (1) places the dependent in a situation that endangers the  
 2 dependent's life or health;  
 3 (2) abandons or cruelly confines the dependent;  
 4 (3) deprives the dependent of necessary support; or  
 5 (4) deprives the dependent of education as required by law;  
 6 commits neglect of a dependent, a Level 6 felony.
- 7 (b) However, the offense is:
- 8 (1) a Level 5 felony if it is committed under subsection (a)(1),  
 9 (a)(2), or (a)(3) and:
- 10 (A) results in bodily injury; or  
 11 (B) is:
- 12 (i) committed in a location where a person is violating  
 13 IC 35-48-4-1 (dealing in cocaine or a narcotic drug),  
 14 IC 35-48-4-1.1 (dealing in methamphetamine), or  
 15 IC 35-48-4-1.2 (manufacturing methamphetamine); or  
 16 (ii) the result of a violation of IC 35-48-4-1 (dealing in  
 17 cocaine or a narcotic drug), IC 35-48-4-1.1 (dealing in  
 18 methamphetamine), or IC 35-48-4-1.2 (manufacturing  
 19 methamphetamine);
- 20 (2) a Level 3 felony if it is committed under subsection (a)(1),  
 21 (a)(2), or (a)(3) and results in serious bodily injury;
- 22 (3) a Level 1 felony if it is committed under subsection (a)(1),  
 23 (a)(2), or (a)(3) by a person at least eighteen (18) years of age and  
 24 results in the death of a dependent who is less than fourteen (14)  
 25 years of age or in the death of a dependent of any age who has a  
 26 mental or physical disability; and
- 27 (4) a Level 5 felony if it is committed under subsection (a)(2) and  
 28 consists of cruel confinement or abandonment that:
- 29 (A) deprives a dependent of necessary food, water, or sanitary  
 30 facilities;
- 31 (B) consists of confinement in an area not intended for human  
 32 habitation; or
- 33 (C) involves the unlawful use of handcuffs, a rope, a cord,  
 34 tape, or a similar device to physically restrain a dependent.
- 35 (c) It is a defense to a prosecution based on an alleged act under this  
 36 section that:
- 37 (1) the accused person left a dependent child who was, at the time  
 38 the alleged act occurred, not more than thirty (30) days of age:
- 39 (A) in a newborn safety device described in  
 40 IC 31-34-2.5-1(a)(1)(B), ~~or~~ IC 31-34-2.5-1(a)(1)(C), ~~or~~  
 41 **IC 31-34-2.5-1(a)(1)(D)**; or  
 42 (B) with a person who is an emergency medical services



1 provider (as defined in IC 16-41-10-1) who took custody of the  
2 child under IC 31-34-2.5;  
3 when the prosecution is based solely on the alleged act of leaving  
4 the child in the newborn safety device or with the emergency  
5 medical services provider and the alleged act did not result in  
6 bodily injury or serious bodily injury to the child; or  
7 (2) the accused person, in the legitimate practice of the accused  
8 person's religious belief, provided treatment by spiritual means  
9 through prayer, in lieu of medical care, to the accused person's  
10 dependent.  
11 (d) Except for property transferred or received:  
12 (1) under a court order made in connection with a proceeding  
13 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5  
14 or IC 31-6-5 before their repeal); or  
15 (2) under section 9(d) of this chapter;  
16 a person who transfers or receives any property in consideration for the  
17 termination of the care, custody, or control of a person's dependent  
18 child commits child selling, a Level 6 felony.

