

SENATE BILL 360

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO THE SAFE HAVEN FOR INFANTS ACT; ALLOWING A PARENT
OR A PARENT'S DESIGNEE TO RELINQUISH AN INFANT IN INFANT SAFETY
DEVICES FOR THE RELINQUISHMENT OF INFANTS, UNDER CERTAIN
CONDITIONS, WITHOUT CRIMINAL PROSECUTION FOR ABANDONMENT OR
ABUSE OF A CHILD IN CERTAIN CIRCUMSTANCES; ALLOWING THE
INSTALLATION AND OPERATION OF INFANT SAFETY DEVICES FOR THE
RELINQUISHMENT OF INFANTS; REQUIRING THE ASSESSING OF FINES FOR
THE DISCLOSURE OF CONFIDENTIAL INFORMATION RELATING TO INFANTS
RELINQUISHED PURSUANT TO THE SAFE HAVEN FOR INFANTS ACT;
PROVIDING REQUIREMENTS FOR INSTALLATION, OPERATION AND
MONITORING OF INFANT SAFETY DEVICES; PROVIDING LIMITED IMMUNITY
FOR A SAFE HAVEN SITE AND THE SAFE HAVEN SITE'S STAFF;
REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO
PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF THE SAFE HAVEN
FOR INFANTS ACT; DEFINING TERMS.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 24-22-2 NMSA 1978 (being Laws 2001, Chapter 31, Section 2 and Laws 2001, Chapter 132, Section 2, as amended) is amended to read:

"24-22-2. DEFINITIONS.--As used in the Safe Haven for Infants Act:

A. "department" means the children, youth and families department;

~~[A.]~~ B. "fire station" means a fire station that is certified by the state fire marshal's office;

~~[B.]~~ C. "hospital" means an acute care general hospital or health care clinic licensed by the state;

~~[C.]~~ D. "Indian child" means an Indian child as defined by the federal Indian Child Welfare Act of 1978;

~~[D.]~~ E. "infant" means a child no more than ninety days old, as determined within a reasonable degree of medical certainty;

F. "infant safety device" means a medical device used to maintain an optimal environment for the care of a newborn infant, affixed to a safe haven site and installed in compliance with the provisions of the Safe Haven for Infants Act;

~~[E.]~~ G. "law enforcement agency" means a law enforcement agency of the state or a political subdivision of

1 the state;

2 [F.] H. "safe haven site" means a hospital, law
3 enforcement agency or fire station that has staff on site at
4 the time an infant is ~~[left]~~ relinquished at such a site; and

5 [G.] I. "staff" means an employee, contractor,
6 agent or volunteer performing services as required and on
7 behalf of the safe haven site."

8 SECTION 2. Section 24-22-3 NMSA 1978 (being Laws 2001,
9 Chapter 31, Section 3 and Laws 2001, Chapter 132, Section 3, as
10 amended) is amended to read:

11 "24-22-3. ~~[LEAVING]~~ RELINQUISHING AN INFANT--SAFE HAVEN
12 SITE.--

13 A. A ~~[person]~~ parent or parent's designee may
14 ~~[leave]~~ relinquish an infant with the staff of a safe haven
15 site without being subject to criminal prosecution for
16 abandonment or abuse ~~[if the infant was born within ninety days~~
17 ~~of being left at the safe haven site, as determined within a~~
18 ~~reasonable degree of medical certainty, and]~~ if the infant is
19 ~~[left]~~ relinquished in a condition that would not constitute
20 abandonment or abuse of a child pursuant to Section 30-6-1 NMSA
21 1978.

22 B. The staff of a safe haven site may ask the
23 ~~[person leaving]~~ parent or parent's designee relinquishing the
24 infant pursuant to this section for the name of the infant's
25 biological father or biological mother, the infant's name,

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1 ~~[and]~~ the infant's medical history and whether the infant is a
2 member of an Indian nation, tribe or pueblo, but the ~~[person~~
3 ~~leaving]~~ parent or parent's designee relinquishing the infant
4 is not required to provide that information to the safe haven
5 site.

6 ~~[C. The safe haven site is deemed to have received~~
7 ~~consent for medical services provided to an infant left at a~~
8 ~~safe haven site in accordance with the provisions of the Safe~~
9 ~~Haven for Infants Act or in accordance with procedures~~
10 ~~developed between the children, youth and families department~~
11 ~~and the safe haven site.]"~~

12 SECTION 3. A new section of the Safe Haven for Infants
13 Act is enacted to read:

14 "[NEW MATERIAL] RELINQUISHING AN INFANT--INFANT SAFETY
15 DEVICE.--A parent or parent's designee may relinquish an infant
16 inside an infant safety device without being subject to
17 criminal prosecution for abandonment or abuse of a child if:

18 A. the infant safety device is:

19 (1) located on the property and attached as a
20 fixture to a safe haven site;

21 (2) conspicuously marked as safe for use
22 pursuant to rules promulgated by the department; and

23 (3) not otherwise marked as unsafe for use;

24 B. the parent or parent's designee properly secures
25 the infant inside the infant safety device pursuant to

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1 instructions provided at the site of the infant safety device;
2 and

3 C. the infant is relinquished in a condition that
4 would not constitute abandonment or abuse of a child pursuant
5 to Section 30-6-1 NMSA 1978."

6 SECTION 4. Section 24-22-4 NMSA 1978 (being Laws 2001,
7 Chapter 31, Section 4 and Laws 2001, Chapter 132, Section 4, as
8 amended) is amended to read:

9 "24-22-4. SAFE HAVEN SITE PROCEDURES.--

10 A. A safe haven site shall accept an infant who is
11 ~~[left]~~ relinquished at ~~[the]~~ a safe haven site in accordance
12 with the provisions of the Safe Haven for Infants Act.

13 B. In conjunction with the ~~[children, youth and~~
14 ~~families]~~ department, a safe haven site shall develop
15 procedures for appropriate staff to accept and provide
16 necessary medical services to an infant ~~[left]~~ relinquished at
17 the safe haven site ~~[and to the person leaving the infant at~~
18 ~~the safe haven site, if necessary]~~.

19 C. Upon receiving an infant who is ~~[left]~~
20 relinquished at a safe haven site in accordance with the
21 provisions of the Safe Haven for Infants Act, the safe haven
22 site may provide the person ~~[leaving]~~ relinquishing the infant,
23 to the extent practicable, with:

24 (1) information about adoption services,
25 including the availability of private adoption services;

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1 (2) brochures or telephone numbers for
2 agencies that provide adoption services or counseling services;
3 and

4 (3) written information regarding whom to
5 contact at the [~~children, youth and families~~] department if the
6 parent decides to seek reunification with the infant.

7 [~~D. A safe haven site shall ask the person leaving~~
8 ~~the infant whether the infant has a parent who is either a~~
9 ~~member of an Indian tribe or is eligible for membership in an~~
10 ~~Indian tribe, but the person leaving the infant is not required~~
11 ~~to provide that information to the safe haven site.~~

12 E.] D. Immediately after receiving an infant in
13 accordance with the provisions of the Safe Haven for Infants
14 Act, a safe haven site shall inform the [~~children, youth and~~
15 ~~families~~] department that [~~the~~] an infant has been [~~left~~]
16 relinquished at the safe haven site and shall inform law
17 enforcement to determine whether the infant is missing or
18 abducted. The safe haven site shall provide the [~~children,~~
19 ~~youth and families~~] department with all available information
20 regarding the [~~child~~] infant and the parents, including the
21 identity of the [~~child~~] infant and the parents, the location of
22 the parents and the [~~child's~~] infant's medical records."

23 SECTION 5. A new section of the Safe Haven for Infants
24 Act is enacted to read:

25 "[NEW MATERIAL] RELINQUISHMENT CONFIDENTIALITY--CIVIL

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1 PENALTY.--

2 A. All information relating to an infant
3 relinquished at a safe haven site is confidential and shall not
4 be subject to public disclosure. No staff of a safe haven
5 site, employee of the department or other person with access to
6 such confidential information acquired by virtue of the
7 person's employment or the requirements of the Safe Haven for
8 Infants Act shall use or disclose the confidential information,
9 except as provided pursuant to state law for child welfare
10 investigations or to carry out the provisions of the Safe Haven
11 for Infants Act.

12 B. A person who violates Subsection A of this
13 section may be assessed a civil penalty not to exceed five
14 hundred dollars (\$500) per violation."

15 SECTION 6. A new section of the Safe Haven for Infants
16 Act is enacted to read:

17 "[NEW MATERIAL] CONSENT FOR MEDICAL SERVICES.--A safe
18 haven site and the department are deemed to have received
19 consent for medical services provided to an infant relinquished
20 at a safe haven site in accordance with the provisions of the
21 Safe Haven for Infants Act or in accordance with the procedures
22 developed between the department and the safe haven site."

23 SECTION 7. Section 24-22-5 NMSA 1978 (being Laws 2001,
24 Chapter 31, Section 5 and Laws 2001, Chapter 132, Section 5, as
25 amended) is amended to read:

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1 "24-22-5. RESPONSIBILITIES OF THE [~~CHILDREN, YOUTH AND~~
2 ~~FAMILIES~~] DEPARTMENT.--

3 A. The [~~children, youth and families~~] department
4 shall be deemed to have emergency custody of an infant who has
5 been [~~left~~] relinquished at a safe haven site according to the
6 provisions of the Safe Haven for Infants Act.

7 [~~B. Upon receiving a report of an infant left at a~~
8 ~~safe haven site pursuant to the provisions of the Safe Haven~~
9 ~~for Infants Act, the children, youth and families department~~
10 ~~shall immediately conduct an investigation, pursuant to the~~
11 ~~provisions of the Abuse and Neglect Act.~~

12 C. ~~When an infant is taken into custody by the~~
13 ~~children, youth and families department, the department shall~~
14 ~~make reasonable efforts to determine whether the infant is an~~
15 ~~Indian child.]~~

16 B. If the department has the information necessary
17 to determine that a relinquished infant is an Indian child:

18 (1) the child's tribe shall be notified as
19 required by Section 32A-1-14 NMSA 1978 and the federal Indian
20 Child Welfare Act of 1978; and

21 (2) pre-adoptive placement and adoptive
22 placement of the Indian child shall be in accordance with the
23 provisions of Section 32A-5-5 NMSA 1978 regarding Indian child
24 placement preferences.

25 [~~D. The children, youth and families department~~

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1 ~~shall perform public outreach functions necessary to educate~~
2 ~~the public about the Safe Haven for Infants Act, including~~
3 ~~developing literature about that act and distributing it to~~
4 ~~safe haven sites.]~~

5 C. By 5:00 p.m. on the next business day following
6 an infant's relinquishment at a safe haven site, the department
7 shall file a petition to assume legal custody of the infant.

8 D. The department shall commence proceedings to
9 terminate the parental rights of the parents of an infant
10 relinquished pursuant to the Safe Haven for Infants Act;
11 provided that prior to commencing such a proceeding, the
12 department shall determine whether a father of the infant is
13 registered in the putative father registry. If the father of
14 the infant is registered in the putative father registry, the
15 department shall not proceed with proceedings to terminate the
16 parental rights of both parents until the registered father
17 provides consent to terminate parental rights.

18 E. Upon receiving an infant relinquished at a safe
19 haven site, if the department determines that evidence of child
20 abuse or neglect exists, the department shall conduct an
21 investigation and commence child abuse and neglect proceedings
22 pursuant to the Abuse and Neglect Act and shall attempt to
23 locate any relatives of the infant.

24 ~~[E.]~~ F. An infant [left] relinquished at a safe
25 haven site in accordance with the provisions of the Safe Haven

1 for Infants Act shall presumptively be deemed eligible and
2 enrolled for medicaid benefits and services."

3 SECTION 8. A new section of the Safe Haven for Infants
4 Act is enacted to read:

5 "[NEW MATERIAL] INFANT SAFETY DEVICE--REQUIREMENTS.--

6 A. A safe haven site may install an infant safety
7 device inside the safe haven site for a parent or a parent's
8 designee to relinquish an infant pursuant to the Safe Haven for
9 Infants Act.

10 B. An infant safety device shall:

11 (1) be physically located:

12 (a) inside a facility that is staffed
13 twenty-four hours per day and seven days per week by the staff
14 of a safe haven site; and

15 (b) in an area conspicuous and visible
16 to the staff of a safe haven site; and

17 (2) be connected to an alarm system to audibly
18 notify the staff of a safe haven site that an infant has been
19 placed in the device.

20 C. A safe haven site that places an infant safety
21 device in the safe haven site's facilities shall develop
22 procedures to regularly verify that the device's alarm system
23 is in working order."

24 SECTION 9. Section 24-22-8 NMSA 1978 (being Laws 2001,
25 Chapter 31, Section 8 and Laws 2001, Chapter 132, Section 8, as
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1 amended) is amended to read:

2 "24-22-8. IMMUNITY.--

3 A. A safe haven site and its staff are immune from
4 criminal liability and civil liability for accepting, examining
5 or treating an infant and installing, operating or maintaining
6 an infant safety device in compliance with the provisions of
7 the Safe Haven for Infants Act but not for subsequent negligent
8 medical care or treatment of the infant.

9 B. A safe haven site and the safe haven site's
10 staff have no legal duty to detain or identify the parents of
11 an infant relinquished at a safe haven site or in an infant
12 safety device unless evidence of abuse and neglect are
13 present."

14 **SECTION 10.** A new section of the Safe Haven for Infants
15 Act is enacted to read:

16 "[NEW MATERIAL] RULEMAKING.--The department shall
17 promulgate rules to implement the provisions of the Safe Haven
18 for Infants Act, including rules for the determination of
19 whether an infant safety device is safe for use and for the
20 operation and monitoring of an infant safety device."

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