

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1139 Session of  
2017

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TOOHIL, WARD, WHEELAND AND ZIMMERMAN, APRIL 10, 2017

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic  
2 Relations) of the Pennsylvania Consolidated Statutes, in  
3 offenses against the family, further providing for newborn  
4 protection; in child protective services, further providing  
5 for taking child into protective custody; and, in newborn  
6 protection, further providing for definitions and for health  
7 care providers accepting newborns, providing for emergency  
8 services providers accepting newborns and for incubators for  
9 newborns and further providing for reporting acceptance of  
10 newborns, for immunity and for duties of department.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 4306 of Title 18 of the Pennsylvania  
14 Consolidated Statutes is amended to read:

15 § 4306. Newborn protection.

16 (a) General rule.--A parent of a newborn shall not be  
17 criminally liable for any violation of this title solely for  
18 leaving a newborn in the care of a hospital [or], a police  
19 officer at a police station pursuant to 23 Pa.C.S. Ch. 65  
20 (relating to newborn protection) [providing that] or an  
21 emergency services provider on the grounds of an entity

1 employing the emergency services provider or otherwise providing  
2 access to the emergency services provider pursuant to 23 Pa.C.S.  
3 Ch. 65 if the following criteria are met:

4 (1) The parent expresses, either orally or through  
5 conduct, the intent to have the hospital or police officer  
6 accept the newborn pursuant to 23 Pa.C.S. Ch. 65.

7 (2) The newborn is not a victim of child abuse or  
8 criminal conduct.

9 (a.1) Incubator.--A parent of a newborn shall not be  
10 criminally liable for any violation of this title solely for  
11 leaving a newborn in an incubator if the newborn is not a victim  
12 of child abuse or criminal conduct and the incubator is located:

13 (1) at a hospital;

14 (2) at a police station pursuant to 23 Pa.C.S. Ch. 65;

15 or

16 (3) on the grounds of an entity employing the emergency  
17 services provider or otherwise providing access to the  
18 emergency services provider pursuant to 23 Pa.C.S. Ch. 65.

19 (b) Definitions.--As used in this section, the following  
20 words and phrases shall have the meanings given to them in this  
21 subsection unless the context clearly indicates otherwise:

22 "Child abuse." As defined in 23 Pa.C.S. § 6303(b.1)  
23 (relating to definitions).

24 "Emergency services provider." An emergency medical  
25 responder, emergency medical technician, advanced emergency  
26 medical technician or a paramedic as defined in 35 Pa.C.S. §  
27 8103 (relating to definitions).

28 "Newborn." As defined in 23 Pa.C.S. § 6502 (relating to  
29 definitions).

30 "Police department." A public agency of a political

1 subdivision having general police powers and charged with making  
2 arrests in connection with the enforcement of criminal or  
3 traffic laws.

4 "Police officer." A full-time or part-time employee assigned  
5 to criminal or traffic law enforcement duties of a police  
6 department of a county, city, borough, town or township. The  
7 term also includes a member of the State Police Force.

8 "Police station." The station or headquarters of a police  
9 department or a Pennsylvania State Police station or  
10 headquarters.

11 Section 2. Section 6315(a) of Title 23 is amended by adding  
12 a paragraph to read:

13 § 6315. Taking child into protective custody.

14 (a) General rule.--A child may be taken into protective  
15 custody:

16 \* \* \*

17 (6) By an emergency services provider on the grounds of  
18 an entity that employs or otherwise provides access to the  
19 emergency services provider under Chapter 65.

20 \* \* \*

21 Section 3. Section 6502 of Title 23 is amended by adding a  
22 definition to read:

23 § 6502. Definitions.

24 The following words and phrases when used in this chapter  
25 shall have the meanings given to them in this section unless the  
26 context clearly indicates otherwise:

27 \* \* \*

28 "Emergency services provider." An emergency medical  
29 responder, emergency medical technician, advanced emergency  
30 medical technician or a paramedic as defined in 35 Pa.C.S. §

1 8103 (relating to definitions).

2 \* \* \*

3 Section 4. Section 6504(b) of Title 23 is amended to read:

4 § 6504. Health care providers accepting newborns.

5 \* \* \*

6 (b) Accepting newborns.--When a health care provider accepts  
7 a newborn pursuant to this chapter, a parent [or], police  
8 officer or emergency services provider may provide a health care  
9 provider with information about the newborn's medical history  
10 and any identifying information.

11 Section 5. Title 23 is amended by adding sections to read:

12 § 6504.2. Emergency services providers accepting newborns.

13 (a) Duties.--In accepting a newborn under this chapter, an  
14 emergency services provider shall:

15 (1) take the newborn into protective custody as  
16 specified under section 6315(a)(6) (relating to taking child  
17 into protective custody); and

18 (2) ensure the newborn is transported to a hospital and  
19 placed into the care of a health care provider as specified  
20 under section 6504 (relating to health care providers  
21 accepting newborns).

22 (b) Medical history.--When an emergency services provider  
23 accepts a newborn under this chapter, a parent may provide the  
24 emergency services provider with information about the newborn's  
25 medical history and identifying information.

26 § 6504.3. Incubators for newborns.

27 (a) Provision optional.--A hospital, police station or other  
28 entity employing or otherwise providing access to an emergency  
29 services provider may provide an incubator for the care of a  
30 newborn accepted under this chapter.

1 (b) Regulations.--The Department of Health shall promulgate  
2 regulations for providing an incubator under subsection (a). The  
3 regulations shall include all of the following:

4 (1) Sanitation standards for an incubator.

5 (2) Procedures to provide emergency care for an infant  
6 placed in an incubator.

7 (3) Manufacturing and manufacturer standards for an  
8 incubator.

9 (4) Design and function requirements for an incubator  
10 which shall include all of the following:

11 (i) Installation of an incubator at a hospital,  
12 police station or other entity which employs or otherwise  
13 provides access to an emergency services provider.

14 (ii) Allowance of an infant to be placed in the  
15 incubator anonymously by the parent.

16 (iii) Locking an incubator after the parent places  
17 the infant in the incubator to prevent third parties from  
18 having access to the infant.

19 (iv) Providing a controlled environment to protect  
20 and care for the infant.

21 (v) Providing notice to the personnel of a hospital,  
22 police station or other entity which employs or otherwise  
23 provides access to an emergency services provider within  
24 30 seconds of the infant being placed by the parent in  
25 the incubator.

26 (vi) Triggering a 9-1-1 call if the personnel of a  
27 hospital, police station or other entity which employs or  
28 otherwise provides access to emergency services provider  
29 does not respond within a reasonable amount of time under  
30 subparagraph (v).

1       (5) Operating policy, supervision and maintenance  
2 requirements for an incubator, including that only an  
3 emergency services provider at an entity that employs or  
4 otherwise provides access to the emergency services provider,  
5 a health provider at a hospital or police officer at a police  
6 station may take an infant into protective custody in  
7 accordance with Chapter 63 (relating to child protective  
8 services).

9       (6) Qualifications to install an incubator.

10       (7) Procedures and forms for the free registration with  
11 the Department of Health of installers qualified to install  
12 incubators in accordance with this chapter.

13       (8) Procedures for the free registration with the  
14 Department of Health of an incubator installed in accordance  
15 with this chapter.

16       (9) The creation and installation of signs near an  
17 incubator to provide information to parents about how to use  
18 the incubators.

19       (10) Any other provisions deemed necessary by the  
20 Department of Health to ensure the safety of an infant and  
21 the safe use of an incubator by a parent.

22       (c) Notice.--The Department of Health shall publish notice  
23 in the Pennsylvania Bulletin of the promulgation of final  
24 regulations regarding incubators under subsection (b).

25       Section 6. Sections 6505, 6507 and 6509 of Title 23 are  
26 amended to read:

27       § 6505. Reporting acceptance of newborns.

28       A health care provider at a hospital shall in all cases  
29 notify the county agency and the local municipal police  
30 department or the Pennsylvania State Police where no municipal

1 police jurisdiction exists immediately by telephone regarding a  
2 newborn accepted by a hospital under this chapter. A written  
3 report shall be submitted to the county agency and local  
4 municipal police department or the Pennsylvania State Police  
5 within 48 hours after the oral report. This section applies in  
6 the case of a hospital accepting a newborn pursuant to [section]  
7 sections 6504.1(a)(2) (relating to police officers accepting  
8 newborns) and 6504.2(a)(2) (relating to emergency services  
9 providers accepting newborns). For purposes of this section, the  
10 term "health care provider" shall include administrative,  
11 managerial and security personnel employed by a hospital.

12 § 6507. Immunity.

13 Except for a violation of section 6506 (relating to failure  
14 to report acceptance of newborns), no emergency services  
15 provider, entity that employs or otherwise provides access to an  
16 emergency services provider, hospital, health care provider at a  
17 hospital or police department, police officer or administrative  
18 or managerial personnel of a police department shall be subject  
19 to civil liability or criminal penalty solely by reason of  
20 complying with the provisions of this chapter.

21 § 6509. Duties of department.

22 The department shall provide educational materials for use by  
23 emergency services providers, entities which employ or otherwise  
24 provide access to emergency services providers, hospitals,  
25 health care providers, employees at hospitals and police  
26 officers regarding this chapter, section 6315(a)(3) (relating to  
27 taking child into protective custody) and other applicable  
28 provisions of Chapter 63 (relating to child protective services)  
29 that relate to newborn protection. The department shall  
30 promulgate such regulations as may be necessary to implement

1 this chapter, section 6315(a) (3) and other applicable provisions  
2 of Chapter 63 that relate to newborn protection. The department  
3 shall also provide emergency services providers, entities which  
4 employ or otherwise provide access to emergency services  
5 providers, health care providers, hospitals, the Pennsylvania  
6 State Police and police departments with an informational  
7 pamphlet regarding this chapter, section 6315(a) (3) and other  
8 applicable provisions of Chapter 63 that relate to newborn  
9 protection which may be distributed to the public. In addition,  
10 the department shall comply with the provisions regarding infant  
11 abandonment in sections 6365 (relating to services for  
12 prevention, investigation and treatment of child abuse) and 6383  
13 (relating to education and training). A report shall be made  
14 annually to the General Assembly on the number and disposition  
15 of newborns accepted in accordance with this chapter, section  
16 6315(a) (3) and (5) and other applicable provisions of Chapter 63  
17 that relate to newborn protection.

18 Section 7. This act shall take effect as follows:

19 (1) The following shall take effect immediately:

20 (i) This section.

21 (ii) The amendment or addition of 23 Pa.C.S. §§  
22 6504.3(b) and (c) and 6509.

23 (2) The addition of 18 Pa.C.S. § 4306(a.1) and 23  
24 Pa.C.S. § 6504.3(a) shall take effect 120 days after the  
25 publication in the Pennsylvania Bulletin of the promulgation  
26 of final regulations under 23 Pa.C.S. § 6504.3(c).

27 (3) The remainder of this act shall take effect in 60  
28 days.