

SENATE BILL 1790

By Briggs

AN ACT to amend Tennessee Code Annotated, Section 36-1-142 and Section 68-11-255, relative to infants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-255, is amended by deleting the section and substituting instead the following:

(a) As used in this section and in § 36-1-142, unless the context otherwise requires:

(1) "Facility" means any hospital as defined by § 68-11-201, birthing center as defined by § 68-11-201, community health clinic, out-patient "walk-in" clinic, fire department that is staffed twenty-four (24) hours a day, law enforcement facility that is staffed twenty-four (24) hours a day, or emergency medical services facility;

(2) "Member of the professional medical community" has the meaning provided in § 68-140-102; provided, that the member of the professional medical community is on the premises at the time of a voluntary delivery;

(3) "Newborn safety device" means a device:

(A) Designed to permit a parent to anonymously place a newborn infant aged thirty (30) days or younger in the device with the intent to leave the newborn infant for an emergency medical services provider to remove the newborn infant from the device and take custody of the newborn infant;

(B) Installed with an adequate dual alarm system connected to the physical location where the device is installed. The dual alarm system must be:

(i) Tested at least once per month to ensure the alarm system is in working order; and

(ii) Visually checked at least twice per day to ensure the alarm system is in working order;

(C) Approved by and located inside a participating police station, fire station, or hospital that is:

(i) Licensed or otherwise legally operating in this state;

and

(ii) Staffed continuously on a twenty-four (24) hour basis every day by a licensed emergency medical service provider; and

(D) Located in an area that is conspicuous and visible to a police station, fire station, or hospital staff; and

(4) "Voluntary delivery" means the action of a parent in leaving an unharmed newborn infant aged thirty (30) days or younger on the premises of a facility, with a facility employee or member of the professional medical community at the facility, or in a newborn safety device, without expressing an intention to return for the newborn infant, and failing to visit or seek contact with the newborn infant for a period of thirty (30) days thereafter.

(b) A facility shall receive possession of a newborn infant left on facility premises with a facility employee or member of the professional medical community, or in a newborn safety device, if the newborn infant:

(1) Was born within the preceding thirty-day period, as determined within a reasonable degree of medical certainty;

(2) Is left in an unharmed condition; and

(3) Is voluntarily left by a person who purports to be the newborn infant's parent and who does not express an intention of returning for the newborn infant.

(c) The facility, a facility employee, and a member of the professional medical community at such facility shall inquire, whenever possible, about the medical history of the mother and newborn infant. The facility shall also inform the parent that the parent is not required to respond. Any information obtained concerning the identity of the mother, newborn infant, or other parent must be kept confidential and may be disclosed only to the department of children's services for use consistent with the purposes of this section and §§ 36-1-142 and 36-2-318. If practicable, the facility shall also provide the parent with both orally delivered and written information concerning the requirements of this section and §§ 36-1-142 and 36-2-318 relating to recovery of the newborn infant and abandonment of the newborn infant.

(d)

(1) A parent has the right to remain anonymous, shall not be pursued, and shall not be considered to have endangered a newborn infant under title 39, chapter 15, part 4 if the parent places the newborn infant:

(A)

(i) With an emergency medical services provider;

(ii) At a facility; or

(iii) Inside a newborn safety device; and

(B) Expresses no intent to return to the newborn infant.

(2) This subsection (d) does not apply when indicators of child abuse or child neglect are present.

(e) The facility, a facility employee, and a member of the professional medical community at the facility shall perform any act necessary to protect the physical health and safety of the newborn infant.

(f) The facility employee or member of the professional medical community at the facility who accepts physical custody of a newborn infant, or who physically retrieves a newborn infant from a newborn safety device that meets the requirements of this section, shall immediately arrange for the newborn infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment. The hospital shall immediately notify the department of children's services that the surrendered newborn infant is at the hospital. The department shall immediately assume care, custody, and control of the newborn infant.

(g) Notwithstanding any law to the contrary, a facility, facility employee, and member of the professional medical community is immune from any criminal or civil liability for damages as a result of any actions taken pursuant to the requirements of this section and § 36-1-142, and no lawsuit shall be predicated thereon. Nothing in this section and § 36-1-142 shall be construed to abrogate any existing standard of care for medical treatment or to preclude a cause of action based upon violation of such existing standard of care for medical treatment.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.