

REVISE SAFE-DELIVERY-OF-NEWBORNS LAW

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Senate Bill 1292

Sponsor: Sen. Shirley Johnson

House Committee: Judiciary

Senate Committee: Families and Human Services

Complete to 12-6-06

A SUMMARY OF SENATE BILL 1292 AS PASSED BY THE SENATE 11-30-06

The bill would make numerous revisions to Chapter XII of the Probate Code (MCL 712.1 et al.) known as the Safe Delivery of Newborns Law. The bill would do the following:

- Make all hearings under Chapter XII closed to the public and all records of proceeding under the chapter confidential, available only to a party to the proceeding.
- Make all child placing agency records created under the chapter confidential except as otherwise provided in the chapter.
- Create civil liability and a criminal penalty for disclosing confidential information without a court order or specific authorization under state or federal law. A person would be guilty of a misdemeanor offense, punishable by up to 93 days imprisonment and/or a fine of not more than \$100 and/or civilly liable for damages proximately caused by disclosure of the information.
- If a petition for custody is filed by a surrendering or nonsurrendering parent, allow a child placing agency to make a temporary placement of a newborn with a licensed foster parent.
- Require a child placing agency, in addition to making a reasonable attempt to identify and locate a nonsurrendering parent, to provide a notice of the surrender to that parent. Also, the agency would have to file a written report with the court. The report would have to state the efforts made in attempting to identify and locate the nonsurrendering parent and the results of those efforts.
- Allow a person claiming to be the nonsurrendering parent to petition for custody within 28 days after notice of surrender of a newborn had been published (a similar provision currently applies to the surrendering parent).
- Revise parental termination language for situations where the surrendering or nonsurrendering parent did not file for custody within the 28-day period after notice of surrender, to require the child placing agency to immediately file a

petition with the court to determine whether the release from the surrendering parent would be accepted and whether the court would have to enter an order terminating the rights of either the surrendering or nonsurrendering parent. A hearing would have to be held within 14 days of the agency's petition; the agency would have to present evidence that demonstrated that the surrendering parent released the newborn and the efforts it made to identify, locate, and provide notice to the nonsurrendering parent. Parental rights would be terminated for either parent if the court found, by a preponderance of the evidence, that the surrendering parent had knowingly released his or her rights to the child and that reasonable efforts had been made to locate the nonsurrendering parent.

- Require a court to order the child and any party claiming maternity to submit to DNA testing unless the birth had been witnessed by an emergency service provider and sufficient documentation existed to support maternity.
- Presume paternity or maternity if blood or tissue typing or DNA profiling is 99 percent or higher and the DNA profile and summary report is admissible. The petitioner could then move for summary disposition on the issue of paternity or maternity. The court would have to dismiss the petition for custody if the result of the paternity or maternity testing established that the petitioner could not be the parent of the newborn.
- Allow the court to order the petitioner for custody to pay all or part of the cost of the paternity or maternity testing.
- Revise parental termination language to allow a court to determine, based on its findings, that the best interests of the newborn would not be served by granting custody to the petitioner parent and allow the court to terminate that parent's parental rights and give custody and care to the child placing agency.

FISCAL IMPACT:

The bill would have a minimal fiscal impact on the judiciary system. The bill's new requirements could cause an increase in administrative workload for some courts, depending upon the number of relevant cases they handle.

BACKGROUND INFORMATION:

Since the Safe Delivery of Newborns Law took effect in 2001, at least 40 babies have been surrendered under the law's provisions. In the same period, several problems have surfaced with the law; for instance, a surrendered newborn sometimes does not get a permanent home, either with a parent or a new family, for up to a year. The legislation seeks to speed up the time for placement, square the provisions with requirements of the Adoption Code, and address other problems that have been identified.

POSITIONS:

The Family Law Section of the State Bar of Michigan supports the bill. (12-6-06)

Right to Life of Michigan indicated support for the bill. (12-6-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.