

HOUSE BILL No. 5954

May 9, 2018, Introduced by Reps. Kahle and Leutheuser and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 135 (MCL 750.135), as amended by 2002 PA 689.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 135. (1) Except as provided in subsection (3), a father
2 or mother of a child under the age of 6 years, or another
3 individual, who exposes the child in any street, field, house, or
4 other place, with intent to injure or wholly to abandon the child,
5 is guilty of a felony, punishable by imprisonment for not more than
6 10 years.

7 (2) Except for a situation involving actual or suspected child
8 abuse or child neglect, it is an affirmative defense to a
9 prosecution under subsection (1) that the child was not more than
10 ~~72 hours~~ **30 DAYS** old and was surrendered to an emergency service

provider **OR NEWBORN SAFETY DEVICE** under ~~chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.~~ **THE SAFE DELIVERY OF NEWBORNS LAW.** A criminal investigation shall not be initiated solely on the basis of a newborn being surrendered to an emergency service provider **OR A NEWBORN SAFETY DEVICE** under ~~chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.~~ **THE SAFE DELIVERY OF NEWBORNS LAW.**

(3) Subsection (1) does not apply to a mother of a newborn who is surrendered under the born alive infant protection act.

Subsection (1) applies to an attending physician who delivers a live newborn as a result of an attempted abortion and fails to comply with the requirements of the born alive infant protection act.

(4) As used in this section:

(A) "BORN ALIVE INFANT PROTECTION ACT" MEANS THE BORN ALIVE INFANT PROTECTION ACT, 2002 PA 687, MCL 333.1071 TO 333.1073.

(B) ~~(a)~~ "Emergency service provider" means a uniformed employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty.

(C) ~~(b)~~ "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(D) ~~(c)~~ "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(E) "NEWBORN SAFETY DEVICE" MEANS THAT TERM AS DEFINED IN SECTION 1 OF THE SAFE DELIVERY OF NEWBORNS LAW, MCL 712.1.

1 **(F)** ~~(d)~~ "Police station" means a police station as that term
2 is defined in section 43 of the Michigan vehicle code, 1949 PA 300,
3 MCL 257.43.

4 **(G) "SAFE DELIVERY OF NEWBORNS LAW" MEANS CHAPTER XII OF THE**
5 **PROBATE CODE OF 1939, 1939 PA 288, MCL 712.1 TO 712.20.**

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.

8 Enacting section 2. This amendatory act does not take effect
9 unless House Bill No. 5750 of the 99th Legislature is enacted into
10 law.