

HOUSE BILL No. 5750

March 22, 2018, Introduced by Reps. Kahle, McCready, Leutheuser, Noble, Theis, Hughes, Miller, Rendon, Allor, Frederick, Wentworth, Vaupel, Canfield and Tedder and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 1, 2, and 3 of chapter XII (MCL 712.1, 712.2,
and 712.3), sections 1 and 3 as amended by 2006 PA 488 and section
2 as added by 2000 PA 232.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER XII

Sec. 1. (1) This chapter shall be known and may be cited as
the "safe delivery of newborns law".

(2) As used in this chapter:

(a) "Child placing agency" means that term as defined in
section 1 of 1973 PA 116, MCL 722.111.

(b) "Court" means the family division of circuit court.

(c) "Department" means the department of **HEALTH AND** human

1 services.

2 (d) "DNA identification profile" and "DNA identification
3 profiling" mean those terms as defined in section 1 of the
4 paternity act, 1956 PA 205, MCL 722.711.

5 (e) "Domestic violence" means that term as defined in section
6 1 of 1978 PA 389, MCL 400.1501.

7 (f) "Emergency service provider" means a uniformed or
8 otherwise identified employee or contractor of a fire department,
9 hospital, or police station when that individual is inside the
10 premises and on duty. Emergency service provider also includes a
11 paramedic or an emergency medical technician when either of those
12 individuals is responding to a 9-1-1 emergency call.

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

16 (h) "Gross negligence" means conduct so reckless as to
17 demonstrate a substantial lack of concern for whether an injury
18 results.

19 (i) "Hospital" means a hospital that is licensed under article
20 17 of the public health code, 1978 PA 368, MCL 333.20101 to
21 333.22260.

22 (j) "Lawyer-guardian ad litem" means an attorney appointed
23 under section 2 of this chapter. A lawyer-guardian ad litem
24 represents the newborn, and has the powers and duties, as set forth
25 in section 17d of chapter XIIA.

26 (k) "Newborn" means a child who a physician reasonably
27 believes to be not more than ~~72 hours~~ **30 DAYS** old.

1 **(I) "NEWBORN SAFETY DEVICE" MEANS A DEVICE PROVIDED BY AN**
 2 **EMERGENCY SERVICE PROVIDER THAT CONFORMS TO THE RULES PROMULGATED**
 3 **UNDER SECTION 3A OF THIS CHAPTER.**

4 **(M) ~~(L)~~**"Police station" means that term as defined in section
 5 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

6 **(N) ~~(m)~~**"Preplacement assessment" means an assessment of a
 7 prospective adoptive parent as described in section 23f of chapter
 8 X.

9 **(O) ~~(n)~~**"Surrender" means to leave a newborn with an emergency
 10 service provider without expressing an intent to return for the
 11 newborn.

12 Sec. 2. (1) The court has jurisdiction over a newborn who is
 13 surrendered to an emergency service provider as provided in section
 14 3 of this chapter **AND A NEWBORN WHO IS SURRENDERED TO A NEWBORN**
 15 **SAFETY DEVICE AS PROVIDED IN SECTION 3A OF THIS CHAPTER.** The court
 16 may appoint a lawyer-guardian ad litem to represent a newborn in
 17 proceedings under this chapter.

18 (2) Except as provided in section 5 of this chapter, the
 19 reporting requirement of section 3 of the child protection law,
 20 1975 PA 238, MCL 722.623, does not apply regarding a child
 21 surrendered to an emergency service provider as provided in section
 22 3 of this chapter **OR TO A NEWBORN SAFETY DEVICE AS PROVIDED IN**
 23 **SECTION 3A OF THIS CHAPTER.**

24 (3) Unless this chapter specifically provides otherwise, a
 25 provision in another chapter of this act does not apply to a
 26 proceeding under this chapter. Unless this chapter specifically
 27 provides otherwise, the child custody act of 1970, 1970 PA 91, MCL

1 722.21 to 722.30, does not apply to a proceeding under this
2 chapter.

3 (4) A hospital and a child placing agency, and their agents
4 and employees, are immune in a civil action for damages for an act
5 or omission in accepting or transferring a newborn under this
6 chapter, except for an act or omission constituting gross
7 negligence or willful or wanton misconduct. To the extent not
8 protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to
9 691.1415, an employee or contractor of a fire department or police
10 station has the same immunity that this subsection provides to a
11 hospital's or child placing agency's agent or employee.

12 Sec. 3. (1) If a parent surrenders a child who may be a
13 newborn to an emergency service provider, the emergency service
14 provider shall comply with the requirements of this section under
15 the assumption that the child is a newborn. The emergency service
16 provider shall, without a court order, immediately accept the
17 newborn, taking the newborn into temporary protective custody. The
18 emergency service provider shall make a reasonable effort to do all
19 of the following:

20 (a) Take action necessary to protect the physical health and
21 safety of the newborn.

22 (b) Inform the parent that by surrendering the newborn, the
23 parent is releasing the newborn to a child placing agency to be
24 placed for adoption.

25 (c) Inform the parent that the parent has 28 days to petition
26 the court to regain custody of the newborn.

27 (d) Provide the parent with written material approved by or

1 produced by the department that includes, but is not limited to,
2 all of the following statements:

3 (i) By surrendering the newborn, the parent is releasing the
4 newborn to a child placing agency to be placed for adoption.

5 (ii) The parent has 28 days after surrendering the newborn to
6 petition the court to regain custody of the newborn.

7 (iii) After the 28-day period to petition for custody elapses,
8 there will be a hearing to determine and terminate parental rights.

9 (iv) There will be public notice of this hearing, and the
10 notice will not contain the parent's name.

11 (v) The parent will not receive personal notice of this
12 hearing.

13 (vi) Information the parent provides to an emergency service
14 provider will not be made public.

15 (vii) A parent can contact the safe delivery line established
16 under section 20 of this chapter for more information.

17 (2) After providing a parent with the information described in
18 subsection (1), an emergency service provider shall make a
19 reasonable attempt to do all of the following:

20 (a) Encourage the parent to provide any relevant family or
21 medical information.

22 (b) Provide the parent with the pamphlet produced under
23 section 20 of this chapter and inform the parent that he or she can
24 receive counseling or medical attention.

25 (c) Inform the parent that information that he or she provides
26 will not be made public.

27 (d) Ask the parent to identify himself or herself.

1 (e) Inform the parent that in order to place the newborn for
2 adoption the state is required to make a reasonable attempt to
3 identify the other parent, and then ask the parent to identify the
4 other parent.

5 (f) Inform the parent that the child placing agency that takes
6 temporary protective custody of the newborn can provide
7 confidential services to the parent.

8 (g) Inform the parent that the parent may sign a release for
9 the newborn that may be used at the parental rights termination
10 hearing under this chapter.

11 **(3) IF A PARENT SURRENDERS A CHILD WHO MAY BE A NEWBORN TO A**
12 **NEWBORN SAFETY DEVICE, THE EMERGENCY SERVICE PROVIDER SHALL PROCEED**
13 **AS DESCRIBED IN THE RULES FOR NEWBORN SAFETY DEVICES PROMULGATED**
14 **UNDER SECTION 3A OF THIS CHAPTER.**

15 **(4)** ~~(3)~~—A newborn whose birth is described in the born alive
16 infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and
17 who is in a hospital setting or transferred to a hospital under
18 section 3(1) of the born alive infant protection act, 2002 PA 687,
19 MCL 333.1073, is a newborn surrendered as provided in this chapter.
20 An emergency service provider who has received a newborn under the
21 born alive infant protection act, 2002 PA 687, MCL 333.1071 to
22 333.1073, shall do all of the following:

23 (a) Comply with the requirements of subsections (1) and (2) to
24 obtain information from or supply information to the surrendering
25 parent by requesting the information from or supplying the
26 information to the attending physician who delivered the newborn.

27 (b) Make no attempt to directly contact the parent or parents

1 of the newborn.

2 (c) Provide humane comfort care if the newborn is determined
3 to have no chance of survival due to gestational immaturity in
4 light of available neonatal medical treatment or other condition
5 incompatible with life.

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 Senate Bill No. _____ or House Bill No. 5751 (request no.
10 05878'18) of the 99th Legislature is enacted into law.