

HOUSE BILL NO. 4067

February 12, 2025, Introduced by Reps. Bruck, Wortz, Beson, Xiong, Rigas, Wozniak, Meerman, Borton, Wilson, Johnsen, Bierlein, Maddock and Woolford and referred to Committee on Families and Veterans.

A bill to amend 1939 PA 288, entitled
"Probate code of 1939,"
by amending sections 1, 2, 3, 5, 7, 10, 17, and 20 of chapter XII
(MCL 712.1, 712.2, 712.3, 712.5, 712.7, 712.10, 712.17, and
712.20), sections 1, 3, 7, and 10 as amended by 2006 PA 488,
sections 2 and 5 as added by 2000 PA 232, section 17 as amended by
2010 PA 348, and section 20 as amended by 2003 PA 245, and by
adding section 3a to chapter XII.

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 services.

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

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

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

(g) "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.

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

(i) "Hospital" means a hospital that is licensed under ~~article 17-~~**part 215** of the public health code, 1978 PA 368, MCL ~~333.20101 to 333.22260.~~**333.21501 to 333.21571.**

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

(k) "Newborn" means a child who a physician reasonably believes to be not more than 72 hours old.

(l) "Newborn safety device" means a device provided by an emergency service provider that conforms to the provisions of section 3a of this chapter.

(m) ~~(l)~~—"Police station" means that term as defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

(n) ~~(m)~~—"Preplacement assessment" means an assessment of a prospective adoptive parent as described in section 23f of chapter X.

(o) ~~(n)~~—"Surrender" means to leave a newborn with an emergency service provider without expressing an intent to return for the newborn.

Sec. 2. (1) The court has jurisdiction over a newborn who is surrendered to an emergency service provider as provided in section 3 of this chapter **or to a newborn safety device as provided in section 3a of this chapter.** ~~The Both of the following apply to the court under this act:~~

(a) The court may appoint a lawyer-guardian ad litem to represent a newborn in proceedings under this chapter.

(b) On receipt of the notice described under section 7(f)(ii) from a child placing agency, the court shall publish a notice on its website that states that a newborn was surrendered. The notice must include the date, time, and location where the newborn was surrendered.

1 (2) Except as provided in section 5 of this chapter, the
2 reporting requirement of section 3 of the child protection law,
3 1975 PA 238, MCL 722.623, does not apply regarding a child
4 surrendered to an emergency service provider as provided in section
5 3 of this chapter **or to a newborn safety device as provided in**
6 **section 3a of this chapter.**

7 (3) Unless this chapter specifically provides otherwise, a
8 provision in another chapter of this act does not apply to a
9 proceeding under this chapter. Unless this chapter specifically
10 provides otherwise, the child custody act of 1970, 1970 PA 91, MCL
11 722.21 to ~~722.30~~, **722.31**, does not apply to a proceeding under this
12 chapter.

13 (4) A hospital and a child placing agency, and their agents
14 and employees, are immune in a civil action for damages for an act
15 or omission in accepting or transferring a newborn under this
16 chapter, except for an act or omission constituting gross
17 negligence or willful or wanton misconduct. To the extent not
18 protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to
19 ~~691.1415~~, **691.1419**, an employee or contractor of a fire department
20 or police station has the same immunity that this subsection
21 provides to a hospital's or child placing agency's agent or
22 employee.

23 Sec. 3. (1) If a parent surrenders a child who may be a
24 newborn to an emergency service provider, the emergency service
25 provider shall comply with the requirements of this section under
26 the assumption that the child is a newborn. The emergency service
27 provider shall, without a court order, immediately accept the
28 newborn, taking the newborn into temporary protective custody. The
29 emergency service provider shall make a reasonable effort to do all

1 of the following:

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

4 (b) Inform the parent that by surrendering the newborn, the
5 parent is releasing the newborn to a child placing agency to be
6 placed for adoption.

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

9 (d) Provide the parent with written material approved by or
10 produced by the department that includes, but is not limited to,
11 all of the following statements:

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

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

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

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

20 (v) The parent will not receive personal notice of this
21 hearing.

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

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

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

29 (a) Encourage the parent to provide any relevant family or

1 medical information.

2 (b) Provide the parent with the pamphlet produced under
3 section 20 of this chapter and inform the parent that ~~he or she the~~
4 **parent** can receive counseling or medical attention.

5 (c) Inform the parent that information that ~~he or she the~~
6 **parent** provides will not be made public.

7 (d) Ask the parent to identify ~~himself or herself the~~ **parent**.

8 (e) Inform the parent that in order to place the newborn for
9 adoption the state is required to make a reasonable attempt to
10 identify the other parent, and then ask the parent to identify the
11 other parent.

12 (f) Inform the parent that the child placing agency that takes
13 temporary protective custody of the newborn can provide
14 confidential services to the parent.

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

18 **(3) If a parent surrenders a child who may be a newborn to a**
19 **newborn safety device, the emergency service provider shall proceed**
20 **as described under section 3a of this chapter.**

21 **(4)** ~~(3)~~ A newborn whose birth is described in the born alive
22 infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and
23 who is in a hospital setting or transferred to a hospital under
24 section 3(1) of the born alive infant protection act, 2002 PA 687,
25 MCL 333.1073, is a newborn surrendered as provided in this chapter.
26 An emergency service provider who has received a newborn under the
27 born alive infant protection act, 2002 PA 687, MCL 333.1071 to
28 333.1073, shall do all of the following:

29 (a) Comply with the requirements of subsections (1) and (2) to

1 obtain information from or supply information to the surrendering
2 parent by requesting the information from or supplying the
3 information to the attending physician who delivered the newborn.

4 (b) Make no attempt to directly contact the parent or parents
5 of the newborn.

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

10 **Sec. 3a. (1) A parent may voluntarily deliver the parent's**
11 **newborn to a newborn safety device provided by an emergency service**
12 **provider.**

13 (2) A newborn safety device must meet the following
14 requirements:

15 (a) Allow a newborn to be placed anonymously from the outside
16 of the emergency service provider's building, if that building is
17 staffed 24 hours per day for 7 days per week.

18 (b) Lock the newborn safety device after a newborn is placed
19 in it so that an individual outside the building is unable to
20 access the newborn.

21 (c) Provide a controlled environment for the care and
22 protection of the newborn.

23 (d) Trigger a call to the emergency service provider on duty
24 at that time and provide notification to a centralized location in
25 the emergency service provider's building within 30 seconds after a
26 newborn is placed in the newborn safety device.

27 (e) Require that the interior wall of the newborn safety
28 device be transparent so that it is visible to staff inside the
29 emergency service provider's building.

1 (3) An emergency service provider that has a building that
2 offers a newborn safety device must adopt and receive operating
3 policies, supervision, and maintenance requirements for the newborn
4 safety device from the manufacturer. A newborn safety device must
5 have a sign placed on or near it identifying it as a newborn safety
6 device.

7 (4) The emergency service provider must notify the department
8 of the address of the newborn safety device. The department must
9 post on its website regarding the safe delivery program the address
10 where each newborn safety device is located.

11 (5) An emergency service provider must do both of the
12 following:

13 (a) Publicly post information regarding the newborn safety
14 device. The information must include the purpose of the newborn
15 safety device.

16 (b) Create and provide an accessible form that allows a
17 surrendering parent the option to input the following, and include
18 a notice to the surrendering parent that this information is not
19 published publicly but is accessible to a child placing agency:

20 (i) The known date and time of surrender of the newborn.

21 (ii) The address of the location of surrender of the newborn.

22 (iii) Name and contact information.

23 (iv) Family medical information.

24 (v) Whether or not the information provided may be shared with
25 the child and prospective adoptive parent.

26 (6) A newborn safety device must be installed in a location
27 where the interior of the newborn safety device will be in a safe
28 and secure location that is visible to the staff. Alternatively,
29 the emergency service provider must install, at the security desk,

1 a video feed and an audio feed to capture the newborn safety
2 device. The camera that captures the video feed must be placed in a
3 way that protects the anonymity of the parent delivering the
4 newborn.

5 (7) An emergency service provider must inspect and test a
6 newborn safety device to ensure that the newborn safety device is
7 functioning properly according to the manufacturer's guidance.
8 Inspecting and testing required under this section must be
9 performed once a month. The emergency service provider staff member
10 who inspects and tests the newborn safety device must confirm by
11 initialing a form that testing and inspecting have been completed
12 and must record the inspection and keep the record of the
13 inspection on the premises.

14 (8) A newborn safety device must be locked and inaccessible to
15 anyone except the emergency service provider staff responsible for
16 monitoring it in either of the following situations:

17 (a) There is no staff member present in the emergency service
18 provider's building.

19 (b) The newborn safety device has a malfunction.

20 (9) An emergency service provider that does not lock a newborn
21 safety device as required under subsection (8) is liable for any
22 damages for personal injury, including death, that result from the
23 use of the unlocked newborn safety device.

24 (10) The manufacturer is liable for any damages for personal
25 injury, including death, that result from the malfunction or
26 manufacturer's defect of a newborn safety device.

27 Sec. 5. (1) An emergency service provider that is not a
28 hospital and ~~that~~ takes a newborn into temporary protective custody
29 under section 3 of this chapter **or receives a newborn through a**

1 **newborn safety device under section 3a of this chapter** shall
2 transfer the newborn to a hospital. The hospital ~~shall~~**must** accept
3 a newborn who an emergency service provider transfers to the
4 hospital in compliance with this chapter, taking the newborn into
5 temporary protective custody.

6 (2) A hospital that takes a newborn into temporary protective
7 custody under this chapter ~~shall~~**or receives a newborn through a**
8 **newborn safety device under this chapter must** have the newborn
9 examined by a physician. If a physician who examines the newborn
10 either determines that there is reason to suspect the newborn has
11 experienced child abuse or child neglect, other than being
12 surrendered to an emergency service provider under section 3 of
13 this chapter **or surrendered to a newborn safety device under**
14 **section 3a of this chapter**, or comes to a reasonable belief that
15 the child is not a newborn, the physician shall immediately report
16 to the department as required by section 3 of the child protection
17 law, 1975 PA 238, MCL 722.623.

18 (3) If a physician is not required to report to the department
19 as provided in subsection (2), the hospital ~~shall~~**must** notify a
20 child placing agency that the hospital has taken a newborn into
21 temporary protective custody under this chapter **or has received a**
22 **newborn through a newborn safety device under this chapter**.

23 Sec. 7. Upon receipt of notice from a hospital under section 5
24 of this chapter, the child placing agency shall do all of the
25 following:

26 (a) Immediately assume the care, control, and temporary
27 protective custody of the newborn.

28 (b) If a parent is known and willing, immediately meet with
29 the parent.

1 (c) Unless otherwise provided in this subdivision, make a
2 temporary placement of the newborn with a prospective adoptive
3 parent who has an approved preplacement assessment. If a petition
4 for custody is filed under section 10 of this chapter, the child
5 placing agency may make a temporary placement of the newborn with a
6 licensed foster parent.

7 (d) Unless the birth was witnessed by the emergency service
8 provider, immediately request assistance from law enforcement
9 officials to investigate and determine, through the missing
10 children information clearinghouse, the ~~national center for missing~~
11 ~~and exploited children,~~ **National Center for Missing and Exploited**
12 **Children,** and any other national and state resources, whether the
13 newborn is a missing child.

14 (e) Not later than 48 hours after a transfer of physical
15 custody to a prospective adoptive parent, petition the court in the
16 county in which the prospective adoptive parent resides to provide
17 authority to place the newborn and provide care for the newborn.
18 The petition ~~shall~~ **must** include all of the following:

19 (i) The date of the transfer of physical custody.

20 (ii) The name and address of the emergency service provider to
21 whom the newborn was surrendered **or the name and address of the**
22 **emergency service provider where the newborn safety device, to**
23 **which the newborn was surrendered, is located.**

24 (iii) Any information, either written or verbal, that was
25 provided by and to the parent who surrendered the newborn. The
26 emergency service provider that originally accepted the newborn as
27 required by section 3 of this chapter shall provide this
28 information to the child placing agency.

29 (f) Within 28 days, make reasonable efforts to identify,

1 locate, and provide notice of the surrender of the newborn to the
2 nonsurrendering parent. The child placing agency shall file a
3 written report with the court that issued the order placing the
4 child. The report ~~shall~~**must** state the efforts the child placing
5 agency made in attempting to identify and locate the
6 nonsurrendering parent and the results of those efforts. If the
7 identity and address of the nonsurrendering parent are unknown, the
8 child placing agency shall ~~provide~~**immediately do all of the**
9 **following:**

10 (i) **Provide** notice of the surrender of the newborn by
11 publication in a newspaper of general circulation, **both in print**
12 **and online, if available, for 28 days,** in the county where the
13 newborn was surrendered **and in the county where the child placing**
14 **agency is located.**

15 (ii) **Notify the court in the county where the newborn was**
16 **surrendered and the county where the child placing agency is**
17 **located that a newborn was surrendered, including the date, time,**
18 **and location where the newborn was surrendered.**

19 (iii) **Notify the department of the date, time, and location**
20 **where the newborn was surrendered.**

21 Sec. 10. (1) If a surrendering parent wants custody of a
22 newborn who was surrendered under section 3 of this chapter, the
23 parent shall, within 28 days after the newborn was surrendered,
24 file a petition with the court for custody. Not later than 28 days
25 after notice of surrender of a newborn has been published, an
26 individual claiming to be the nonsurrendering parent of that
27 newborn may file a petition with the court for custody. The
28 surrendering parent or nonsurrendering parent shall file the
29 petition for custody in 1 of the following counties:

1 (a) If the parent has located the newborn, the county where
2 the newborn is located.

3 (b) If subdivision (a) does not apply and the parent knows the
4 location of the emergency service provider **that provides the**
5 **newborn safety device** to ~~whom~~**which** the newborn was surrendered,
6 the county where the emergency service provider **that provides the**
7 **newborn safety device** is located.

8 (c) If neither subdivision (a) nor (b) applies, the county
9 where the parent is located.

10 (2) If the court in which the petition for custody is filed
11 did not issue the order placing the newborn, the court in which the
12 petition for custody is filed shall locate and contact the court
13 that issued the order and shall transfer the proceedings to that
14 court.

15 (3) Before holding a custody hearing on a petition filed under
16 this section and not later than 7 days after a petition for custody
17 under this section has been filed, the court shall conduct a
18 hearing to make the determinations of paternity or maternity as
19 described in section 11.

20 Sec. 17. (1) A parent who surrenders a newborn under section 3
21 **or 3a** of this chapter and who does not file a custody action under
22 section 10 of this chapter is presumed to have knowingly released
23 ~~his or her~~**the parent's** parental rights to the newborn.

24 (2) If the surrendering parent has not filed a petition for
25 custody of the newborn within 28 days of the surrender, the child
26 placing agency with authority to place the newborn shall
27 immediately file a petition with the court to determine whether the
28 release ~~shall be~~**is** accepted and whether the court ~~shall~~**will** enter
29 an order terminating the rights of the surrendering parent.

1 (3) If the nonsurrendering parent has not filed a petition for
2 custody of the newborn within 28 days of notice of surrender of a
3 newborn under section 10 of this chapter, the child placing agency
4 with authority to place the newborn shall immediately file a
5 petition with the court to determine whether the court ~~shall~~**will**
6 enter an order terminating the rights of the nonsurrendering
7 parent.

8 (4) The court shall schedule a hearing on the petition from
9 the child placing agency within 14 days of receipt of that
10 petition. At the hearing, the child placing agency shall present
11 evidence that demonstrates that the surrendering parent released
12 the newborn and ~~that demonstrates~~ the efforts made by the child
13 placing agency to identify, locate, and provide notice to the
14 nonsurrendering parent.

15 (5) If the court finds by a preponderance of the evidence that
16 the surrendering parent has knowingly released ~~his or her~~**the**
17 **surrendering parent's** rights to the child and that reasonable
18 efforts were made to locate the nonsurrendering parent and a
19 custody action has not been filed, the court shall enter an order
20 terminating parental rights of the surrendering parent and the
21 nonsurrendering parent under this chapter.

22 Sec. 20. **(1)** ~~The department of community health in conjunction~~
23 ~~with the department shall~~**must** establish a safe delivery program.
24 The safe delivery program ~~shall~~**must** include, but is not limited
25 to, ~~both~~**all** of the following:

26 (a) A toll-free, 24-hour telephone line. The information
27 provided with this telephone line ~~shall~~**must** include, but is not
28 limited to, all of the following:

29 (i) Information on prenatal care and the delivery of a newborn.

1 (ii) Names of health agencies that can assist in obtaining
2 services and supports that provide for the pregnancy-related health
3 of the mother and the health of the baby.

4 (iii) Information on adoption options and the name and telephone
5 number of a child placing agency that can assist a parent or
6 expecting parent in obtaining adoption services.

7 (iv) Information that, in order to safely provide for the
8 health of the mother and her newborn, the best place for the
9 delivery of a child is in a hospital, hospital-based birthing
10 center, or birthing center that is accredited by the commission for
11 the accreditation of birth centers.

12 (v) An explanation that, to the extent of the law, prenatal
13 care and delivery services are routinely confidential within the
14 health care system, if requested by the mother.

15 (vi) Information that a hospital will take into protective
16 custody a newborn that is surrendered as provided ~~for~~ in this
17 chapter and, if needed, provide emergency medical assistance to the
18 mother, the newborn, or both.

19 (vii) Information regarding legal and procedural requirements
20 related to the voluntary surrender of a child as provided ~~for~~ in
21 this chapter.

22 (viii) Information regarding the legal consequences for
23 endangering a child, including child protective service
24 investigations and potential criminal penalties.

25 (ix) Information that surrendering a newborn for adoption as
26 provided in this chapter is an affirmative defense to charges of
27 abandonment as provided in section 135 of the Michigan penal code,
28 1931 PA 328, MCL 750.135.

29 (x) Information about resources for counseling and assistance

1 with crisis management.

2 (b) A pamphlet that provides information to the public
3 concerning the safe delivery program, **including information**
4 **regarding newborn safety devices**. The department ~~of community~~
5 ~~health and the department~~ shall ~~jointly~~ publish and distribute the
6 pamphlet. The pamphlet ~~shall~~ **must** prominently display the toll-free
7 telephone number prescribed by subdivision (a).

8 (c) Data that is annually compiled and published on the
9 department's website regarding the safe delivery program that does
10 not contain identifying information and includes all of the
11 following information:

12 (i) The date, time, and location where the newborn was
13 surrendered.

14 (ii) The hospital where the newborn was taken after surrender.

15 (iii) The physical condition of the newborn at the time of
16 surrender.

17 (iv) Whether the newborn was surrendered to an emergency
18 service provider or a newborn safety device.

19 (2) Beginning on the effective date of the amendatory act that
20 added this subsection, upon notice from a child placing agency that
21 a newborn was surrendered, the department must post on its website
22 regarding the safe delivery program the date, time, and location
23 where the newborn was surrendered and maintain the notice required
24 under this subsection for 28 days.

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