

2023 Kansas Statutes

38-2282. Newborn infant protection act; surrender to a person or newborn safety device; immunity from liability; notice of relinquishment; required infant information and information to be given to relinquishing parent. (a) This section shall be known and may be cited as the newborn infant protection act. The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent and to provide safe and secure alternatives to such abandonment. This section shall not abridge the rights or obligations created by the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq.

(b) As used in this section:

(1) "Newborn safety device" means a container designed to safely accept delivery of an infant and that is:

(A) Voluntarily installed in a facility described in subsection (c)(1)(A) that is staffed 24 hours per day by an employee of such facility or has a dual alarm system that will dispatch first responders when all employees of the facility are unavailable;

(B) located on a structural wall in an area that is conspicuous and visible to employees of the facility described in subsection (c)(1)(A);

(C) equipped with an automatic lock that would restrict access to the device from the outside of the facility described in subsection (c)(1)(A) when an infant is placed inside the device;

(D) equipped with a temperature control; and

(E) equipped with an alarm system described in subsection (c)(3) that is triggered by an infant being placed inside the device;

(2) "non-relinquishing parent" means the biological parent of an infant who does not surrender the infant in accordance with this section; and

(3) "relinquishing parent" means the biological parent or person having legal custody of an infant who surrenders the infant in accordance with this section.

(c) (1) A person purporting to be an infant's parent or other person having lawful custody of an infant who is not more than 60 days old and who has not suffered great bodily harm as determined by a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant may surrender physical custody of the infant to either:

(A) An employee who is on duty at a police station, sheriff's office, law enforcement center, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall, without a court order, take physical custody of an infant surrendered pursuant to this section; or

(B) a newborn safety device installed at a facility described in subparagraph (A). An employee of such facility shall, without a court order, take physical custody of an infant surrendered pursuant to this section.

(2) A relinquishing parent voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history or information described in subsection (k).

(3) A facility described in this subsection that installs a newborn safety device shall install a dual alarm system connected to the physical location of the device. Such dual alarm system shall be tested at least once per week and visually checked at least twice per day to ensure such alarm is in working order.

(d) An employee of a facility described in subsection (c)(1)(A) to whom an infant is delivered pursuant to this section shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has suffered great bodily harm or such information is required pursuant to subsection (k), and such facility and its employees shall be immune from administrative, civil or criminal liability for any action taken pursuant to this subsection. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of the infant.

(e) If an infant is delivered pursuant to this section to a facility described in

subsection (c)(1)(A) that is not a medical care facility, the employee of such facility who takes physical custody of the infant shall arrange for the immediate transportation of the infant to the nearest medical care facility as defined by K.S.A. 65-425, and amendments thereto. The medical care facility, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant and shall be immune from administrative, civil and criminal liability for treatment performed consistent with such standard.

(f) As soon as possible after an employee of a facility described in subsection (c)(1)(A) takes physical custody of an infant without a court order pursuant to this section, such employee shall notify a local law enforcement agency that the employee has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned infant. The law enforcement agency shall report the surrender of the infant to the secretary and deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 38-2232, and amendments thereto.

(g) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

(h) (1) A relinquishing parent shall be immune from civil or criminal liability if:

(A) The relinquishing parent voluntarily delivered the infant safely to either:

(i) The physical custody of an employee at a facility described in subsection (c)(1)(A); or

(ii) a newborn safety device installed at a facility described in subsection (c)(1)(B); and

(B) the infant was not more than 60 days old and has not suffered great bodily harm as determined by a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant.

(2) The relinquishing parent's voluntary delivery of an infant in accordance with this section shall constitute the parent's implied consent to the adoption of such infant and a voluntary relinquishment of such parent's parental rights.

(i) (1) In any termination of parental rights proceeding initiated after the relinquishment of an infant pursuant to this section, the state shall publish notice pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, that an infant has been relinquished, including the sex of the infant and the date and location of such relinquishment. Within 30 days after publication of such notice, a non-relinquishing parent seeking to establish parental rights shall notify the court where the termination of parental rights proceeding is filed and state such parent's intentions regarding the infant. The court shall initiate proceedings to establish parentage if no person notifies the court within 30 days. When such person is seeking to establish parental rights, the court shall require the person, at the person's expense, to submit to a genetic test to verify that the person is the biological parent of the child. There shall be an examination of the putative father registry to determine whether attempts have previously been made to preserve parental rights to the infant. If such attempts have been made, the state shall make reasonable efforts to provide notice of the abandonment of the infant to such putative father.

(2) If a relinquishing parent of an infant relinquishes custody of the infant in accordance with this section, to preserve the parental rights of the non-relinquishing parent, the non-relinquishing parent shall take the steps necessary to establish parentage within 30 days after the published notice or specific notice provided in paragraph (1).

(3) If a non-relinquishing parent fails to take the steps necessary to establish parentage within the 30-day period specified in paragraph (2), the non-relinquishing parent may have all of such parent's rights terminated with respect to the child.

(4) If a non-relinquishing parent inquires at a facility described in subsection (c)(1)(A) regarding an infant whose custody was relinquished pursuant to this section, such facility shall refer the non-relinquishing parent to the Kansas department for children and families and the court exercising jurisdiction over the child.

(j) Upon request, all medical records of the infant shall be made available to the Kansas department for children and families and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such release of records.

(k) An employee of a facility described in subsection (c)(1)(A) shall ask the person surrendering an infant whether such infant or either biological parent is a member of or eligible for membership in a federally recognized Indian tribe and the identity of any such tribe or tribes. Any facility maintaining a newborn safety device shall provide the means for the person surrendering an infant to indicate whether such infant or either biological parent is a member of or eligible for membership in a federally recognized tribe or tribes. An employee of a facility taking custody of an infant pursuant to section (c)(1) shall provide to the secretary all information received pursuant to this subsection. The secretary shall provide such information to the court with jurisdiction over the infant.

(l) (1) A facility described in subsection (c)(1)(A) that receives an infant surrendered under this section shall make available, if possible, information to the relinquishing parent, but such parent shall not be required to accept such information.

(2) Such information to be made available shall include:

(A) A notice stating that 60 days after the surrender of the infant to the facility, the secretary shall commence proceedings for termination of parental rights and placement of the infant for adoption;

(B) a list of providers that provide counseling services on grief, pregnancy and adoption or other placement or care regarding an infant;

(C) a copy of this statute, the rights of birth parents, a questionnaire that a birth parent may answer questions about the medical or background information of the child and any information required by subsection (k); and

(D) a brochure on postpartum health.

(3) The form and manner of the information under this subsection shall be prescribed by the secretary. The secretary shall maintain the questionnaire under paragraph (2)(C) on a public website.

(m) Except as otherwise provided by law, the following individuals shall not disclose any information concerning the relinquishment of the infant and individuals involved in the relinquishment:

(1) Persons licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant;

(2) employees of a facility described in subsection (c)(1)(A);

(3) operators of a newborn safety device; or

(4) persons employed or involved with any location where an infant may be surrendered under this section.

History: L. 2006, ch. 200, § 77; L. 2014, ch. 70, § 1; L. 2014, ch. 115, § 65; L. 2018, ch. 107, § 14; L. 2023, ch. 70, § 9; May 4.