

**House Children and Senior Advocacy Reported  
Substitute for HB473**



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A BILL  
TO BE ENTITLED  
AN ACT

Relating to the surrender of infants; to amend Sections 26-25-1, 26-25-2, 26-25-3, and 26-25-5, Code of Alabama 1975, and to add Sections 26-25-1.1 and 26-25-1.2 to the Code of Alabama 1975; to provide for the surrender of an infant to an emergency medical services provider or a hospital; to provide for the surrender of an infant in a baby safety device that meets certain requirements; to authorize the Department of Public Health to adopt rules relating to baby safety devices; to provide for an investigation into whether a surrendered infant is a missing child; to provide an affirmative defense to certain charges to parents who surrender an infant; to further provide for civil immunity for emergency medical services providers who accept surrendered infants; and to repeal Section 26-25-4, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 26-25-1, 26-25-2, 26-25-3, and 26-25-5, Code of Alabama 1975, are amended to read as follows:

"§26-25-1



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29 (a) For the purposes of this chapter, the following  
30 terms have the following meanings:

31 (1) BABY SAFETY DEVICE. A device installed at an  
32 emergency medical services provider pursuant to Section  
33 26-25-1.2 for the purpose of permitting a parent to  
34 anonymously surrender his or her infant.

35 (2) DEPARTMENT. The Department of ~~Public Health~~Human  
36 Resources.

37 (3) EMERGENCY MEDICAL SERVICES PROVIDER. All of the  
38 following entities:

39 a. A licensed hospital, as defined in Section 22-21-20,  
40 which operates an emergency department. This term does not  
41 include either of the following:

42 1. ~~the~~The offices, clinics, surgeries, or treatment  
43 facilities of private physicians or dentists.

44 2. Any individual licensed healthcare provider,  
45 including a physician, dentist, nurse, physician assistant, or  
46 any other health professional, ~~unless the individual~~  
47 ~~voluntarily assumes responsibility for the custody of the~~  
48 ~~child pursuant to subsection (c).~~

49 ~~b. Any state or local law enforcement agency, or fire~~  
50 ~~station, or ambulance station,~~ provided that it is staffed 24  
51 hours a day, seven days a week, 365 days a year with at least  
52 one emergency medical services personnel, as defined by  
53 Section 22-18-1.

54 (4) INFANT. A child 45 days old or younger.

55 (b) (1) An emergency medical services provider, without  
56 a court order, shall take possession of ~~a child~~ an infant who



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57 is ~~72 hours~~ 45 days old or younger ~~if the child is voluntarily~~  
58 ~~delivered to the provider by the child's parent~~ in each of the  
59 following circumstances:

60 a. The infant's parent delivers the infant to an  
61 emergency medical services provider.

62 b. The infant's parent places the infant in a baby  
63 safety device that meets the requirements of Section  
64 26-25-1.1, provided that ~~and~~ the parent did not express an  
65 intent to return for the ~~child~~ infant.

66 c. The infant's parent delivers the infant to an  
67 employee of an emergency medical services provider, provided  
68 that the employee is responding to an emergency call from a  
69 parent who expressed an intent to surrender and not return for  
70 the infant.

71 (2) A parent who surrenders an infant pursuant to this  
72 subsection may not be required to provide or asked to provide  
73 any information relating to his or her identity. If the  
74 identity of the parent is known by an emergency medical  
75 services provider, he or she shall keep the identity  
76 confidential.

77 ~~(b)~~ (3) An emergency medical services provider who takes  
78 possession of ~~a child~~ an infant under this section shall  
79 perform any act necessary to protect the physical health or  
80 safety of the ~~child~~ infant. No court order or other legal  
81 document shall be required in order for the emergency medical  
82 services provider to take possession of an infant whose parent  
83 surrenders custody under this act.

84 ~~(c) An individual health care provider, including a~~



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85 ~~physician, dentist, nurse, physician assistant, or other~~  
86 ~~health care professional who is not otherwise considered an~~  
87 ~~emergency medical services provider under this chapter may~~  
88 ~~voluntarily assumes responsibility for the custody of an~~  
89 ~~infant surrendered at the health care provider pursuant to~~  
90 ~~subdivision (b). If an individual voluntarily assumes~~  
91 ~~responsibility for the custody of an infant pursuant to this~~  
92 ~~subdivision, he or she shall follow the procedures set forth~~  
93 ~~in Section 26-25-2."~~

94           "§26-25-2

95           (a) No later than the close of the first business day  
96 after the date on which an emergency medical services provider  
97 takes possession of ~~a child~~ an infant pursuant to ~~Section~~  
98 ~~26-25-1~~ this chapter, the provider shall notify the Department  
99 of Human Resources that the emergency medical services  
100 provider has taken possession of the ~~child~~ infant, and take  
101 the infant to a licensed hospital for a medical evaluation.

102           (b) The department shall assume the care, control, and  
103 ~~legal~~ custody of the ~~child~~ infant immediately on receipt of  
104 notice pursuant to subsection (a). The department shall be  
105 responsible for all medical and other costs associated with  
106 the ~~child~~ infant and shall reimburse ~~the~~ any hospital or  
107 emergency medical services provider for any costs incurred  
108 prior to the ~~child~~ infant being placed in the care of the  
109 department.

110           (c) Immediately after assuming legal custody of an  
111 infant, the department shall contact the local law enforcement  
112 agency in the municipality or county where the infant was



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113 surrendered to determine whether the infant is a missing child  
114 in this state or in another state, and the law enforcement  
115 agency shall investigate whether the infant has been reported  
116 as missing."

117 "§26-25-3

118 (a) It is an affirmative defense to prosecution under  
119 Sections 13A-13-4, 13A-13-5, and 13A-13-6, if the parent  
120 voluntarily delivers the ~~child~~ infant to an emergency medical  
121 services provider or a baby safety device pursuant to ~~Section~~  
122 ~~26-25-1~~ this chapter.

123 (b) Nothing in this section shall prohibit the  
124 prosecution or investigation of any allegations of abuse or  
125 neglect of a surrendered infant."

126 "§26-25-5

127 (a) Except as provided in Section 36-1-12, ~~No person or~~  
128 ~~other entity~~ an emergency services provider or an employee or  
129 agent of an emergency services provider subject to ~~the~~  
130 ~~provisions of~~ this chapter shall be ~~liable to any person~~  
131 immune from liability for any civil action ~~claim for damages~~  
132 ~~as a result of~~ arising out of any action or omission taken  
133 pursuant to the requirements of this chapter.

134 (c) Nothing in this section shall limit an individual's  
135 or entity's liability for gross negligence, ~~and no lawsuit~~  
136 ~~shall be predicated thereon.~~"

137 Section 2. Sections 26-25-1.1 and 26-25-1.2 are added  
138 to the Code of Alabama 1975, to read as follows:

139 §26-25-1.1

140 (a) A woman admitted to a hospital for purposes of



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141 labor and delivery may surrender custody of her newborn  
142 infant. If a woman expresses a desire to voluntarily surrender  
143 custody of her newborn infant after birth, an emergency  
144 medical services provider shall take possession of the infant,  
145 without any further action by the woman, as if the infant had  
146 been surrendered in the same manner as Section 26-25-1.

147 (b) A woman who surrenders a newborn infant pursuant to  
148 this section is entitled to the legal protections of anonymity  
149 guaranteed under this chapter. If the woman expresses a desire  
150 to remain anonymous, identifying information may be obtained  
151 only for purposes of securing payment of labor and delivery  
152 costs. If the birth mother is a minor, the hospital may use  
153 the identifying information to secure payment through  
154 Medicaid, but may not notify the minor's parent or guardian  
155 without the minor's consent.

156 (c) Except as required by subsection (b), the identity  
157 of a birth mother who surrenders her infant pursuant to this  
158 section shall not be placed on the birth certificate or  
159 disclosed to any other individual or entity, including state  
160 and local agencies.

161 §26-25-1.2

162 (a) (1) An emergency services provider may install,  
163 maintain, and monitor a baby safety device, provided that the  
164 baby safety device meets all of the requirements of this  
165 section. No other individual or entity, including any child  
166 placing agency, that is not an emergency services provider may  
167 install, maintain, or monitor a baby safety device.

168 (2) a. An emergency services provider may accept



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169 donations or grants, and the Legislature may appropriate  
170 funds, for the purpose of installing and maintaining a baby  
171 safety device. If a specific donation or appropriation is made  
172 to an emergency services provider for the purpose of  
173 installing and maintaining a baby safety device pursuant to  
174 this section, then the emergency services provider shall  
175 install and maintain a baby safety device as required by this  
176 section, to the extent that the funding allows it to do so. A  
177 donor may not be involved in the installation, maintenance, or  
178 monitoring of a baby safety device.

179           b. An emergency services provider shall not be required  
180 to install, maintain, or monitor a baby safety device if the  
181 provider has not received funding under this subdivision.

182           (b) A baby safety device in this state shall be  
183 installed by a general contractor licensed pursuant to Chapter  
184 8 of Title 34 and shall meet all of the following criteria:

185           (1) Be designed to permit a parent to anonymously place  
186 an infant in the device for purposes of surrendering the  
187 infant.

188           (2) Be climate controlled.

189           (3) Be installed in a conspicuous location.

190           (4) Be equipped with a dual alarm system connected to  
191 the physical location where the device is installed. The dual  
192 alarm system shall trigger when an infant is placed into the  
193 device, shall be visually inspected twice per day, and shall  
194 be tested at least once per week.

195           (5) Have a supporting frame of the device that is  
196 anchored to prevent movement of the unit as a whole.



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197 (6) Be under 24-hour camera surveillance, provided that  
198 the surveillance footage may only be viewed for purposes of  
199 investigating alleged child abuse or neglect or other criminal  
200 behavior related to the surrender of an infant to a baby  
201 safety device.

202 (7) Meet any other requirements adopted by the  
203 department.

204 (c) An emergency services provider shall take custody  
205 of any infant surrendered in a baby safety device in the same  
206 manner as an infant surrendered pursuant to Section 26-25-1,  
207 and shall follow the procedures provided in Section 26-25-2.

208 (d) (1) The Department of Public Health shall adopt  
209 rules relating to the installation, maintenance, and  
210 monitoring of a baby safety device including, but not limited  
211 to, the following:

212 a. Rules providing for the purchase and installation of  
213 a baby safety device, including designating from where an  
214 emergency services provider may purchase a baby safety device.

215 b. Rules providing for the maintenance of a baby safety  
216 device.

217 c. Rules providing for training of emergency services  
218 providers with baby safety devices installed on its premises.

219 (2) Nothing in this chapter requires the Department of  
220 Human Resources to monitor or regulate any baby safety device  
221 installed in this state.

222 (e) Any emergency services provider that has a baby  
223 safety device installed shall post signage at the site of the  
224 device that clearly identifies the device and provides written



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225 and pictorial directions to the surrendering individual  
226 instructing him or her to open the access door, place the  
227 infant inside the device, and close the access door to engage  
228 the lock. The signage shall be approved by the Department of  
229 Public Health and shall clearly indicate all of the following:

230 (1) That an infant surrendered in a baby safety device  
231 may be no more than 45 days old.

232  
233 (2) That by placing an infant in the baby safety  
234 device, a parent is foregoing all parental responsibilities  
235 with respect to the infant and is giving consent for the state  
236 to take custody of the infant.

237 (3) That damaging a baby safety device may constitute  
238 the crime of criminal mischief.

239 Section 3. Section 26-25-4, Code of Alabama 1975,  
240 relating to the term "emergency medical services provider," is  
241 repealed.

242 Section 4. This act shall become effective on the first  
243 day of the third month following its passage and approval by  
244 the Governor, or its otherwise becoming law.