

**HB473 ENGROSSED**



1 MZNC1W-2

2 By Representatives Givens, Holk-Jones, Fidler, Lomax, Gidley,  
3 Simpson, Shirey, Lamb, Lovvorn, Marques, Baker, Clouse,  
4 Blackshear, Crawford, Paramore, Wood (D), Wilcox, Harrison,  
5 Bedsole, Butler, Robertson, Hammett, Pettus, Shaw, Sellers,  
6 Yarbrough, Brown, Sorrells, Rehm, Stadthagen, Lipscomb,  
7 Oliver, Paschal, DuBose, Shaver

8 RFD: Children and Senior Advocacy

9 First Read: 16-May-23

10 2023 Regular Session



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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:



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29           "§26-25-1

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

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

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

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

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

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

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

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

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

56           (b) (1) An emergency medical services provider, without



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57 a court order, shall take possession of ~~a child~~ an infant who  
58 is ~~72 hours~~ 45 days old or younger ~~if the child is voluntarily~~  
59 ~~delivered to the provider by the child's parent~~ in each of the  
60 following circumstances:

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

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

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

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

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



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

95 "§26-25-2

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

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

111 (c) Immediately after assuming legal custody of an  
112 infant, the department shall contact the local law enforcement



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

118 "§26-25-3

119 (a) It is an affirmative defense to prosecution under  
120 Sections 13A-13-4, 13A-13-5, and 13A-13-6, if the parent  
121 voluntarily delivers the ~~child~~ infant to an emergency medical  
122 services provider or a baby safety device pursuant to ~~Section~~  
123 ~~26-25-1~~ this chapter.

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

127 "§26-25-5

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

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

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

140 §26-25-1.1



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

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

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

162 §26-25-1.2

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



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

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

183           (b) A baby safety device in this state shall be  
184 installed by a general contractor licensed pursuant to Chapter  
185 8 of Title 34 and shall meet all of the following criteria:

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

189           (2) Be climate controlled.

190           (3) Be installed in a conspicuous location.

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

196           (5) Have a supporting frame of the device that is





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197 anchored to prevent movement of the unit as a whole.

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

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

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

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

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

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

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

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

223 (e) Any emergency services provider that has a baby  
224 safety device installed shall post signage at the site of the



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

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

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.



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House of Representatives

Read for the first time and referred .....16-May-23  
to the House of Representatives  
committee on Children and Senior  
Advocacy  
Read for the second time and placed .....23-May-23  
on the calendar:  
1 amendment  
Read for the third time and passed .....24-May-23  
as amended  
Yeas 100  
Nays 0  
Abstains 3

John Treadwell  
Clerk