

**SB209 INTRODUCED**



1 C6Z1QJ-1  
2 By Senator Stutts  
3 RFD: Children and Youth Health  
4 First Read: 12-Apr-23  
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SYNOPSIS:

Under existing law, a parent may surrender a 72-hour old or younger infant to a hospital that operates an emergency department.

Also under existing law, a parent who surrenders a child has an affirmative defense to the charges of nonsupport, abandonment of a child, and endangering the welfare of a child.

This bill would repeal existing law relating to leaving an abandoned infant with an emergency medical services provider and replace it with a new chapter allowing a parent to surrender a newborn infant to a safe haven location, which includes an emergency medical services station, fire station, or law enforcement agency.

This bill would allow a mother who gives birth in a hospital to leave a newborn infant at the hospital and to decline being named on the infant's birth certificate.

This bill would require a safe haven location or hospital to accept a surrendered newborn infant.

This bill would require certain hospitals to provide medical care to the infant and presume that the infant qualifies for Medicaid.

This bill would require the Department of Human



## SB209 INTRODUCED

29 Resources to take custody of the surrendered newborn  
30 infant and place the infant with a licensed child-  
31 placing agency.

32 This bill would provide certain affirmative  
33 defenses to a parent who voluntarily surrenders a  
34 newborn infant and provide that a surrendered newborn  
35 is not subject to any mandatory reporting and  
36 investigation requirements, unless there is actual or  
37 suspected child abuse or neglect.

38 This bill would allow a parent who surrenders a  
39 newborn infant to reclaim custody of the infant until a  
40 court terminates parental rights.

41 This bill would provide immunity from liability  
42 to safe haven locations and hospitals that provide care  
43 to a surrendered newborn infant.

44 This bill would also authorize the Department of  
45 Human Resources to adopt rules to implement this  
46 chapter.

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A BILL

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TO BE ENTITLED

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AN ACT

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53 Relating to infants; to add a new Chapter 25A to Title  
54 26 of the Code of Alabama 1975; to require certain safe haven  
55 locations and certain hospitals to accept a surrendered  
56 newborn infant; to give the Department of Human Resources



## SB209 INTRODUCED

57 custody of a surrendered newborn infant; to allow a parent who  
58 surrenders a newborn infant to reclaim the infant in certain  
59 circumstances; to provide certain affirmative defenses to a  
60 parent who surrenders a newborn infant; to exempt a  
61 surrendered newborn infant from certain reporting  
62 requirements; to provide for a limitation of liability; to  
63 authorize the Department of Human Resources to adopt rules;  
64 and to repeal Sections 26-25-1 through 26-25-5, Code of  
65 Alabama 1975, relating to leaving an abandoned infant with an  
66 emergency medical services provider.

67 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

68 Section 1. Chapter 25A is added to Title 26 of the Code  
69 of Alabama 1975, to read as follows:

70 §26-25A-1

71 For the purposes of this chapter, the following terms  
72 have the following meanings:

73 (1) CHILD-PLACING AGENCY. The same meaning as defined  
74 in Section 38-7-2.

75 (2) EMERGENCY MEDICAL SERVICES PROVIDER. A paramedic,  
76 emergency medical technician - intermediate, advanced  
77 emergency medical technician, or emergency medical technician  
78 who is currently licensed with the Alabama Department of  
79 Public Health, Office of Emergency Medical Services.

80 (3) EMERGENCY MEDICAL SERVICES STATION. An  
81 organization, whether public or private, that is staffed with  
82 full-time emergency medical services providers and provides  
83 transport or non-transport emergency medical services.

84 (4) HOSPITAL. A licensed hospital, as defined in



## SB209 INTRODUCED

85 Section 22-21-20, which operates an emergency department. This  
86 term does not include the offices, clinics, surgeries, or  
87 treatment facilities of private physicians or dentists.

88 (5) NEWBORN INFANT. A child who a licensed physician  
89 reasonably believes is approximately 72 hours old or younger  
90 at the time the child is left at a hospital or safe haven  
91 location.

92 (6) SAFE HAVEN LOCATION. All of the following  
93 locations:

- 94 a. An emergency medical services station.
- 95 b. A fire station staffed with full-time firefighters.
- 96 c. A law enforcement agency staffed with full-time law  
97 enforcement officers.

98 §26-25A-2

99 (a) A safe haven location, without a court order, shall  
100 accept any newborn infant if the newborn infant is voluntarily  
101 delivered by the parent to an on-duty emergency medical  
102 services provider, firefighter, or law enforcement officer at  
103 the safe haven location and if the parent did not express an  
104 intent to return for the newborn infant.

105 (b) After accepting a newborn infant pursuant to this  
106 section, an emergency medical services provider, firefighter,  
107 or law enforcement officer shall take the following actions:

108 (1) Provide medical services to the newborn infant to  
109 the extent that he or she is trained to provide those  
110 services.

111 (2) Arrange for the immediate transfer of the newborn  
112 infant to the nearest hospital having emergency services.



## SB209 INTRODUCED

113 (c) (1) A hospital shall accept any newborn infant born  
114 in the hospital, if the mother expresses an intent to leave  
115 the newborn infant and not return.

116 (2) Upon the mother's request, the hospital or  
117 registrar shall complete the newborn infant's birth  
118 certificate without naming the mother thereon.

119 (d) There is a presumption that a parent who leaves a  
120 newborn infant in accordance with this section intended to  
121 leave the newborn infant, gave implied consent to the actions  
122 in this section, and consented to the termination of parental  
123 rights.

124 (e) (1) Each hospital shall admit and provide all  
125 necessary emergency services and care to any newborn infant  
126 left with the hospital in accordance with this section.

127 (2) The hospital and its licensed health care  
128 professionals shall have implied consent to perform all  
129 necessary emergency services, care, and treatment upon the  
130 acceptance of a newborn infant pursuant to this section.

131 (3) Any newborn infant admitted to a hospital in  
132 accordance with this chapter is presumed eligible for coverage  
133 under Medicaid, subject to federal rules.

134 §26-25A-3

135 (a) Upon admitting a newborn infant under this chapter,  
136 the hospital shall immediately notify the Department of Human  
137 Resources that the hospital has taken possession of a newborn  
138 infant. The department shall assume the care, control, and  
139 custody of the child immediately on receipt of notice pursuant  
140 to this section.



## SB209 INTRODUCED

141 (b) Upon the newborn infant's release from the  
142 hospital, the department shall coordinate the newborn infant's  
143 placement with a licensed child-placing agency. The licensed  
144 child-placing agency shall take physical custody of the infant  
145 following release from the hospital.

146 §26-25A-4

147 (a) (1) A criminal investigation shall not be initiated  
148 solely because a newborn infant is left at a hospital under  
149 this chapter unless there is actual or suspected child abuse.

150 (2) In cases where there is actual or suspected child  
151 abuse or neglect, as defined in Section 26-14-1, the hospital  
152 or any of its licensed health care professionals shall report  
153 the actual or suspected child abuse or neglect as provided in  
154 Section 26-14-3.

155 (3) It is an affirmative defense to prosecution under  
156 Sections 13A-13-4, 13A-13-5, and 13A-13-6, if a parent  
157 voluntarily surrenders a newborn infant pursuant to this  
158 chapter.

159 (b) Except when there is actual or suspected child  
160 abuse or neglect, when a parent leaves a newborn infant with  
161 an on-duty emergency medical services provider, firefighter,  
162 or law enforcement officer at a safe haven location or brings  
163 a newborn infant to an emergency room of a hospital and  
164 expresses an intent to leave the newborn infant and not  
165 return, the parent has the absolute right to remain anonymous  
166 and leave at any time and may not be pursued or followed  
167 unless the parent seeks to reclaim the newborn infant.

168 (c) A parent of a newborn infant left at a hospital or



## SB209 INTRODUCED

169 safe haven location under this section may claim his or her  
170 newborn infant until the court enters a judgment terminating  
171 his or her parental rights. A claim to the newborn infant must  
172 be made to the entity having physical or legal custody of the  
173 newborn infant or to the probate court before which  
174 proceedings involving the newborn infant are pending.

175 §26-25A-5

176 (a) All of the following shall be immune from criminal  
177 or civil liability for acting in good faith in accordance with  
178 this section:

179 (1) An emergency medical services station, or an  
180 emergency medical services provider.

181 (2) A fire station, or an employee or agent of a fire  
182 station.

183 (3) A law enforcement officer, or an employee or agent  
184 of a law enforcement agency.

185 (4) A hospital, or any of its licensed health care  
186 professionals.

187 (b) Nothing in this section limits liability for gross  
188 negligence.

189 §26-25A-6

190 The Department of Human Resources may adopt reasonable  
191 rules relating to the administration and enforcement of this  
192 chapter.

193 Section 2. Chapter 25 of Title 26 of the Code of  
194 Alabama 1975, consisting of Sections 26-25-1 through 26-25-5,  
195 relating to leaving an abandoned infant with emergency medical  
196 services providers, is repealed.





## SB209 INTRODUCED

197           Section 3. This act shall become effective on the first  
198   day of the third month following its passage and approval by  
199   the Governor, or its otherwise becoming law.