

SENATE BILL NO. 708

October 28, 2021, Introduced by Senators WOJNO, OUTMAN, SANTANA, CHANG, MCMORROW, BRINKS, VICTORY, BULLOCK, RUNESTAD, VANDERWALL and SCHMIDT and referred to the Committee on Families, Seniors, and Veterans.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XII
2 **Sec. 3a. (1) A parent may voluntarily deliver his or her**

1 newborn to a newborn safety device provided by a fire department or
2 hospital. In order to receive a newborn using a newborn safety
3 device, the fire department must have 24-hour, 7 days per week
4 emergency responder staff. The newborn safety device must meet the
5 requirements provided in rules promulgated under this section.

6 (2) Not later than 180 days after the effective date of the
7 amendatory act that added this section, the department shall
8 promulgate rules governing newborn safety devices. The rules shall
9 provide for all of the following:

10 (a) Sanitation standards.

11 (b) Procedures to provide emergency care for a newborn
12 delivered to a newborn safety device.

13 (c) Manufacturing and manufacturer standards.

14 (d) Design and function requirements that include the
15 following:

16 (i) Allow a newborn to be placed anonymously from the outside
17 of the fire station or hospital.

18 (ii) Lock the newborn safety device after a newborn is placed
19 in it so that a person outside the fire department or hospital is
20 unable to access the newborn.

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

23 (iv) Trigger a 9-1-1 call and provide notification to a
24 centralized location in the fire station or hospital within 30
25 seconds after a newborn is placed in the newborn safety device.

26 (v) Requirement that the interior wall of the newborn safety
27 device be transparent so that the interior of the newborn safety
28 device is visible to staff inside the fire station or hospital.

29 (e) Operating policies, supervision, and maintenance

1 requirements for a newborn safety device.

2 (f) Qualifications required for a person to install a newborn
3 safety device.

4 (g) Procedures and forms for registration of a qualified
5 newborn safety device installer.

6 (h) Costs for registering and regulating newborn safety
7 devices and fees to cover those costs.

8 (i) Creating and posting signs to be placed near or on a
9 newborn safety device to provide information about using it.

10 (j) Enforcement of and remedies for violations for failure to
11 comply with the requirements governing newborn safety devices.

12 (k) A publicly accessible list with the location of all
13 available newborn safety devices.

14 (l) An accessible form that allows a surrendering parent the
15 option to input the following and includes notification to the
16 surrendering parent that this information shall not be published
17 publicly, but shall be accessible to a child placing agency:

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

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

20 (iii) Name and contact information.

21 (iv) Family medical information.

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

24 (m) Any other requirement the department considers necessary
25 to ensure the safety and welfare of a newborn placed in a newborn
26 safety device.

27 (3) A newborn safety device must be installed in a location
28 where the interior of the newborn safety device will be in a safe
29 and secure location that is visible to the staff. Alternatively,

1 the fire department or hospital must install, at the security desk,
2 a video feed and an audio feed to capture the newborn safety
3 device. The camera must be placed in a way that protects the
4 anonymity of the parent delivering the newborn.

5 (4) A fire department or hospital must inspect and test a
6 newborn safety device to ensure that the newborn safety device is
7 functioning properly. Inspecting and testing required under this
8 section must be performed 2 times every 24-hour period at 12-hour
9 intervals. The fire department or hospital staff person who
10 inspects and tests the newborn safety device must confirm by
11 initialing a form, provided by the department, that testing and
12 inspecting have been completed.

13 (5) The manufacturer is liable for any damages for personal
14 injury, including death, that result from the use of or malfunction
15 of a newborn safety device.

16 Sec. 5. (1) An emergency service provider that is not a
17 hospital and that takes a newborn into temporary protective custody
18 under section 3 of this chapter ~~shall~~**must** transfer the newborn to
19 a hospital. The hospital shall accept a newborn who an emergency
20 service provider transfers to the hospital in compliance with this
21 chapter, taking the newborn into temporary protective custody.

22 (2) A hospital that takes a newborn into temporary protective
23 custody under this chapter **or receives a newborn through a newborn**
24 **safety device under this chapter** shall have the newborn examined by
25 a physician. If a physician who examines the newborn either
26 determines that there is reason to suspect the newborn has
27 experienced child abuse or child neglect, other than being
28 surrendered to an emergency service provider under section 3 of
29 this chapter **or surrendered to a newborn safety device under**

1 **section 3a of this chapter**, or comes to a reasonable belief that
2 the child is not a newborn, the physician shall immediately report
3 to the department as required by section 3 of the child protection
4 law, 1975 PA 238, MCL 722.623.

5 (3) If a physician is not required to report to the department
6 as provided in subsection (2), the hospital shall notify a child
7 placing agency that the hospital has taken a newborn into temporary
8 protective custody under this chapter **or has received a newborn**
9 **through a newborn safety device under this chapter.**

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

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

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

17 (c) Unless otherwise provided in this subdivision, make a
18 temporary placement of the newborn with a prospective adoptive
19 parent who has an approved preplacement assessment. If a petition
20 for custody is filed under section 10 of this chapter, the child
21 placing agency may make a temporary placement of the newborn with a
22 licensed foster parent.

23 (d) Unless the birth was witnessed by the emergency service
24 provider, immediately request assistance from law enforcement
25 officials to investigate and determine, through the missing
26 children information clearinghouse, the ~~national center for missing~~
27 ~~and exploited children,~~ **National Center for Missing and Exploited**
28 **Children**, and any other national and state resources, whether the
29 newborn is a missing child.

1 (e) Not later than 48 hours after a transfer of physical
2 custody to a prospective adoptive parent, petition the court in the
3 county in which the prospective adoptive parent resides to provide
4 authority to place the newborn and provide care for the newborn.

5 The petition ~~shall~~**must** include all of the following:

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

7 (ii) The name and address of the emergency service provider to
8 whom the newborn was surrendered **or the name and address of the**
9 **fire department or hospital where the newborn safety device, to**
10 **which the newborn was surrendered, is located.**

11 (iii) Any information, either written or verbal, that was
12 provided by and to the parent who surrendered the newborn. The
13 emergency service provider that originally accepted the newborn as
14 required by section 3 **or 3a** of this chapter ~~shall~~**must** provide this
15 information to the child placing agency.

16 (f) Within 28 days **after the newborn was surrendered**, make
17 reasonable efforts to identify, locate, and provide notice of the
18 surrender of the newborn to the nonsurrendering parent. The child
19 placing agency ~~shall~~**must** file a written report with the court that
20 issued the order placing the child. The report ~~shall~~**must** state the
21 efforts the child placing agency made in attempting to identify and
22 locate the nonsurrendering parent and the results of those efforts.
23 If the identity and address of the nonsurrendering parent are
24 unknown, the child placing agency ~~shall~~**must** provide notice of the
25 surrender of the newborn by publication in a newspaper of general
26 circulation in the county where the newborn was surrendered.

27 Sec. 10. (1) If a surrendering parent wants custody of a
28 newborn who was surrendered under section 3 **or 3a** of this chapter,
29 the parent ~~shall~~**must**, within 28 days after the newborn was

1 surrendered, file a petition with the court for custody. Not later
2 than 28 days after notice of surrender of a newborn has been
3 published, an individual claiming to be the nonsurrendering parent
4 of that newborn may file a petition with the court for custody. The
5 surrendering parent or nonsurrendering parent ~~shall~~**must** file the
6 petition for custody in 1 of the following counties:

7 (a) If the parent has located the newborn, the county where
8 the newborn is located.

9 (b) If subdivision (a) does not apply and the parent knows the
10 location of the emergency service provider **or the fire department**
11 **or hospital where the newborn safety device** to ~~whom~~**which** the
12 newborn was surrendered, the county where the emergency service
13 provider **or fire department or hospital where the newborn safety**
14 **device** is located.

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

17 (2) If the court in which the petition for custody is filed
18 did not issue the order placing the newborn, the court in which the
19 petition for custody is filed ~~shall~~**must** locate and contact the
20 court that issued the order and ~~shall~~**must** transfer the proceedings
21 to that court.

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

27 Sec. 17. (1) A parent who surrenders a newborn under section 3
28 **or 3a** of this chapter and who does not file a custody action under
29 section 10 of this chapter is presumed to have knowingly released

1 his or her parental rights to the newborn.

2 (2) If the surrendering parent has not filed a petition for
3 custody of the newborn within 28 days ~~of~~**after** the surrender, the
4 child placing agency with authority to place the newborn ~~shall~~**must**
5 immediately file a petition with the court to determine whether the
6 release shall be accepted and whether the court shall enter an
7 order terminating the rights of the surrendering parent.

8 (3) If the nonsurrendering parent has not filed a petition for
9 custody of the newborn within 28 days ~~of~~**after** notice of surrender
10 of a newborn under section 10 of this chapter, the child placing
11 agency with authority to place the newborn ~~shall~~**must** immediately
12 file a petition with the court to determine whether the court shall
13 enter an order terminating the rights of the nonsurrendering
14 parent.

15 (4) The court shall schedule a hearing on the petition from
16 the child placing agency within 14 days ~~of~~**after** receipt of that
17 petition. At the hearing, the child placing agency shall present
18 evidence that demonstrates that the surrendering parent released
19 the newborn and that demonstrates the efforts made by the child
20 placing agency to identify, locate, and provide notice to the
21 nonsurrendering parent.

22 (5) If the court finds by a preponderance of the evidence that
23 the surrendering parent has knowingly released his or her rights to
24 the child and that reasonable efforts were made to locate the
25 nonsurrendering parent and a custody action has not been filed, the
26 court shall enter an order terminating parental rights of the
27 surrendering parent and the nonsurrendering parent under this
28 chapter.

29 Sec. 20. The department ~~of community health in conjunction~~

1 ~~with the department~~ shall establish a safe delivery program. The
2 safe delivery program ~~shall~~**must** include, but is not limited to,
3 both of the following:

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

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

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

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

14 (iv) Information that, in order to safely provide for the
15 health of the mother and her newborn, the best place for the
16 delivery of a child is in a hospital, hospital-based birthing
17 center, or birthing center that is accredited by the ~~commission for~~
18 ~~the accreditation of birth centers.~~**Commission for the Accreditation**
19 **of Birth Centers.**

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

23 (vi) Information that a hospital will take into protective
24 custody a newborn that is surrendered as provided for in this
25 chapter and, if needed, provide emergency medical assistance to the
26 mother, the newborn, or both.

27 (vii) Information regarding legal and procedural requirements
28 related to the voluntary surrender of a child as provided for in
29 this chapter.

1 (viii) Information regarding the legal consequences for
2 endangering a child, including child protective service
3 investigations and potential criminal penalties.

4 (ix) Information that surrendering a newborn for adoption as
5 provided in this chapter is an affirmative defense to charges of
6 abandonment as provided in section 135 of the Michigan penal code,
7 1931 PA 328, MCL 750.135.

8 (x) Information about resources for counseling and assistance
9 with crisis management.

10 (b) A pamphlet that provides information to the public
11 concerning the safe delivery program, **including information**
12 **regarding newborn safety devices**. The department ~~of community~~
13 ~~health and the department shall jointly~~ **must** publish and distribute
14 the pamphlet. The pamphlet ~~shall~~ **must** prominently display the toll-
15 free telephone number prescribed by subdivision (a).

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

18 Enacting section 2. This amendatory act does not take effect
19 unless Senate Bill No. 710 of the 101st Legislature is enacted into
20 law.