

Stricken language would be deleted from and underlined language would be added to present law.
Act 185 of the Regular Session

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S2/5/19
A Bill

SENATE BILL 168

By: Senator Bledsoe
By: Representative Petty

For An Act To Be Entitled

AN ACT TO AMEND THE SAFE HAVEN ACT; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND THE SAFE HAVEN ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-27-205(c), concerning endangering the welfare of a minor, is amended to read as follows:

(c)(1) It is an affirmative defense to a prosecution under this section that a parent voluntarily delivered a child to and left the child with, or voluntarily arranged for another person to deliver a child to and leave the child with, a medical provider ~~or law enforcement agency, law enforcement agency, or fire department~~ as provided in § 9-34-201 et seq.

(2)(A) ~~Nothing in subdivision~~ Subdivision (c)(1) of this section ~~shall be construed to~~ does not create a defense to any prosecution arising from any conduct other than the act of delivering a child as described in subdivision (c)(1) of this section.

(B) Subdivision (c)(1) of this section specifically does not constitute a defense to any prosecution arising from an act of abuse or neglect committed ~~prior to~~ before the delivery of a child to a medical provider ~~or law enforcement agency, law enforcement agency, or fire department~~ as provided in § 9-34-201 et seq.

SECTION 2. Arkansas Code § 9-34-201, concerning definitions, is



amended to add an additional subdivision to read as follows:

(3) "Fire department" means any organization that is staffed twenty-four (24) hours a day and established for the prevention or extinguishment of fires, including, but not limited to, fire departments organized under municipal or county ordinances, improvement districts, membership fee-based private fire departments, and volunteer fire departments.

SECTION 3. Arkansas Code § 9-34-202 is amended to read as follows:

9-34-202. Delivery to medical provider ~~or law enforcement agency, law enforcement agency, or fire department~~.

(a) Any medical provider ~~or law enforcement agency, law enforcement agency, or fire department~~ shall ~~without a court order~~ take possession of a child who is thirty (30) days old or younger without a court order if the ~~child is left with or voluntarily delivered to the medical provider or law enforcement agency by the child's parent who does not express an intent to return for the child~~ parent of the child, without expressing an intent to return for the child, leaves the child:

(1) With or voluntarily delivers the child to the medical provider, law enforcement agency, or fire department; or

(2) In a newborn safety device that is:

(A) Voluntarily installed by the medical provider, law enforcement agency, or fire department;

(B) Physically located inside a hospital, law enforcement agency, or fire department that is staffed twenty-four (24) hours a day by a medical services provider; and

(C) Located in an area that is conspicuous and visible to the employees of the hospital, law enforcement agency, or fire department.

(b)(1) A medical provider ~~or law enforcement agency, law enforcement agency, or fire department~~ that takes possession of a child under subsection (a) of this section shall perform any act necessary to protect the physical health and safety of the child.

(2) A medical provider ~~or law enforcement agency, law enforcement agency, or fire department~~ shall:

(A) keep ~~Keep~~ the identity of a parent who relinquishes a child under this section confidential; and

~~(B) shall not~~ Not release or otherwise make the identity of the parent available except to a:

~~(A)(i)~~ Law enforcement agency investigating abuse or neglect of the child that was committed before the child was delivered to the medical provider or law enforcement agency; or

~~(B)(ii)~~ Prosecuting attorney pursuing charges against a parent for abuse or neglect of the child that was committed before the child was delivered to the medical provider ~~or law enforcement agency,~~ law enforcement agency, or fire department.

~~(c) A medical provider or law enforcement agency, law enforcement agency, or fire department shall incur no civil or criminal liability not be criminally or civilly liable~~ not be criminally or civilly liable for any good faith acts or omissions performed ~~pursuant to~~ under this section.

(d) A medical provider, law enforcement agency, or fire department that voluntarily installs a newborn safety device shall:

(1) Be responsible for the cost of the installation; and

(2) Install an adequate dual alarm system connected to the physical location of the newborn safety device that is:

(A) Tested at least one (1) time per week to ensure the alarm system is in working order; and

(B) Visually checked at least two (2) times per day to ensure the alarm system is in working order.

SECTION 4. Arkansas Code § 9-34-203 is amended to read as follows:

9-34-203. Care of the child.

~~(a) Upon delivery of the child to a law enforcement agency or a medical provider~~ medical provider, law enforcement agency, or fire department, the law enforcement officer ~~or an appropriate hospital employee,~~ an appropriate employee of the fire department, or an appropriate employee of the hospital shall take the child into protective custody for seventy-two (72) hours under the Child Maltreatment Act, § 12-18-101 et seq.

~~(b) The law enforcement officer or hospital employee,~~ employee of the fire department, or employee of the hospital shall immediately notify the Division of Children and Family Services of the Department of Human Services, which shall initiate a dependency petition ~~pursuant to~~ under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.

/s/Bledsoe

APPROVED: 2/20/19