

# HOUSE BILL No. 5751

March 22, 2018, Introduced by Reps. Rendon, McCready, Leutheuser, Kahle, Hughes, Noble, Miller, Theis, Allor, Frederick, Wentworth, Vaupel, Canfield and Tedder and referred to the Committee on Families, Children, and Seniors.

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:

### CHAPTER XII

SEC. 3A. (1) A PARENT MAY VOLUNTARILY DELIVER HIS OR HER  
NEWBORN TO A NEWBORN SAFETY DEVICE PROVIDED BY AN EMERGENCY SERVICE  
PROVIDER. THE NEWBORN SAFETY DEVICE MUST MEET THE REQUIREMENTS  
PROVIDED IN RULES PROMULGATED UNDER THIS SECTION.

(2) NOT LATER THAN 180 DAYS AFTER THE EFFECTIVE DATE OF THE

1 AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT SHALL  
2 PROMULGATE RULES GOVERNING NEWBORN SAFETY DEVICES. THE RULES SHALL  
3 PROVIDE FOR ALL OF THE FOLLOWING:

4 (A) SANITATION STANDARDS.

5 (B) PROCEDURES TO PROVIDE EMERGENCY CARE FOR A NEWBORN  
6 DELIVERED TO A NEWBORN SAFETY DEVICE.

7 (C) MANUFACTURING AND MANUFACTURER STANDARDS.

8 (D) DESIGN AND FUNCTION REQUIREMENTS THAT INCLUDE THE  
9 FOLLOWING:

10 (i) TAKE INTO ACCOUNT INSTALLATION AT A FIRE DEPARTMENT,  
11 HOSPITAL, OR POLICE STATION.

12 (ii) ALLOW A NEWBORN TO BE PLACED ANONYMOUSLY FROM THE OUTSIDE  
13 OF THE FACILITY.

14 (iii) LOCK THE NEWBORN SAFETY DEVICE AFTER A NEWBORN IS PLACED  
15 IN IT SO THAT A PERSON OUTSIDE THE FACILITY IS UNABLE TO ACCESS THE  
16 NEWBORN.

17 (iv) PROVIDE A CONTROLLED ENVIRONMENT FOR THE CARE AND  
18 PROTECTION OF THE NEWBORN.

19 (v) TRIGGER A 9-1-1 CALL AND PROVIDE NOTIFICATION TO A  
20 CENTRALIZED LOCATION IN THE FACILITY WITHIN 30 SECONDS OF A NEWBORN  
21 BEING PLACED IN THE NEWBORN SAFETY DEVICE.

22 (E) OPERATING POLICIES, SUPERVISION, AND MAINTENANCE  
23 REQUIREMENTS FOR A NEWBORN SAFETY DEVICE, INCLUDING REQUIREMENTS  
24 THAT ONLY AN EMERGENCY SERVICE PROVIDER SUPERVISE THE NEWBORN  
25 SAFETY DEVICE AND TAKE CUSTODY OF A NEWBORN PLACED IN IT.

26 (F) QUALIFICATIONS REQUIRED FOR A PERSON TO INSTALL A NEWBORN  
27 SAFETY DEVICE.

1 (G) PROCEDURES AND FORMS FOR REGISTRATION OF A QUALIFIED  
2 NEWBORN SAFETY DEVICE INSTALLER.

3 (H) COSTS FOR REGISTERING AND REGULATING NEWBORN SAFETY  
4 DEVICES AND FEES TO COVER THOSE COSTS.

5 (I) CREATING AND POSTING SIGNS TO BE PLACED NEAR OR ON A  
6 NEWBORN SAFETY DEVICE TO PROVIDE INFORMATION ABOUT USING IT.

7 (J) ENFORCEMENT OF AND REMEDIES FOR VIOLATIONS FOR FAILURE TO  
8 COMPLY WITH THE REQUIREMENTS GOVERNING NEWBORN SAFETY DEVICES.

9 (K) ANY OTHER REQUIREMENT THE DEPARTMENT CONSIDERS NECESSARY  
10 TO ENSURE THE SAFETY AND WELFARE OF A NEWBORN PLACED IN A NEWBORN  
11 SAFETY DEVICE.

12 Sec. 5. (1) An emergency service provider that is not a  
13 hospital and that takes a newborn into temporary protective custody  
14 under section 3 **OR 3A** of this chapter shall transfer the newborn to  
15 a hospital. The hospital shall accept a newborn who an emergency  
16 service provider transfers to the hospital in compliance with this  
17 chapter, taking the newborn into temporary protective custody.

18 (2) A hospital that takes a newborn into temporary protective  
19 custody under this chapter shall have the newborn examined by a  
20 physician. If a physician who examines the newborn either  
21 determines that there is reason to suspect the newborn has  
22 experienced child abuse or child neglect, other than being  
23 surrendered to an emergency service provider under section 3 of  
24 this chapter **OR SURRENDERED TO A NEWBORN SAFETY DEVICE UNDER**  
25 **SECTION 3A OF THIS CHAPTER**, or comes to a reasonable belief that  
26 the child is not a newborn, the physician shall immediately report  
27 to the department as required by section 3 of the child protection

1 law, 1975 PA 238, MCL 722.623.

2 (3) If a physician is not required to report to the department  
3 as provided in subsection (2), the hospital shall notify a child  
4 placing agency that the hospital has taken a newborn into temporary  
5 protective custody under this chapter.

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

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

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

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

19 (d) Unless the birth was witnessed by the emergency service  
20 provider, immediately request assistance from law enforcement  
21 officials to investigate and determine, through the missing  
22 children information clearinghouse, the ~~national center for missing~~  
23 ~~and exploited children,~~ **NATIONAL CENTER FOR MISSING AND EXPLOITED**  
24 **CHILDREN**, and any other national and state resources, whether the  
25 newborn is a missing child.

26 (e) Not later than 48 hours after a transfer of physical  
27 custody to a prospective adoptive parent, petition the court in the

1 county in which the prospective adoptive parent resides to provide  
2 authority to place the newborn and provide care for the newborn.

3 The petition shall include all of the following:

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

5 (ii) The name and address of the emergency service provider to  
6 whom the newborn was surrendered **OR THE NAME AND ADDRESS OF THE**  
7 **LOCATION OF THE NEWBORN SAFETY DEVICE TO WHICH THE NEWBORN WAS**  
8 **SURRENDERED.**

9 (iii) Any information, either written or verbal, that was  
10 provided by and to the parent who surrendered the newborn. The  
11 emergency service provider that originally accepted the newborn as  
12 required by section 3 of this chapter shall provide this  
13 information to the child placing agency. **THIS SUBPARAGRAPH DOES NOT**  
14 **APPLY TO A NEWBORN SURRENDERED TO A NEWBORN SAFETY DEVICE UNDER**  
15 **SECTION 3A OF THIS CHAPTER IF THERE WAS NO INFORMATION LEFT WITH**  
16 **THE NEWBORN.**

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

1       Sec. 10. (1) If a surrendering parent wants custody of a  
2 newborn who was surrendered under section 3 **OR 3A** of this chapter,  
3 the parent shall, within 28 days after the newborn was surrendered,  
4 file a petition with the court for custody. Not later than 28 days  
5 after notice of surrender of a newborn has been published, an  
6 individual claiming to be the nonsurrendering parent of that  
7 newborn may file a petition with the court for custody. The  
8 surrendering parent or nonsurrendering parent shall file the  
9 petition for custody in 1 of the following counties:

10       (a) If the parent has located the newborn, the county where  
11 the newborn is located.

12       (b) If subdivision (a) does not apply and the parent knows the  
13 location of the emergency service provider **OR NEWBORN SAFETY DEVICE**  
14 to whom the newborn was surrendered, the county where the emergency  
15 service provider **OR NEWBORN SAFETY DEVICE** is located.

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

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

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

1           Sec. 17. (1) A parent who surrenders a newborn under section 3  
2 **OR 3A** of this chapter and who does not file a custody action under  
3 section 10 of this chapter is presumed to have knowingly released  
4 his or her parental rights to the newborn.

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

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

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

24           (5) If the court finds by a preponderance of the evidence that  
25 the surrendering parent has knowingly released his or her rights to  
26 the child and that reasonable efforts were made to locate the  
27 nonsurrendering parent and a custody action has not been filed, the

1 court shall enter an order terminating parental rights of the  
2 surrendering parent and the nonsurrendering parent under this  
3 chapter.

4 Sec. 20. The department ~~of community health in conjunction~~  
5 ~~with the department~~ shall establish a safe delivery program. The  
6 safe delivery program shall include, but is not limited to, both of  
7 the following:

8 (a) A toll-free, 24-hour telephone line. The information  
9 provided with this telephone line shall include, but is not limited  
10 to, all of the following:

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

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

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

19 (iv) Information that, in order to safely provide for the  
20 health of the mother and her newborn, the best place for the  
21 delivery of a child is in a hospital, hospital-based birthing  
22 center, or birthing center that is accredited by the commission for  
23 the accreditation of birth centers.

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

27 (vi) Information that a hospital will take into protective



1 custody a newborn that is surrendered as provided for in this  
2 chapter and, if needed, provide emergency medical assistance to the  
3 mother, the newborn, or both.

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

7 (viii) Information regarding the legal consequences for  
8 endangering a child, including child protective service  
9 investigations and potential criminal penalties.

10 (ix) Information that surrendering a newborn for adoption as  
11 provided in this chapter is an affirmative defense to charges of  
12 abandonment as provided in section 135 of the Michigan penal code,  
13 1931 PA 328, MCL 750.135.

14 (x) Information about resources for counseling and assistance  
15 with crisis management.

16 (b) A pamphlet that provides information to the public  
17 concerning the safe delivery program, **INCLUDING INFORMATION**  
18 **REGARDING NEWBORN SAFETY DEVICES**. The department ~~of community~~  
19 ~~health and the department~~ shall jointly publish and distribute the  
20 pamphlet. The pamphlet shall prominently display the toll-free  
21 telephone number prescribed by subdivision (a).

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

24 Enacting section 2. This amendatory act does not take effect  
25 unless Senate Bill No. \_\_\_\_ or House Bill No. 5750 (request no.  
26 04198'17) of the 99th Legislature is enacted into law.