

## SOUTH CAROLINA LAW

**AN ACT TO ENACT THE "SAFE HAVEN FOR ABANDONED BABIES ACT", INCLUDING PROVISIONS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 20-7-85 SO AS TO REQUIRE A HOSPITAL OR HOSPITAL OUTPATIENT FACILITY TO TAKE POSSESSION OF A CHILD VOLUNTARILY DELIVERED BY THE CHILD'S PARENT WHEN THE PARENT DID NOT EXPRESS AN INTENT TO RETURN FOR THE CHILD; TO PROVIDE ANONYMITY FOR THE PARENT AND CHILD BUT TO ALLOW THE HOSPITAL OR FACILITY TO REQUEST MEDICAL INFORMATION; TO REQUIRE THE HOSPITAL OR FACILITY TO NOTIFY THE DEPARTMENT OF SOCIAL SERVICES THAT A CHILD HAS BEEN TAKEN INTO POSSESSION; TO REQUIRE THE DEPARTMENT TO PROVIDE FOR THE CARE AND CUSTODY OF THE CHILD; AND TO GRANT A PARENT IMMUNITY FROM PROSECUTION FOR UNLAWFUL CONDUCT OR CRUELTY TOWARD A CHILD OR ANY OTHER VIOLATION FOR LEAVING THE CHILD IF THE PARENT LEAVES THE CHILD WITH THE HOSPITAL OR FACILITY PERSONNEL, THE CHILD IS NO MORE THAN THIRTY DAYS OLD, AND THE CHILD HAS NOT SUSTAINED ANY PHYSICAL HARM OR INJURY.**

SECTION 1. This act may be cited as the "The Safe Haven for Abandoned Babies Act".

**Procedures and protections for parents relinquishing possession and custody of a newborn at a hospital or hospital outpatient facility**

SECTION 2. The 1976 Code is amended by adding:

"Section 20-7-85. (A) A hospital or hospital outpatient facility operating in this State must, without a court order, take temporary physical custody of an infant who is voluntarily left with the hospital or hospital outpatient facility by a person who does not express an intent to return for the infant and the circumstances give rise to a reasonable belief that the person does not intend to return for the infant. The hospital or hospital outpatient facility must perform any act necessary to protect the physical health or safety of the infant. The person leaving the infant is not required to disclose his or her identity.

(B)(1) The hospital or hospital outpatient facility must offer the person leaving the infant information concerning the legal effect of leaving the infant with the hospital or hospital outpatient facility.

(2) The hospital or hospital outpatient facility must ask the person leaving the infant to identify any parent of the infant other than the person leaving the infant with the hospital or hospital outpatient facility. The hospital or hospital outpatient facility also must attempt to obtain from the person information concerning the infant's background and medical history as specified on a form provided by the Department of Social Services. This information includes, but is not limited to, information concerning the use of a controlled substance by the infant's mother, provided that information regarding the use of a controlled substance by the infant's mother shall not be admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The hospital or hospital outpatient facility must give the person a copy of the form and a prepaid envelope for mailing the form to the Department of Social Services if the person does not wish to provide the information to the hospital or hospital outpatient facility. These materials must be provided to hospitals and hospital outpatient facilities by the department.

(3) Any identifying information disclosed by the person leaving the infant must be kept confidential by the hospital or hospital outpatient facility and disclosed to no one other than the department. However, if a court determines that the immunity provisions of subsection (H) do not apply, the hospital or hospital outpatient facility may disclose the information as permitted by confidentiality protections applicable to records of the hospital or hospital outpatient facility. The department must maintain confidentiality of this information in accordance with Section 20-7-690.

(C) Not later than the close of the first business day after the date on which a hospital or hospital outpatient facility takes possession of an infant pursuant to subsections (A) and (B), the hospital or

hospital outpatient facility must notify the department that it has taken temporary physical custody of the infant. The department shall have legal custody of the infant immediately upon receipt of the notice. The department must assume physical control of the infant as soon as practicable upon receipt of the notice, but no later than twenty-four hours after receiving notice that the infant is ready for discharge from the hospital or hospital outpatient facility. Assumption of custody by the department pursuant to this subsection does not constitute emergency protective custody, and the provisions of Section 20-7-610 do not apply. The department is not required to initiate a child protective services investigation solely because an infant comes into its custody under this subsection.

(D) Immediately after receiving notice from the hospital or hospital outpatient facility, the department must contact the South Carolina Law Enforcement Division for assistance in assuring that the infant left at the hospital or hospital outpatient facility is not a missing infant. The South Carolina Law Enforcement Division must treat the request as ongoing for a period of thirty days and must contact the department if a missing infant report is received that might relate to the infant left at the hospital or hospital outpatient facility.

(E)(1) Within forty-eight hours after taking legal custody of the infant, the department must publish notice, in a newspaper of general circulation in the area where the hospital or hospital outpatient facility that took the infant is located, and send a news release to broadcast and print media in the area. The notice and the news release must state the circumstances under which the infant was left at the hospital or hospital outpatient facility, a description of the infant, and the date, time, and place of the permanency planning hearing provided for in subsection (E)(2). The notice and the news release must also state that any person wishing to assert parental rights in regard to the infant must do so at the hearing. If the person leaving the infant identified anyone as being a parent of the infant, the notice must be sent by certified mail to the last known address of the person identified as a parent at least two weeks prior to the hearing.

(2) Within forty-eight hours after obtaining legal custody of the infant, the department must file a petition alleging that the infant has been abandoned, that the court should dispense with reasonable efforts to preserve or reunify the family, that continuation of keeping the infant in the home of the parent or parents would be contrary to the welfare of the infant, and that termination of parental rights is in the best interest of the infant. A hearing on the petition must be held no earlier than thirty and no later than sixty days after the department takes legal custody of the infant. This hearing shall be the permanency planning hearing for the infant. If the court approves the permanent plan of termination of parental rights, the order must also provide that a petition for termination of parental rights on the grounds of abandonment must be filed within ten days after receipt of the order by the department.

(F) The act of leaving an infant with a hospital or hospital outpatient facility pursuant to this section is conclusive evidence that the infant has been abused or neglected for purposes of Department of Social Services' jurisdiction and for evidentiary purposes in any judicial proceeding in which abuse or neglect of an infant is an issue. It is also conclusive evidence that the requirements for termination of parental rights have been satisfied as to any parent who left the infant or acted in concert with the person leaving the infant.

(G) A person who leaves an infant at a hospital or hospital outpatient facility or directs another person to do so must not be prosecuted for any criminal offense on account of such action if:

(1) the person is a parent of the infant or is acting at the direction of a parent;

(2) the person leaves the infant in the physical custody of an employee of the hospital or hospital outpatient facility; and

(3) the infant is not more than thirty days old or the infant is reasonably determined by the hospital or hospital outpatient facility to be not more than thirty days old.

This subsection does not apply to prosecution for the infliction of any harm upon the infant other than the harm inherent in abandonment.

(H) A hospital or hospital outpatient facility and its agents and any health care professionals practicing within the hospital or hospital outpatient facility are immune from civil or criminal liability for any action authorized by this section, so long as the hospital, hospital outpatient facility, or health care professional complies with all provisions of this section.

(I) The department, either alone or in collaboration with any other public entity, must take appropriate measures to achieve public awareness of the provisions of this section.

(J) For purposes of this section, 'infant' means a person not more than thirty days old."

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 31st day of May, 2000.

Approved the 6th day of June, 2000.