

2018 Kansas Statutes

38-2282. Newborn infant protection act. (a) This section shall be known and may be cited as the newborn infant protection act. The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent, and to provide safe and secure alternatives to such abandonment.

(b) As used in this section:

(1) "Non-relinquishing parent" means the biological parent of an infant who does not leave the infant with any person listed in subsection (c) in accordance with this section; and

(2) "relinquishing parent" means the biological parent or person having legal custody of an infant who leaves the infant with any person listed in subsection (c) in accordance with this section.

(c) A person purporting to be an infant's parent or other person having lawful custody of an infant who is 60 days old or younger and who has not suffered bodily harm may surrender physical custody of the infant to any employee who is on duty at a police station, sheriff's office, law enforcement center, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall, without a court order, take physical custody of an infant surrendered pursuant to this section. A relinquishing parent voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history.

(d) Any employee of a facility described in subsection (c) to whom an infant is delivered pursuant to this section shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has been abused or neglected, and such facility and its employees shall be immune from administrative, civil or criminal liability for any action taken pursuant to this subsection. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of the infant.

(e) If an infant is delivered pursuant to this section to any facility described in subsection (c) that is not a medical care facility, the employee of such facility who takes physical custody of the infant shall arrange for the immediate transportation of the infant to the nearest medical care facility as defined by K.S.A. 65-425, and amendments thereto. The medical care facility, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant and shall be immune from administrative, civil and criminal liability for treatment performed consistent with such standard.

(f) As soon as possible after an employee of any facility described in subsection (c) takes physical custody of an infant without a court order pursuant to this section, such person shall notify a local law enforcement agency that the person has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned infant. The law enforcement agency shall deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 2018 Supp. 38-2232, and amendments thereto.

(g) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

(h) (1) A relinquishing parent shall be immune from civil or criminal liability for action taken pursuant to this section only if:

(A) The relinquishing parent voluntarily delivered the infant safely to the physical custody of an employee at a facility described in subsection (c);

(B) the infant was no more than 60 days old when delivered by the relinquishing parent to the physical custody of an employee at a facility described in subsection (c); and

(C) the infant was not abused or neglected by the relinquishing parent prior to such delivery.

(2) The relinquishing parent's voluntary delivery of an infant in accordance with this section shall constitute the parent's implied consent to the adoption of such infant and a voluntary relinquishment of such parent's parental rights.

(i) (1) In any termination of parental rights proceeding initiated after the relinquishment of an infant pursuant to this section, the state shall publish notice pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, that an infant has been relinquished, including the sex of the infant and the date and location of such relinquishment. Within 30 days after publication of such notice, a non-relinquishing parent seeking to establish parental rights shall notify the court where the termination of parental rights proceeding is filed and state such parent's intentions regarding the infant. The court shall initiate proceedings to establish parentage if no person notifies the court within 30 days. There shall be an examination of the putative father registry to determine whether attempts have previously been made to preserve parental rights to the infant. If such attempts have been made, the state shall make reasonable efforts to provide notice of the abandonment of the infant to such putative father.

(2) If a relinquishing parent of an infant relinquishes custody of the infant in accordance with this section, to preserve the parental rights of the non-relinquishing parent, the non-relinquishing parent shall take the steps necessary to establish parentage within 30 days after the published notice or specific notice provided in paragraph (1).

(3) If a non-relinquishing parent fails to take the steps necessary to establish parentage within the 30-day period specified in paragraph (2), the non-relinquishing parent may have all of such parent's rights terminated with respect to the child.

(4) If a non-relinquishing parent inquires at a facility described in subsection (c) regarding an infant whose custody was relinquished pursuant to this section, such facility shall refer the non-relinquishing parent to the Kansas department for children and families and the court exercising jurisdiction over the child.

(j) Upon request, all medical records of the infant shall be made available to the Kansas department for children and families and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such records release.

History: L. 2006, ch. 200, § 77; L. 2014, ch. 70, § 1; L. 2014, ch. 115, § 65; L. 2018, ch. 107, § 14; July 1.