

State of Wisconsin



2023 Senate Bill 369

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2023 WISCONSIN ACT 79

AN ACT *to renumber and amend* 48.195 (1); *to amend* 48.13 (2m), 48.195 (2) (a), 48.195 (2) (b), 48.195 (2) (c), 48.195 (2) (d) (intro.), 48.195 (3) (a), 48.195 (4) (a), 48.195 (4) (b), 48.195 (5), 48.195 (6), 48.355 (2d) (b) 5., 48.415 (1m), 48.43 (7) (b) and 48.485 (2); and *to create* 48.195 (1b), 48.195 (1m) (a) 2. and 48.195 (1r) of the statutes; **relating to:** newborn infant safety devices under the safe haven law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.13 (2m) of the statutes is amended to read:

48.13 (2m) The child's parent has relinquished custody of the child under s. 48.195 (4) (1m).

SECTION 2. 48.195 (1) of the statutes is renumbered 48.195 (1m) (a) (intro.) and amended to read:

48.195 (1m) (a) (intro.) In addition to being taken into custody under s. 48.19, a child whom a law enforcement officer, emergency medical services practitioner, as defined in s. 256.01 (5), or hospital staff member reasonably believes to be 72 hours old or younger may be taken into custody under circumstances in which a parent of the child relinquishes custody of the child to by any of the following methods and does not express an intent to return for the child:

1. By delivering the child to the law enforcement officer, emergency medical services practitioner, or hospital staff member and does not express an intent to return for the child.

(b) If a parent who wishes to relinquish custody of his or her child under this subsection is unable to travel to a sheriff's office, police station, fire station, hospital, or other place where a law enforcement officer, emergency

medical services practitioner, or hospital staff member is located, the parent may dial the telephone number "911" or, in an area in which the telephone number "911" is not available, the number for an emergency medical service provider, and the person receiving the call shall dispatch a law enforcement officer or emergency medical services practitioner to meet the parent and take the child into custody.

(c) A law enforcement officer, emergency medical services practitioner, or hospital staff member who takes a child into custody under this subsection shall take any action necessary to protect the health and safety of the child, shall, within 24 hours after taking the child into custody, deliver the child to the intake worker under s. 48.20, and shall, within 5 days after taking the child into custody, file a birth record for the child under s. 69.14 (3).

SECTION 3. 48.195 (1b) of the statutes is created to read:

48.195 (1b) DEFINITIONS. In this section:

(a) "Emergency medical services practitioner" has the meaning given in s. 256.01 (5).

(b) "Newborn infant safety device" means a device that is installed in a supporting wall of a hospital, fire station, or law enforcement agency and that has an exterior point of access allowing an individual to place a newborn

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

infant inside and an interior point of access allowing individuals inside the building to safely retrieve the newborn infant.

SECTION 4. 48.195 (1m) (a) 2. of the statutes is created to read:

48.195 (1m) (a) 2. By leaving the child in a newborn infant safety device installed as provided under sub. (1r).

SECTION 5. 48.195 (1r) of the statutes is created to read:

48.195 (1r) NEWBORN INFANT SAFETY DEVICE. (a) A hospital, fire station, or law enforcement agency may install a newborn infant safety device if all of the following criteria are met:

1. The hospital or law enforcement agency building is staffed 24 hours per day and the fire station is staffed 24 hours per day with an emergency medical services practitioner.

2. The device is physically part of the hospital, fire station, or law enforcement agency building.

3. The device is temperature controlled and ventilated for the safety of newborns.

4. The device is equipped with a dual alarm system connected to the physical location of the device that automatically triggers an alarm inside the building when a newborn infant is placed in the device.

5. The device is equipped with a surveillance system that allows employees of the hospital, fire station, or law enforcement agency to monitor the inside of the device 24 hours per day.

6. The device is located such that the interior point of access is in an area that is conspicuous and visible to the employees of the hospital, fire station, or law enforcement agency.

(b) A hospital, fire station, or law enforcement agency that uses a newborn infant safety device to accept surrendered newborn infants shall use the surveillance system under par. (a) 5. to monitor the inside of the device 24 hours per day, physically check the device at least twice daily, and test the device at least weekly to ensure that the alarm system is in working order.

SECTION 6. 48.195 (2) (a) of the statutes is amended to read:

48.195 (2) (a) Except as provided in this paragraph, a parent who relinquishes custody of a child under sub. (1) (1m) and any person who assists the parent in that relinquishment have the right to remain anonymous. The exercise of that right shall not affect the manner in which a law enforcement officer, emergency medical services practitioner, as defined in s. 256.01 (5), or hospital staff member performs his or her duties under this section. No person may induce or coerce or attempt to induce or coerce a parent or person assisting a parent who wishes to remain anonymous into revealing his or her identity, unless the person has reasonable cause to suspect that the child has been the victim of abuse or neglect or that the

person assisting the parent is coercing the parent into relinquishing custody of the child.

SECTION 7. 48.195 (2) (b) of the statutes is amended to read:

48.195 (2) (b) A parent who relinquishes custody of a child under sub. (1) (1m) (a) 1. and any person who assists the parent in that relinquishment may leave the presence of the law enforcement officer, emergency medical services practitioner, as defined in s. 256.01 (5), or hospital staff member who took custody of the child at any time, and no. A parent who relinquishes custody of a child under sub. (1m) (a) 2. and any person who assists the parent in that relinquishment may leave the premises of the hospital, fire station, or law enforcement agency at any time. No person may follow or pursue the parent or person assisting the parent, unless the person has reasonable cause to suspect that the child has been the victim of abuse or neglect or that the person assisting the parent has coerced the parent into relinquishing custody of the child.

SECTION 8. 48.195 (2) (c) of the statutes is amended to read:

48.195 (2) (c) No officer, employee, or agent of this state or of a political subdivision of this state may attempt to locate or ascertain the identity of a parent who relinquishes custody of a child under sub. (1) (1m) or any person who assists the parent in that relinquishment, unless the officer, employee, or agent has reasonable cause to suspect that the child has been the victim of abuse or neglect or that the person assisting the parent has coerced the parent into relinquishing custody of the child.

SECTION 9. 48.195 (2) (d) (intro.) of the statutes is amended to read:

48.195 (2) (d) (intro.) Any person who obtains any information relating to the relinquishment of a child under sub. (1) (1m) shall keep that information confidential and may not disclose that information, except to the following persons:

SECTION 10. 48.195 (3) (a) of the statutes is amended to read:

48.195 (3) (a) Subject to par. (b), a law enforcement officer, emergency medical services practitioner, as defined in s. 256.01 (5), or hospital staff member who takes a child into custody under sub. (1) (1m) (a) 1. shall make available to the parent who relinquishes custody of the child the maternal and child health toll-free telephone number maintained by the department under 42 USC 705 (a) (5) (E).

SECTION 11. 48.195 (4) (a) of the statutes is amended to read:

48.195 (4) (a) Any parent who relinquishes custody of his or her child under sub. (1) (1m) and any person who assists the parent in that relinquishment are immune from any civil or criminal liability for any good faith act or omission in connection with that relinquishment. The immunity granted under this paragraph includes immu-

nity for exercising the right to remain anonymous under sub. (2) (a), the right to leave at any time under sub. (2) (b), and the right not to accept any information under sub. (3) (b) and immunity from prosecution under s. 948.20 for abandonment of a child or under s. 948.21 for neglecting a child.

SECTION 12. 48.195 (4) (b) of the statutes is amended to read:

48.195 (4) (b) Any law enforcement officer, emergency medical services practitioner, ~~as defined in s. 256.01 (5)~~, or hospital staff member who takes a child into custody under sub. (4) (1m) is immune from any civil liability to the child's parents, or any criminal liability for any good faith act or omission occurring solely in connection with the act of receiving custody of the child from the child's parents or from a newborn infant safety device, but is not immune from any civil or criminal liability for any act or omission occurring in subsequently providing care for the child.

SECTION 13. 48.195 (5) of the statutes is amended to read:

48.195 (5) **MEDICAL ASSISTANCE ELIGIBILITY.** A child who is taken into custody under sub. (4) (1m) is presumed to be eligible for medical assistance under s. 49.46 or 49.47.

SECTION 14. 48.195 (6) of the statutes is amended to read:

48.195 (6) **RULES.** The department shall promulgate rules to implement this section. In promulgating those rules, the department shall consider the different circumstances under which a parent might relinquish custody of a child under sub. (4) (1m). The rules shall include rules prescribing a means by which a parent who relinquishes custody of his or her child under sub. (4) (1m) may, until the granting of an order terminating parental rights, choose to be identified as the child's parent.

SECTION 15. 48.355 (2d) (b) 5. of the statutes is amended to read:

48.355 (2d) (b) 5. That the parent has been found under s. 48.13 (2m) to have relinquished custody of the child under s. 48.195 (4) (1m) when the child was 72 hours old or younger, as evidenced by a final order of a court of competent jurisdiction making that finding.

SECTION 16. 48.415 (1m) of the statutes is amended to read:

48.415 (1m) **RELINQUISHMENT.** Relinquishment, which shall be established by proving that a court of competent jurisdiction has found under s. 48.13 (2m) that the parent has relinquished custody of the child under s. 48.195 (4) (1m) when the child was 72 hours old or younger.

SECTION 17. 48.43 (7) (b) of the statutes is amended to read:

48.43 (7) (b) If a permanent adoptive or subsidized guardianship placement is not in progress 2 years after entry of the order, the department may petition the court to transfer legal custody of the child to a county department, except that the department may not petition the court to transfer to a county department legal custody of a child who was initially taken into custody under s. 48.195 (4) (1m). The court shall transfer the child's legal custody to the county department specified in the petition. The department shall remain the child's guardian.

SECTION 18. 48.485 (2) of the statutes is amended to read:

48.485 (2) If a permanent adoptive or subsidized guardianship placement is not in progress within 2 years after entry of the termination of parental rights order by the tribal court, the department may petition the tribal court to transfer legal custody or guardianship of the Indian child back to the Indian tribe, except that the department may not petition the tribal court to transfer back to an Indian tribe legal custody or guardianship of an Indian child who was initially taken into custody under s. 48.195 (4) (1m).