

IN THE SENATE

SENATE BILL NO. 1272

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE IDAHO SAFE HAVEN ACT; AMENDING SECTION 39-8202, IDAHO CODE,
2 TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
3 39-8203, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING NEWBORN SAFETY
4 DEVICES; AMENDING SECTION 39-8205, IDAHO CODE, TO PROVIDE FOR NEWBORN
5 SAFETY DEVICES; AMENDING SECTION 39-8206, IDAHO CODE, TO PROVIDE FOR
6 NEWBORN SAFETY DEVICES; AND DECLARING AN EMERGENCY AND PROVIDING AN
7 EFFECTIVE DATE.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 39-8202, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 39-8202. DEFINITIONS. As used in this chapter, the following terms
13 shall mean:

14 (1) "Custodial parent," for the purposes of this chapter, means, in the
15 absence of a court decree, the parent with whom the child resides.

16 (2) "Newborn safety device" means a device that is voluntarily in-
17 stalled in a supporting wall of a hospital, fire station, law enforcement
18 agency, or medical services provider that is staffed twenty-four (24) hours
19 per day and that has an exterior point of access allowing an individual to
20 place a newborn infant inside and an interior point of access allowing indi-
21 viduals inside the building to safely retrieve the newborn infant.

22 ~~(2)~~ (3) "Safe haven" means:

23 (a) Hospitals licensed in the state of Idaho;

24 (b) Licensed physicians in the state of Idaho and staff working at their
25 offices and clinics;

26 (c) Advanced practice professional nurses, including certified nurse-
27 midwives, clinical nurse specialists, nurse practitioners and certi-
28 fied registered nurse anesthetists licensed or registered pursuant to
29 chapter 14, title 54, Idaho Code;

30 (d) Physician assistants licensed pursuant to chapter 18, title 54,
31 Idaho Code;

32 (e) Medical personnel acting or serving in the capacity as a licensed
33 provider, affiliated with a recognized Idaho EMS agency. For purposes
34 of this act, "medical personnel" shall include those individuals certi-
35 fied by the department of health and welfare as:

36 (i) First responders;

37 (ii) Emergency medical technicians - basic;

38 (iii) Advanced emergency medical technicians - ambulance;

39 (iv) Emergency medical technicians - intermediate; and

40 (v) Emergency medical technicians - paramedic-; and

1 (f) A fire station operated by a city, a county, a tribal entity, a fire
 2 protection district or a volunteer fire department if there are person-
 3 nel on duty.

4 SECTION 2. That Section 39-8203, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 39-8203. EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN -- CONFIDEN-
 7 TIALITY -- IMMUNITY. (1) A safe haven shall take temporary physical custody
 8 of a child, without court order, if the child is personally delivered to a
 9 safe haven or a safe haven through a newborn safety device, provided that:

- 10 (a) The child is no more than thirty (30) days of age;
 11 (b) The custodial parent delivers the child to the safe haven; and
 12 (c) The custodial parent does not express an intent to return for the
 13 child.

14 (2) A hospital, fire station, law enforcement agency, or medical ser-
 15 VICES PROVIDER THAT IS STAFFED TWENTY-FOUR (24) HOURS PER DAY SEVEN (7) DAYS
 16 A WEEK, WITHOUT EXCEPTION, MAY USE A NEWBORN SAFETY DEVICE TO ACCEPT SURREN-
 17 DERED NEWBORN INFANTS PURSUANT TO THIS SECTION IF THE DEVICE IS:

- 18 (a) Physically part of the building of the hospital, fire station, law
 19 enforcement agency, or medical services provider;
 20 (b) Temperature-controlled and ventilated for the safety of newborns;
 21 (c) Equipped with a functional alarm system that automatically trig-
 22 gers an alarm inside the building when the newborn infant is placed in
 23 the device; and
 24 (d) Located such that the interior point of access is in an area that is
 25 conspicuous and visible to the employees of the hospital, fire station,
 26 law enforcement agency, or medical services provider.

27 ~~(2)~~ (3) If a safe haven takes temporary physical custody of a child pur-
 28 suant to subsection (1) of this section, the safe haven shall:

- 29 (a) Perform any act necessary, in accordance with generally accepted
 30 standards of professional practice, to protect, preserve, or aid the
 31 physical health and safety of the child during the temporary physical
 32 custody including, but not limited to, delivering the child to a hospi-
 33 tal for care or treatment; and
 34 (b) Immediately notify a peace officer or other person appointed by the
 35 court of the abandonment.

36 ~~(3)~~ (4) The safe haven shall not inquire as to the identity of the cus-
 37 todial parent and, if the identity of a parent is known to the safe haven, the
 38 safe haven shall keep all information as to the identity confidential. The
 39 custodial parent leaving the child shall not be required to provide any in-
 40 formation to the safe haven but may voluntarily provide information includ-
 41 ing, but not limited to, medical history of the parent (s) or the child.

42 ~~(4)~~ (5) A safe haven with responsibility for performing duties under
 43 this section, and any employee, doctor, or other personnel working at the
 44 safe haven, are immune from any civil or criminal liability that otherwise
 45 might result from their actions, if they are acting in good faith in receiv-
 46 ing a child and performing duties under this section.

47 ~~(5)~~ (6) A custodial parent may leave a child with a safe haven or a safe
 48 haven through a newborn safety device in this state without being subjected
 49 to prosecution for abandonment pursuant to the provisions of title 18, Idaho

1 Code, provided that the child was no more than thirty (30) days of age when it
2 was left at the safe haven or a safe haven through a newborn safety device, as
3 determined within a reasonable degree of medical certainty.

4 SECTION 3. That Section 39-8205, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 39-8205. SHELTER CARE HEARING -- INVESTIGATION -- ADJUDICATORY HEAR-
7 ING -- TERMINATION OF PARENT-CHILD RELATIONSHIP. (1) A shelter care hearing
8 shall be held pursuant to section 16-1615, Idaho Code, and the department
9 shall file a petition for adjudicatory hearing to vest legal custody in the
10 department pursuant to section 16-1621, Idaho Code, at or prior to the time
11 set for shelter care hearing.

12 (2) A child protective investigation or criminal investigation shall
13 not be initiated based on a claim of abandonment unless a claim of parental
14 rights is made and the court orders the investigation.

15 (3) During the initial thirty (30) day period from the time the child
16 was delivered to a safe haven or to a safe haven through a newborn safety de-
17 vice by a custodial parent, the department shall request assistance from law
18 enforcement officials to investigate through the missing children informa-
19 tion clearinghouse and other state and national resources to ensure that the
20 child is not a missing child.

21 (4) An adjudicatory hearing shall be conducted pursuant to the provi-
22 sions of section 16-1619, Idaho Code, and section 16-1621, Idaho Code.

23 (5) As soon as practicable following the initial thirty (30) day period
24 from the time the child was delivered to a safe haven by a custodial parent,
25 the department shall petition to terminate the parental rights of the par-
26 ent who abandoned the child at the safe haven and any unknown parent pursuant
27 to section 16-1624, Idaho Code, and in accordance with chapter 20, title 16,
28 Idaho Code.

29 SECTION 4. That Section 39-8206, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 39-8206. CLAIM OF PARENTAL RIGHTS -- PROCEDURE. (1) A parent of the
32 child may make a claim of parental rights of an abandoned child, abandoned
33 pursuant to the provisions of this chapter, by filing a notice of claim of
34 parental rights with the vital statistics unit of the department of health
35 and welfare. The vital statistics unit of the department of health and wel-
36 fare shall maintain an abandoned child registry for this purpose which shall
37 be subject to disclosure according to chapter 1, title 74, Idaho Code. The
38 department shall provide forms for the purpose of filing a claim of parental
39 rights, and the forms shall be made available through the vital statistics
40 unit of the Idaho department of health and welfare and in the office of the
41 county clerk in every county of this state. Any parent claiming a parental
42 right of an abandoned child, abandoned pursuant to the provisions of this
43 chapter, shall file the form with the vital statistics unit of the department
44 of health and welfare. The form must be filled out completely and provide
45 the name and address for service of the person asserting the parental claim
46 and set forth the approximate date the child was left in a safe haven or in a
47 safe haven through a newborn safety device. The form must be signed by the

1 person claiming the parental right and be witnessed before a notary public.
2 The department shall record the date and time the claim of parental rights is
3 filed with the department. The claim shall be deemed to be duly filed with
4 the department as of the date and time recorded on the claim by the depart-
5 ment. To be valid, a claim of parental rights must be filed before an order
6 terminating parental rights is entered by the court. A parent that fails to
7 file a claim of parental rights prior to entry of an order terminating their
8 parental rights is deemed to have abandoned the child and waived and surren-
9 dered any right in relation to the child, including the right to notice of any
10 judicial proceeding in connection with the termination of parental rights or
11 adoption of the child. Registration of notice of commencement of paternity
12 proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy
13 the requirements of this section.

14 (2) Prior to the time set for hearing on the petition to terminate
15 parental rights filed by the department of health and welfare, and prior to
16 entry of an order terminating parental rights by the court, the department
17 of health and welfare shall obtain and file with the court a certificate from
18 the vital statistics unit of the department of health and welfare, signed by
19 the state registrar of vital statistics, which certificate shall state that
20 a diligent search has been made of the registry of claims of parental rights
21 of abandoned children, abandoned pursuant to this chapter, and shall set
22 forth the results of that search.

23 (3) If a claim of parental rights is made before an order terminating
24 parental rights is entered by the court, notice pursuant to section 16-2007,
25 Idaho Code, will be required and the court shall hold the action for invol-
26 untary termination of parental rights in abeyance for a period of time not
27 to exceed sixty (60) days unless otherwise ordered by the court. During that
28 period:

29 (a) The court shall order genetic testing to establish maternity or pa-
30 ternity, at the expense of the person or persons claiming the parental
31 right.

32 (b) The department of health and welfare shall conduct an investiga-
33 tion pursuant to section 16-2008, Idaho Code, and in those cases where
34 a guardian ad litem has been appointed, the guardian ad litem shall have
35 all rights, powers and duties as provided for in chapter 16, title 16,
36 Idaho Code, and as provided for in chapter 20, title 16, Idaho Code.

37 (c) When indicated as a result of the investigation, a shelter care
38 hearing shall be conducted by the court in accordance with section
39 16-1615, Idaho Code, within forty-eight (48) hours, or at an earlier
40 time if ordered by the court, to determine whether the child should re-
41 main in the physical custody of the department or be released to a parent
42 or other third party.

43 (d) Further proceedings shall be conducted as the court determines
44 appropriate. However, where a claim of parental rights is made before
45 an order terminating parental rights is entered by the court, a parent
46 shall not be found to have neglected or abandoned a child placed in ac-
47 cordance with this chapter solely because the child was left with a safe
48 haven.

49 (4) If there is no showing that a parent has claimed a parental right to
50 the child, the department of health and welfare shall file with the court a

1 certificate from the vital statistics unit of the department of health and
2 welfare, signed by the state registrar of vital statistics, stating that a
3 diligent search has been made of the registry of parental claims for children
4 abandoned pursuant to the provisions of this chapter and that no parental
5 claim has been made. The certificate shall be filed with the court prior to
6 the entrance of the final order of termination of parental rights.

7 SECTION 5. An emergency existing therefor, which emergency is hereby
8 declared to exist, this act shall be in full force and effect on and after
9 July 1, 2024.