

IN THE SENATE

SENATE BILL NO. 1058

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; AMENDING SECTION 39-8203, IDAHO CODE, TO PROVIDE FOR
3 VOLUNTARY DISCLOSURE OF INDIAN TRIBE MEMBERSHIP OR CITIZENSHIP AND TO
4 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-8204, IDAHO CODE, TO
5 REVISE PROVISIONS REGARDING THE PLACEMENT OF AN ABANDONED CHILD AND
6 TO PROVIDE REQUIREMENTS REGARDING THE INDIAN CHILD WELFARE ACT; AND
7 DECLARING AN EMERGENCY AND PROVIDING AN 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) "Indian child" means any unmarried person who is under eighteen
17 (18) years of age and is either:

18 (a) A member or citizen of an Indian tribe; or

19 (b) Eligible for membership or citizenship in an Indian tribe and is the
20 biological child of a member or citizen of an Indian tribe.

21 ~~(2) (3)~~ "Newborn safety device" means a device that is voluntarily in-
22 stalled in a supporting wall of a hospital, fire station, law enforcement
23 agency, or medical services provider that is staffed twenty-four (24) hours
24 per day and that has an exterior point of access allowing an individual to
25 place a newborn infant inside and an interior point of access allowing indi-
26 viduals inside the building to safely retrieve the newborn infant.

27 ~~(3)~~ (4) "Safe haven" means:

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

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

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

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

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

41 (i) First responders;

42 (ii) Emergency medical technicians - basic;

- 1 (iii) Advanced emergency medical technicians - ambulance;
 2 (iv) Emergency medical technicians - intermediate; and
 3 (v) Emergency medical technicians - paramedic; and
 4 (f) A fire station operated by a city, a county, a tribal entity, a fire
 5 protection district or a volunteer fire department if there are person-
 6 nel on duty.

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

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

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

17 (2) A hospital, fire station, law enforcement agency, or medical ser-
 18 vices provider that is staffed twenty-four (24) hours per day seven (7) days
 19 a week, without exception, may use a newborn safety device to accept surren-
 20 dered newborn infants pursuant to this section if the device is:

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

30 (3) If a safe haven takes temporary physical custody of a child pursuant
 31 to subsection (1) of this section, the safe haven shall:

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

39 (4) The safe haven shall not inquire as to the identity of the custodial
 40 parent and, if the identity of a parent is known to the safe haven, the safe
 41 haven shall keep all information as to the identity confidential. The cus-
 42 todial parent leaving the child shall not be required to provide any infor-
 43 mation to the safe haven but may voluntarily provide information, including,
 44 but not limited to, Indian tribe membership or citizenship and medical his-
 45 tory of the parent (s) or the child.

46 (5) A safe haven with responsibility for performing duties under this
 47 section, and any employee, doctor, or other personnel working at the safe
 48 haven, are immune from any civil or criminal liability that otherwise might

1 result from their actions, if they are acting in good faith in receiving a
2 child and performing duties under this section.

3 (6) A custodial parent may leave a child with a safe haven or with a safe
4 haven through a newborn safety device in this state without being subjected
5 to prosecution for abandonment pursuant to the provisions of title 18, Idaho
6 Code, provided that the child was no more than thirty (30) days of age when it
7 was left at the safe haven or at a safe haven through a newborn safety device,
8 as determined within a reasonable degree of medical certainty.

9 SECTION 3. That Section 39-8204, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 39-8204. PROTECTIVE CUSTODY -- PLACEMENT -- IMMUNITY. (1) Upon no-
12 tification by a safe haven that a child has been abandoned pursuant to the
13 provisions of this chapter, a peace officer or other person appointed by the
14 court shall take protective custody of the child and shall immediately de-
15 liver the child to the care, control and custody of the department of health
16 and welfare. ~~Provided however, where the child requires further medical~~
17 ~~evaluation, care or treatment, the child shall be left in the care of a hospi-~~
18 ~~tal and the peace officer or other person appointed by the court shall notify~~
19 ~~the court and prosecutor of the action taken and the location of the child so~~
20 ~~that a shelter care hearing may be held.~~

21 (2) The department of health and welfare shall ~~place an abandoned child~~
22 ~~with a potential adoptive parent as soon as possible~~ maintain a list of li-
23 censed adoption agencies to contact for the placement of abandoned children
24 and shall transfer care, control, and custody of an abandoned child to the
25 department's selected adoption agency for placement within twenty-four (24)
26 hours of taking custody of an abandoned child, unless exigent circumstances
27 exist.

28 (3) When an abandoned child requires further medical evaluation, care,
29 or treatment and the adoption agency selected by the department of health
30 and welfare pursuant to subsection (2) of this section is unable to locate a
31 prospective adoptive family within forty-eight (48) hours, the child shall
32 be left in the care of a hospital, and the peace officer or other person
33 appointed by the court shall notify the court and prosecutor of the action
34 taken and the location of the child so that a shelter care hearing may be
35 held.

36 (4) If, at any time, a party knows or has reason to know that the child is
37 an Indian child, the jurisdiction of the Indian child welfare act (ICWA), 25
38 U.S.C. 1901, et seq., applies. If a party knows or has reason to know that the
39 child is an Indian child, the department of health and welfare shall send im-
40 mediate ICWA notification to the child's Indian tribe and to any other tribe
41 or to the bureau of Indian affairs as required by ICWA or federal regulations
42 implementing ICWA. Within ten (10) days of receiving the information that
43 causes the department of health and welfare to know or have reason to know
44 that the child is an Indian child, the department shall issue any notice re-
45 quired by this subsection.

46 ~~(3)~~ (5) A peace officer or other person appointed by the court who takes
47 a child into custody under this section, shall not be held liable either
48 criminally or civilly unless the action of taking the child was exercised in
49 bad faith or in violation of the provisions of this chapter.

1 SECTION 4. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2025.