

TITLE 39
HEALTH AND SAFETY

CHAPTER 82
IDAHO SAFE HAVEN ACT

39-8201. TITLE. This chapter shall be known as the "Idaho Safe Haven Act."

[(39-8201) 39-8101, added 2001, ch. 357, sec. 1, p. 1253; am. and re-desig. 2005, ch. 25, sec. 68, p. 106.]

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

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

(2) "Safe haven" means:

(a) Hospitals licensed in the state of Idaho;

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

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

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

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

(i) First responders;

(ii) Emergency medical technicians - basic;

(iii) Advanced emergency medical technicians - ambulance;

(iv) Emergency medical technicians - intermediate; and

(v) Emergency medical technicians - paramedic.

(f) A fire station operated by a city, a county, a tribal entity, a fire protection district or a volunteer fire department if there are personnel on duty.

[(39-8202) 39-8102, added 2001, ch. 357, sec. 1, p. 1253; am. and re-desig. 2005, ch. 25, sec. 69, p. 107; am. 2017, ch. 200, sec. 1, p. 502.]

39-8203. EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN -- CONFIDENTIALITY -- IMMUNITY. (1) A safe haven shall take temporary physical custody of a child, without court order, if the child is personally delivered to a safe haven, provided that:

(a) The child is no more than thirty (30) days of age;

(b) The custodial parent delivers the child to the safe haven; and

(c) The custodial parent does not express an intent to return for the child.

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

(a) Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health and safety of the child during the temporary physical

custody including, but not limited to, delivering the child to a hospital for care or treatment; and

(b) Immediately notify a peace officer or other person appointed by the court of the abandonment.

(3) The safe haven shall not inquire as to the identity of the custodial parent and, if the identity of a parent is known to the safe haven, the safe haven shall keep all information as to the identity confidential. The custodial parent leaving the child shall not be required to provide any information to the safe haven but may voluntarily provide information including, but not limited to, medical history of the parent(s) or the child.

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

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

[(39-8203) 39-8103, added 2001, ch. 357, sec. 1, p. 1253; am. and redesign. 2005, ch. 25, sec. 70, p. 107.]

39-8204. PROTECTIVE CUSTODY -- PLACEMENT -- IMMUNITY. (1) Upon notification by a safe haven that a child has been abandoned pursuant to the provisions of this chapter, a peace officer or other person appointed by the court shall take protective custody of the child and shall immediately deliver the child to the care, control and custody of the department of health and welfare. Provided however, where the child requires further medical evaluation, care or treatment, the child shall be left in the care of a hospital and the peace officer or other person appointed by the court shall notify the court and prosecutor of the action taken and the location of the child so that a shelter care hearing may be held.

(2) The department of health and welfare shall place an abandoned child with a potential adoptive parent as soon as possible.

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

[(39-8204) 39-8104, added 2001, ch. 357, sec. 1, p. 1254; am. and redesign. 2005, ch. 25, sec. 71, p. 108.]

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

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

(3) During the initial thirty (30) day period from the time the child was delivered to a safe haven by a custodial parent, the department shall re-

quest assistance from law enforcement officials to investigate through the missing children information clearinghouse and other state and national resources to ensure that the child is not a missing child.

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

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

[(39-8205) 39-8105, added 2001, ch. 357, sec. 1, p. 1254; am. and redesign. 2005, ch. 25, sec. 72, p. 108; am. and redesign. 2005, ch. 391, sec. 56, p. 1312.]

39-8206. CLAIM OF PARENTAL RIGHTS -- PROCEDURE. (1) A parent of the child may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of this chapter, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare. The vital statistics unit of the department of health and welfare shall maintain an abandoned child registry for this purpose which shall be subject to disclosure according to chapter 1, title 74, Idaho Code. The department shall provide forms for the purpose of filing a claim of parental rights, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. Any parent claiming a parental right of an abandoned child, abandoned pursuant to the provisions of this chapter, shall file the form with the vital statistics unit of the department of health and welfare. The form must be filled out completely and provide the name and address for service of the person asserting the parental claim and set forth the approximate date the child was left in a safe haven. The form must be signed by the person claiming the parental right and be witnessed before a notary public. The department shall record the date and time the claim of parental rights is filed with the department. The claim shall be deemed to be duly filed with the department as of the date and time recorded on the claim by the department. To be valid, a claim of parental rights must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child. Registration of notice of commencement of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of this section.

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

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

(a) The court shall order genetic testing to establish maternity or paternity, at the expense of the person or persons claiming the parental right.

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

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

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

(4) If there is no showing that a parent has claimed a parental right to the child, the department of health and welfare shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of parental claims for children abandoned pursuant to the provisions of this chapter and that no parental claim has been made. The certificate shall be filed with the court prior to the entrance of the final order of termination of parental rights.

[(39-8206) 39-8106, added 2001, ch. 357, sec. 1, p. 1255; am. and redesign. 2005, ch. 25, sec. 73, p. 109; am. and redesign. 2005, ch. 391, sec. 57, p. 1313; am. 2015, ch. 141, sec. 101, p. 451.]

39-8207. REPORT TO LEGISLATURE. The department of health and welfare shall evaluate the program and shall submit a written report on the program, including recommendations for revisions and improvements, to the senate health and welfare committee and the house of representatives health and welfare committee of the legislature of the state of Idaho no later than two (2) years after the effective date of this act.

[(39-8207) 39-8107, added 2001, ch. 371, sec. 2, p. 1301; am. and redesign. 2005, ch. 25, sec. 74, p. 110.]