

**62A-4a-802 Safe relinquishment of a newborn child.**

- (1)
  - (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with the provisions of this part and retain complete anonymity, so long as the child has not been subject to abuse or neglect.
  - (b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect as defined in Section 78A-6-105, and the child shall not be considered a neglected child, as defined in Section 78A-6-105, so long as the relinquishment is carried out in substantial compliance with the provisions of this part.
- (2)
  - (a) Personnel employed by a hospital shall accept a newborn child that is relinquished pursuant to the provisions of this part, and may presume that the person relinquishing is the child's parent or the parent's designee.
  - (b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the child.
  - (c) The division shall provide hospitals with medical history forms and stamped envelopes addressed to the division that a hospital may provide to a person relinquishing a child pursuant to the provisions of this part.
  - (d) Personnel employed by a hospital shall:
    - (i) provide any necessary medical care to the child and notify the division as soon as possible, but no later than 24 hours after receipt of the child; and
    - (ii) prepare a birth certificate or foundling birth certificate if parentage is unknown and file with the Office of Vital Records and Statistics.
  - (e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.
- (3) The division shall assume care and custody of the child immediately upon notice from the hospital.
- (4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:
  - (a) the provisions of Part 2, Child Welfare Services;
  - (b) the investigation provisions contained in Section 62A-4a-409; or
  - (c) the provisions of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.
- (5) Unless identifying information relating to the nonrelinquishing parent of the newborn child has been provided:
  - (a) the division shall work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;
  - (b) the division shall immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after receipt of the child, file a petition for termination of parental rights in accordance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act;
  - (c) the division shall direct the Office of Vital Records and Statistics to conduct a search for a birth certificate for the child and an Initiation of Proceedings to Establish Paternity Registry for unmarried biological fathers maintained by the Office of Vital Records and Statistics within the Department of Health and provide notice to each potential father identified on the registry.

Notice of termination of parental rights proceedings shall be provided in the same manner as is utilized for any other termination proceeding in which the identity of the child's parents is unknown;

- (d) if no person has affirmatively identified himself or herself within two weeks after notice is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled; and
  - (e) if a nonrelinquishing parent is not identified, relinquishment of a newborn child pursuant to the provisions of this part shall be considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 78A-6-507.
- (6) If at any time prior to the adoption, a court finds it is in the best interest of the child, the court shall deny the petition for termination of parental rights.
- (7) The division shall provide for, or contract with a licensed child-placing agency to provide for expeditious adoption of the newborn child.
- (8) So long as the person relinquishing a newborn child is the child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with the provisions of this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to that relinquishment.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 299, 2008 General Session