

Effective 5/3/2023

Superseded 9/1/2025

80-4-502 Safe relinquishment of a newborn child -- Termination of parental rights --

Affirmative defense.

- (1)
 - (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with this part and retain complete anonymity, so long as the newborn 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, and the newborn child may not be considered a neglected child so long as the relinquishment is carried out in substantial compliance with this part.
- (2)
 - (a) Personnel employed by a hospital shall accept a newborn child who is relinquished under this part, and may presume that the individual relinquishing is the newborn 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 newborn child.
 - (c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.
 - (d) Personnel employed by the hospital shall:
 - (i) provide any necessary medical care to the newborn child;
 - (ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and
 - (iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.
 - (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 protective custody of the newborn 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 investigation provisions contained in Section 80-2-701; or
 - (b) the provisions of Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (5)
 - (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child is provided, the division shall:
 - (i) 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;
 - (ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with this chapter;

- (iii) direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:
 - (A) a birth certificate for the newborn child; and
 - (B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with Title 78B, Chapter 15, Part 4, Registry; and
- (iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.

(b)

- (i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) 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 notice provided in accordance with this chapter.
- (ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child under this part is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.

(6) If at any time before the day on which the newborn child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to the relinquishment.