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NEWBORN SAFE HAVEN AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill modifies provisions relating to the safe relinquishment of a newborn child.

28 **Highlighted Provisions:**

29 This bill:

- 30 ▶ modifies the definition of "newborn child";
- 31 ▶ subject to certain requirements, allows a parent or the parent's designee to safely
32 relinquish a newborn child within 30 days after the day on which the child is born;
- 33 ▶ clarifies the type of information that must be provided to the Division of Child and
34 Family Services upon safe relinquishment of a newborn child;
- 35 ▶ clarifies provisions relating to searches for a potential father of a newborn child who
36 is safely relinquished and notice that must be provided to the potential father;
- 37 ▶ requires the Department of Health to make rules relating to the resolution of
38 conflicting birth and foundling certificates; and
- 39 ▶ makes technical changes.

40 **Money Appropriated in this Bill:**

41 This bill appropriates in fiscal year 2021:

- 42 ▶ to Department of Health -- Family Health and Preparedness, as an ongoing
43 appropriation:
 - 44 • from General Fund, \$50,000.

45 **Other Special Clauses:**

46 None

47 **Utah Code Sections Affected:**

48 AMENDS:

49 **26-2-7**, as last amended by Laws of Utah 1995, Chapter 202

50 **62A-4a-801**, as enacted by Laws of Utah 2001, Chapter 134

51 **62A-4a-802**, as last amended by Laws of Utah 2008, Chapters 3 and 299

52

53 *Be it enacted by the Legislature of the state of Utah:*

54 Section 1. Section **26-2-7** is amended to read:

55 **26-2-7. Correction of errors or omissions in vital records -- Conflicting birth and**
56 **foundling certificates -- Rulemaking.**

57 ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
58 the department may make rules:

59 (1) governing applications to correct alleged errors or omissions on any vital record~~[-]~~;
60 and

61 (2) establishing procedures to resolve conflicting birth and foundling certificates.

62 Section 2. Section **62A-4a-801** is amended to read:

63 **62A-4a-801. Definitions.**

64 As used in this part:

65 (1) "Hospital" means a general acute hospital, as that term is defined in Section
66 [26-21-2](#), that is:

- 67 (a) equipped with an emergency room;
- 68 (b) open 24 hours a day, seven days a week; and
- 69 (c) employs full-time health care professionals who have emergency medical services
70 training.

71 (2) "Newborn child" means a child who is approximately ~~[72 hours]~~ 30 days of age or
72 younger, as determined within a reasonable degree of medical certainty.

73 Section 3. Section **62A-4a-802** is amended to read:

74 **62A-4a-802. Safe relinquishment of a newborn child.**

75 (1) (a) A parent or a parent's designee may safely relinquish a newborn child at a
76 hospital in accordance with the provisions of this part and retain complete anonymity, so long
77 as the newborn child has not been subject to abuse or neglect.

78 (b) Safe relinquishment of a newborn child who has not otherwise been subject to
79 abuse or neglect shall not, in and of itself, constitute neglect as defined in Section [78A-6-105](#),
80 and the newborn child shall not be considered a neglected child, as defined in Section
81 [78A-6-105](#), so long as the relinquishment is carried out in substantial compliance with the

82 provisions of this part.

83 (2) (a) Personnel employed by a hospital shall accept a newborn child ~~[that]~~ who is
84 relinquished pursuant to the provisions of this part, and may presume that the ~~[person]~~
85 individual relinquishing is the newborn child's parent or the parent's designee.

86 (b) The person receiving the newborn child may request information regarding the
87 parent and newborn child's medical histories, and identifying information regarding the
88 nonrelinquishing parent of the newborn child.

89 ~~[(c) The division shall provide hospitals with medical history forms and stamped
90 envelopes addressed to the division that a hospital may provide to a person relinquishing a
91 child pursuant to the provisions of this part.]~~

92 (c) If the newborn child's parent or the parent's designee provides the person receiving
93 the newborn child with any of the information described in Subsection (2)(b) or any other
94 personal items, the person shall provide the information or personal items to the division.

95 (d) Personnel employed by ~~[a]~~ the hospital shall:

96 (i) provide any necessary medical care to the newborn child ~~[and]~~;

97 (ii) notify the division of receipt of the newborn child as soon as possible, but no later
98 than 24 hours after receipt of the newborn child; and

99 ~~[(ii)]~~ (iii) prepare a birth certificate or foundling birth certificate if parentage is
100 unknown for the newborn child and file the certificate with the Office of Vital Records and
101 Statistics within the Department of Health.

102 (e) A hospital and personnel employed by a hospital are immune from any civil or
103 criminal liability arising from accepting a newborn child if the personnel employed by the
104 hospital substantially comply with the provisions of this part and medical treatment is
105 administered according to standard medical practice.

106 (3) The division shall assume care and custody of the newborn child immediately upon
107 notice from the hospital.

108 (4) So long as the division determines there is no abuse or neglect of the newborn

109 child, neither the newborn child nor the child's parents are subject to:

110 (a) the provisions of Part 2, Child Welfare Services;

111 (b) the investigation provisions contained in Section [62A-4a-409](#); or

112 (c) the provisions of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency
113 Proceedings.

114 (5) (a) Unless identifying information relating to the nonrelinquishing parent of the
115 newborn child has been provided, the division shall:

116 [(a)] (i) [~~the division shall~~] work with local law enforcement and the Bureau of
117 Criminal Identification within the Department of Public Safety in an effort to ensure that the
118 newborn child has not been identified as a missing child;

119 [(b)] (ii) [~~the division shall~~] immediately place or contract for placement of the
120 newborn child in a potential adoptive home and, within 10 days after [~~receipt of~~] the day on
121 which the child is received, file a petition for termination of parental rights in accordance with
122 Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act;

123 [(c)] (iii) [~~the division shall~~] direct the Office of Vital Records and Statistics within the
124 Department of Health to conduct a search for:

125 (A) a birth certificate for the newborn child; and [~~an Initiation of Proceedings to~~
126 ~~Establish Paternity Registry for~~]

127 (B) unmarried biological fathers in the registry maintained by the Office of Vital
128 Records and Statistics [~~within the Department of Health~~] in accordance with Title 78B,
129 Chapter 15, Part 4, Registry; and

130 (iv) provide notice to each potential father identified on the registry[~~. Notice of~~
131 ~~termination of parental rights proceedings shall be provided in the same manner as is utilized~~
132 ~~for any other termination proceeding in which the identity of the child's parents is unknown;~~]
133 described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.

134 [(d)] (b) (i) [~~if no person~~] If no individual has affirmatively identified himself or herself
135 within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and

136 established paternity by scientific testing within as expeditious a time frame as practicable, a
137 hearing on the petition for termination of parental rights shall be scheduled~~[-and]~~ and notice
138 provided in accordance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights.

139 ~~(e)~~ (ii) if If a nonrelinquishing parent is not identified, relinquishment of a newborn
140 child pursuant to the provisions of this part shall be considered grounds for termination of
141 parental rights of both the relinquishing and nonrelinquishing parents under Section
142 78A-6-507.

143 (6) If at any time prior to the adoption, a court finds it is in the best interest of the
144 newborn child, the court shall deny the petition for termination of parental rights.

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

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

151 **Section 4. Appropriation.**

152 The following sums of money are appropriated for the fiscal year beginning on July 1,
153 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
154 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
155 Act, the Legislature appropriates the following sums of money from the funds or accounts
156 indicated for the use and support of the government of the state of Utah.

157 ITEM 1

158 To Department of Health -- Family Health and Preparedness

159 From General Fund \$50,000

160 Schedule of Programs:

161 Maternal and Child Health \$50,000

162 The Legislature intends that the appropriations under this item be used for training and

163 education about the availability and requirements of the safe relinquishment of a newborn child
164 program described in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.