

**Representative Patrice M. Arent** proposes the following substitute bill:

**NEWBORN SAFE HAVEN AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrice M. Arent**

Senate Sponsor: Scott D. Sandall

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to Department of Health -- Family Health and Preparedness, as an ongoing appropriation:



26 • from General Fund, \$50,000.

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26-2-7**, as last amended by Laws of Utah 1995, Chapter 202

32 **62A-4a-801**, as enacted by Laws of Utah 2001, Chapter 134

33 **62A-4a-802**, as last amended by Laws of Utah 2008, Chapters 3 and 299



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

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

37 **26-2-7. Correction of errors or omissions in vital records -- Conflicting birth and**  
38 **foundling certificates -- Rulemaking.**

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

41 (1) governing applications to correct alleged errors or omissions on any vital record[-];

42 and

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

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

45 **62A-4a-801. Definitions.**

46 As used in this part:

47 (1) "Hospital" means a general acute hospital, as that term is defined in Section

48 **26-21-2**, that is:

49 (a) equipped with an emergency room;

50 (b) open 24 hours a day, seven days a week; and

51 (c) employs full-time health care professionals who have emergency medical services  
52 training.

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

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

56 **62A-4a-802. Safe relinquishment of a newborn child.**

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

60 (b) Safe relinquishment of a newborn child who has not otherwise been subject to  
61 abuse or neglect shall not, in and of itself, constitute neglect as defined in Section 78A-6-105,  
62 and the newborn child shall not be considered a neglected child, as defined in Section  
63 78A-6-105, so long as the relinquishment is carried out in substantial compliance with the  
64 provisions of this part.

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

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

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

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

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

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

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

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

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

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

90 (4) So long as the division determines there is no abuse or neglect of the newborn  
91 child, neither the newborn child nor the child's parents are subject to:

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

93 (b) the investigation provisions contained in Section 62A-4a-409; or

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

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

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

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

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

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

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

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

116 ~~[(d)]~~ (b) (i) ~~[if no person]~~ If no individual has affirmatively identified himself or herself  
117 within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and  
118 established paternity by scientific testing within as expeditious a time frame as practicable, a

119 hearing on the petition for termination of parental rights shall be scheduled~~[-and]~~ and notice  
120 provided in accordance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights.

121 ~~[(e)]~~ (ii) ~~[if]~~ If a nonrelinquishing parent is not identified, relinquishment of a newborn  
122 child pursuant to the provisions of this part shall be considered grounds for termination of  
123 parental rights of both the relinquishing and nonrelinquishing parents under Section  
124 78A-6-507.

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

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

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

133 **Section 4. Appropriation.**

134 The following sums of money are appropriated for the fiscal year beginning on July 1,  
135 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for  
136 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
137 Act, the Legislature appropriates the following sums of money from the funds or accounts  
138 indicated for the use and support of the government of the state of Utah.

139 ITEM 1

140 To Department of Health -- Family Health and Preparedness

141 From General Fund \$50,000

142 Schedule of Programs:

143 Maternal and Child Health \$50,000

144 The Legislature intends that the appropriations under this item be used for training and  
145 education about the availability and requirements of the safe relinquishment of a newborn child  
146 program described in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.