

By: Representatives Ford (73rd), Felsher,  
Carpenter, Hopkins, Stamps

To: Judiciary A

HOUSE BILL NO. 1318

1 AN ACT TO AMEND SECTION 43-15-201, MISSISSIPPI CODE OF 1972,  
 2 TO REVISE THE AGE OF A CHILD THAT CAN BE DROPPED OFF UNDER THE  
 3 "BABY DROP-OFF LAW"; TO AUTHORIZE A BABY TO BE DROPPED OFF IN A  
 4 BABY SAFETY DEVICE SPONSORED BY AN EMERGENCY MEDICAL SERVICES  
 5 PROVIDER; TO AUTHORIZE ANY CITY OR COUNTY TO SPONSOR A BABY SAFETY  
 6 DEVICE THAT MEETS THE REQUIREMENTS OF THIS ACT; TO AMEND SECTIONS  
 7 43-15-203 AND 43-15-205, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
 8 THE DEPARTMENT OF CHILD PROTECTION SERVICES IS THE AGENCY OF  
 9 CONTACT; TO AMEND SECTION 43-15-207, MISSISSIPPI CODE OF 1972, TO  
 10 PROVIDE THAT ANY CHURCH LICENSED WITH THE DEPARTMENT OF CHILD  
 11 PROTECTION SERVICES TO RECEIVE CHILDREN UNDER THE PROVISIONS OF  
 12 THIS ACT MAY BE AN EMERGENCY SERVICES PROVIDER; TO AMEND SECTION  
 13 43-15-209, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
 14 SECTION; TO CREATE NEW SECTION 43-15-211, MISSISSIPPI CODE OF  
 15 1972; TO AMEND SECTION 93-15-103, MISSISSIPPI CODE OF 1972, TO  
 16 CLARIFY THAT SURRENDER OF A CHILD UNDER THE "BABY DROP-OFF LAW" IS  
 17 CONSIDERED ABANDONMENT FOR PURPOSES OF TERMINATION OF PARENTAL  
 18 RIGHTS; TO AMEND SECTION 93-15-109, MISSISSIPPI CODE OF 1972, TO  
 19 CLARIFY THE AUTHORITY OF EMERGENCY SERVICES PROVIDERS TO RECEIVE  
 20 BABIES FOR PURPOSE OF TERMINATION OF PARENTAL RIGHTS; AND FOR  
 21 RELATED PURPOSES.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

23 **SECTION 1.** Section 43-15-201, Mississippi Code of 1972, is  
 24 amended as follows:

25 43-15-201. (1) An emergency medical services provider,  
 26 without a court order, shall take possession of a child who



27 is \* \* \* ninety (90) days old or younger if the child is  
28 voluntarily:

29 (a) Delivered to the provider;

30 (b) Placed in a baby safety device that is sponsored by  
31 an emergency medical services provider and meets the requirements  
32 described in paragraph (b) of this subsection by the child's  
33 parent and the parent did not express an intent to return for the  
34 child \* \* \*; or

35 (c) Delivered to an emergency medical services provider  
36 in response to an emergency call from the parent who expressed an  
37 intent to surrender the child to the law enforcement officer or  
38 emergency medical services provider and expressed an intent to not  
39 return for the child.

40 (2) For purposes of this section, the term "baby safety.  
41 device" shall meet all of the following specifications:

42 (a) The device has been voluntarily installed by the  
43 designated emergency care facility.

44 (b) The device is installed in a location that ensures  
45 the anonymity of the relinquishing parent and has a  
46 climate-controlled environment.

47 (c) The device is installed by a contractor licensed in  
48 accordance with the State of Mississippi.

49 (d) The access door to the device locks automatically  
50 upon closure when a newborn is in the device.



51           (e) The supporting frame of the device is anchored so  
52 as to align the bed portion of the device directly beneath the  
53 access door and prevent movement of the unit as a whole.

54           (f) The device features a safe sleep environment which  
55 includes a firm, flat bassinet mattress and a sheet that fits  
56 snugly on and overlaps the mattress and is free of pillows,  
57 bumpers, blankets, and other bedding.

58           ( \* \* \*3) The parent who surrenders the baby shall not be  
59 required to provide any information pertaining to his or her  
60 identity, nor shall the emergency medical services provider  
61 inquire as to same. If the identity of the parent is known to the  
62 emergency medical services provider, the emergency medical  
63 services provider shall keep the identity confidential.

64           ( \* \* \*4) A female presenting herself to a hospital through  
65 the emergency room or otherwise, who is subsequently admitted for  
66 purposes of labor and delivery, does not give up the legal  
67 protections or anonymity guaranteed under this section. If the  
68 mother clearly expresses a desire to voluntarily surrender custody  
69 of the newborn after birth, the emergency medical services  
70 provider can take possession of the child, without further action  
71 by the mother, as if the child had been presented to the emergency  
72 medical services provider in the same manner outlined above in  
73 subsection (1) of this section.

74           (a) If the mother expresses a desire to remain  
75 anonymous, identifying information may be obtained for purposes of



76 securing payment of labor and delivery costs only. If the birth  
77 mother is a minor, the hospital may use the identifying  
78 information to secure payment through Medicaid, but shall not  
79 notify the minor's parent or guardian without the minor's consent.

80 (b) The identity of the birth mother shall not be  
81 placed on the birth certificate or disclosed to the \* \* \* any  
82 state or local agency or any other person.

83 ( \* \* \* 5) \* \* \* Any parent who relinquishes a child in  
84 accordance with this section \* \* \* is deemed to have consented to  
85 the termination of his or her parental rights with respect to the  
86 child. As such, the parent waives the right to notification  
87 required by subsequent court proceedings.

88 ( \* \* \* 6) An emergency medical services provider who takes  
89 possession of a child under this section shall perform any act  
90 necessary to protect the physical health or safety of the child.  
91 No court order or other legal document shall be required in order  
92 for the emergency medical services provider to take possession of  
93 a child whose parent relinquishes custody under the provisions of  
94 this act.

95 **SECTION 2.** Section 43-15-203, Mississippi Code of 1972, is  
96 amended as follows:

97 43-15-203. (1) No later than the close of the first  
98 business day after the date on which an emergency medical services  
99 provider takes possession of a child pursuant to Section  
100 43-15-201, the provider shall notify the Department of \* \* \* Child



101 Protection Services that the provider has taken possession of the  
102 child.

103 (2) The department shall assume the care, control and  
104 custody of the child immediately on receipt of notice pursuant to  
105 subsection (1). The department shall be responsible for all  
106 medical and other costs associated with the child and shall  
107 reimburse the hospital for any costs incurred prior to the child  
108 being placed in the care of the department.

109 **SECTION 3.** Section 43-15-205, Mississippi Code of 1972, is  
110 amended as follows:

111 43-15-205. It shall be an absolute affirmative defense to  
112 prosecution under Sections 97-5-1, 97-5-3 and 97-5-39 if the  
113 parent voluntarily delivers the child unharmed to an emergency  
114 medical services provider pursuant to \* \* \* this act.

115 **SECTION 4.** Section 43-15-207, Mississippi Code of 1972, is  
116 amended as follows:

117 43-15-207. For the purposes of this article, an emergency  
118 medical services provider shall mean a licensed hospital, as  
119 defined in Section 41-9-3, which operates an emergency department,  
120 an adoption agency duly licensed by the Department of \* \* \* Child  
121 Protection Services, a church that is licensed with the Department  
122 of Child Protection services to receive children under this act,  
123 any county or municipality that sponsors a baby safety device that  
124 meets the requirements of this act, state or local law enforcement  
125 agency or fire station or mobile ambulance staffed with full-time



126 firefighters, emergency medical technicians or paramedics. An  
127 emergency medical services provider does not include the offices,  
128 clinics, surgeries or treatment facilities of private physicians  
129 or dentists. No individual licensed healthcare provider,  
130 including physicians, dentists, nurses, physician assistants or  
131 other health professionals shall be deemed to be an emergency  
132 medical services provider under this article unless such  
133 individual voluntarily assumes responsibility for the custody of  
134 the child.

135 **SECTION 5.** Section 43-15-209, Mississippi Code of 1972, is  
136 amended as follows:

137 43-15-209. A person \* \* \*, entity, county or municipality  
138 taking possession of a child under the provisions of this article  
139 shall be immune from liability for any civil action arising out of  
140 any act or omission resulting from taking possession of the child  
141 unless the act or omission was the result of the person's or  
142 entity's gross negligence or willful misconduct or failure to meet  
143 any other requirements of this act.

144 **SECTION 6.** The following shall be codified as Section  
145 43-15-211, Mississippi Code of 1972:

146 43-15-211. (1) Any emergency services provider that  
147 installs a baby safety device shall post signage that is approved  
148 by the Department of Child Protection Services at the site of the  
149 device that clearly identifies the device and provides both  
150 written and pictorial instruction to the relinquishing parent to



151 open the access door, place the infant inside the device, and  
152 close the access door to engage the lock. The signage shall also  
153 clearly indicate all of the following:

154 (a) The maximum age of an infant who may be  
155 relinquished in accordance with this chapter.

156 (b) That the child must not have been previously  
157 subjected to abuse or neglect.

158 (c) That by placing an infant in the newborn safety  
159 device, a parent is foregoing all parental responsibilities with  
160 respect to the infant and is giving consent for the state to take  
161 custody of the infant.

162 **SECTION 7.** Section 93-15-103, Mississippi Code of 1972, is  
163 amended as follows:

164 93-15-103. For purposes of this chapter, unless a different  
165 meaning is plainly expressed by the context, the following  
166 definitions apply:

167 (a) "Abandonment" means any conduct by the parent,  
168 whether consisting of a single incident or actions over an  
169 extended period of time, that evinces a settled purpose to  
170 relinquish all parental claims and responsibilities to the child.  
171 Abandonment may be established by showing:

172 (i) For a child who is under three (3) years of  
173 age on the date that the petition for termination of parental  
174 rights was filed, that the parent has deliberately made no contact  
175 with the child for six (6) months;



176 (ii) For a child who is three (3) years of age or  
177 older on the date that the petition for termination of parental  
178 rights was filed, that the parent has deliberately made no contact  
179 with the child for at least one (1) year; \* \* \*

180 (iii) If the child is under six (6) years of age,  
181 that the parent has exposed the child in any highway, street,  
182 field, outhouse, or elsewhere with the intent to wholly abandon  
183 the child \* \* \*; or

184 (iv) If the parent gives possession of the child  
185 to an emergency medical services provider pursuant to Sections  
186 43-15-201 etc.

187 (b) "Child" means a person under eighteen (18) years of  
188 age.

189 (c) "Court" means the court having jurisdiction under  
190 the Mississippi Termination of Parental Rights Law.

191 (d) "Desertion" means:

192 (i) Any conduct by the parent over an extended  
193 period of time that demonstrates a willful neglect or refusal to  
194 provide for the support and maintenance of the child; or

195 (ii) That the parent has not demonstrated, within  
196 a reasonable period of time after the birth of the child, a full  
197 commitment to the responsibilities of parenthood.

198 (e) "Home" means any charitable or religious  
199 corporation or organization or the superintendent or head of the  
200 charitable or religious corporation or organization organized





201 under the laws of the State of Mississippi, any public authority  
202 to which has been granted the power to provide care for or procure  
203 the adoption of children by any Mississippi statute, and any  
204 association or institution engaged in placing children for  
205 adoption on July 1, 1955.

206 (f) "Interested person" means any person related to the  
207 child by consanguinity or affinity, a custodian or legal guardian  
208 of the child, a guardian ad litem representing the child's best  
209 interests, or an attorney representing the child's preferences  
210 under Rule 13 of the Uniform Rules of Youth Court Practice.

211 (g) "Minor parent" means any parent under twenty-one  
212 (21) years of age.

213 (h) "Parent" means a natural or adoptive parent of the  
214 child.

215 (i) "Permanency outcome" means achieving a permanent or  
216 long-term custodial arrangement for the custody and care of the  
217 child that ends the supervision of the Department of Child  
218 Protection Services.

219 (j) "Qualified health professional" means a licensed or  
220 certified professional who is engaged in the delivery of health  
221 services and who meets all applicable federal or state  
222 requirements to provide professional services.

223 (k) "Qualified mental health professional" means a  
224 person with at least a master's degree in mental health or a  
225 related field and who has either a professional license or a



226 Department of Mental Health credential as a mental health  
227 therapist.

228 (1) "Reunification" means the restoration of the  
229 parent's custodial rights in providing for the safety and welfare  
230 of the child which ends the supervision of the Department of Child  
231 Protection Services.

232 **SECTION 8.** Section 93-15-109, Mississippi Code of 1972, is  
233 amended as follows:

234 93-15-109. (1) A parent may accomplish the surrender of a  
235 child to the Department of Child Protection Services or to a home  
236 by:

237 (a) Delivering the child to the Department of Child  
238 Protection Services or the home;

239 (b) Executing an affidavit of a written agreement that  
240 names the child and which vests in the Department of Child  
241 Protection Services or the home the exclusive custody, care and  
242 control of the child; and

243 (c) Executing a written voluntary release as set forth  
244 in Section 93-15-111(1).

245 (2) If a child has been surrendered to a home or other  
246 agency operating under the laws of another state, and the child is  
247 delivered into the custody of a petitioner or home within this  
248 state, the execution of consent by the nonresident home or agency  
249 shall be sufficient.



250 (3) A parent may accomplish the surrender of a child to an  
251 emergency medical services provider pursuant to Sections 43-15-201  
252 etc. Nothing in this section \* \* \* shall be construed to limit or  
253 restrict the delivery and surrender of a child to an emergency  
254 medical services provider pursuant to \* \* \* Section  
255 43-15-201 \* \* \* etc.

256 **SECTION 9.** This act shall take effect and be in force from  
257 and after its passage.

