

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

To: Judiciary A

HOUSE BILL NO. 1318
(As Passed the House)

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 * * * forty-five (45) 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 * * *;

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; or

40 (d) A person designated by the parent.

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

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

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

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

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



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

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

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

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



76 (a) If the mother expresses a desire to remain
77 anonymous, identifying information may be obtained for purposes of
78 securing payment of labor and delivery costs only. If the birth
79 mother is a minor, the hospital may use the identifying
80 information to secure payment through Medicaid, but shall not
81 notify the minor's parent or guardian without the minor's consent.

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

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

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

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

99 43-15-203. (1) No later than the close of the first
100 business day after the date on which an emergency medical services



101 provider takes possession of a child pursuant to Section
102 43-15-201, the provider shall notify the Department of * * * Child
103 Protection Services that the provider has taken possession of the
104 child.

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

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

113 43-15-205. It shall be an absolute affirmative defense to
114 prosecution under Sections 97-5-1, 97-5-3 and 97-5-39 if the
115 parent or a person designated by the parent voluntarily delivers
116 the child unharmed to an emergency medical services provider
117 pursuant to * * * this act.

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

120 43-15-207. For the purposes of this article, an emergency
121 medical services provider shall mean a licensed hospital, as
122 defined in Section 41-9-3, which operates an emergency department,
123 an adoption agency duly licensed by the Department of * * * Child
124 Protection Services, a church that is licensed with the Department
125 of Child Protection services to receive children under this act,



126 any county or municipality that sponsors a baby safety device that
127 meets the requirements of this act, state or local law enforcement
128 agency or fire station or mobile ambulance staffed with full-time
129 firefighters, emergency medical technicians or paramedics. An
130 emergency medical services provider does not include the offices,
131 clinics, surgeries or treatment facilities of private physicians
132 or dentists. No individual licensed healthcare provider,
133 including physicians, dentists, nurses, physician assistants or
134 other health professionals shall be deemed to be an emergency
135 medical services provider under this article unless such
136 individual voluntarily assumes responsibility for the custody of
137 the child.

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

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

147 **SECTION 6.** The following shall be codified as Section
148 43-15-211, Mississippi Code of 1972:

149 43-15-211. (1) Any emergency services provider that
150 installs a baby safety device shall post signage that is approved



151 by the Department of Child Protection Services at the site of the
152 device that clearly identifies the device and provides both
153 written and pictorial instruction to the relinquishing parent to
154 open the access door, place the infant inside the device, and
155 close the access door to engage the lock. The signage shall also
156 clearly indicate all of the following:

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

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

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

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

167 93-15-103. For purposes of this chapter, unless a different
168 meaning is plainly expressed by the context, the following
169 definitions apply:

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



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

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

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

187 (iv) If the parent gives possession of the child
188 to an emergency medical services provider pursuant to Sections
189 43-15-201 etc.

190 (b) "Child" means a person under eighteen (18) years of
191 age.

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

194 (d) "Desertion" means:

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



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

201 (e) "Home" means any charitable or religious
202 corporation or organization or the superintendent or head of the
203 charitable or religious corporation or organization organized
204 under the laws of the State of Mississippi, any public authority
205 to which has been granted the power to provide care for or procure
206 the adoption of children by any Mississippi statute, and any
207 association or institution engaged in placing children for
208 adoption on July 1, 1955.

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

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

216 (h) "Parent" means a natural or adoptive parent of the
217 child.

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



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

226 (k) "Qualified mental health professional" means a
227 person with at least a master's degree in mental health or a
228 related field and who has either a professional license or a
229 Department of Mental Health credential as a mental health
230 therapist.

231 (l) "Reunification" means the restoration of the
232 parent's custodial rights in providing for the safety and welfare
233 of the child which ends the supervision of the Department of Child
234 Protection Services.

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

237 93-15-109. (1) A parent may accomplish the surrender of a
238 child to the Department of Child Protection Services or to a home
239 by:

240 (a) Delivering the child to the Department of Child
241 Protection Services or the home;

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



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

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

253 (3) A parent may accomplish the surrender of a child to an
254 emergency medical services provider pursuant to Sections 43-15-201
255 etc. Nothing in this section * * * shall be construed to limit or
256 restrict the delivery and surrender of a child to an emergency
257 medical services provider pursuant to * * * Section
258 43-15-201 * * * etc.

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

