

By: Senator(s) Boyd

To: Judiciary, Division A

SENATE BILL NO. 2386

1 AN ACT TO ENACT THE MISSISSIPPI SAFE HAVEN LAW; TO CREATE NEW
2 SECTION 43-15-200, MISSISSIPPI CODE OF 1972, TO STATE THE PURPOSE
3 OF THE ARTICLE; TO CREATE NEW SECTION 43-15-200.1, MISSISSIPPI
4 CODE OF 1972, TO DEFINE TERMS; TO AMEND SECTION 43-15-201,
5 MISSISSIPPI CODE OF 1972, TO REQUIRE THE EMERGENCY MEDICAL
6 SERVICES PROVIDER TO ATTEMPT TO OBTAIN CERTAIN INFORMATION
7 CONCERNING THE INFANT FROM THE PERSON RELINQUISHING THE INFANT; TO
8 REQUIRE AN INFANT TO BE TRANSFERRED TO A HOSPITAL IMMEDIATELY; TO
9 REQUIRE A MEDICAL SCREENING OF THE INFANT; TO AMEND SECTION
10 43-15-203, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
11 DEPARTMENT OF CHILD PROTECTION SERVICES SHALL HAVE LEGAL CUSTODY
12 AS SOON AS THE DEPARTMENT RECEIVES NOTICE OF A RELINQUISHMENT; TO
13 PROVIDE THAT THE DEPARTMENT SHALL ASSUME PHYSICAL CUSTODY AS SOON
14 AS POSSIBLE; TO REQUIRE THE DEPARTMENT AFTER ASSUMING LEGAL
15 CUSTODY TO IMMEDIATELY NOTIFY LAW ENFORCEMENT OF A POTENTIAL
16 MISSING CHILD; TO REQUIRE A LAW ENFORCEMENT AGENCY WHO RECEIVES
17 NOTICE UNDER THIS SECTION TO INVESTIGATE WHETHER THE RELINQUISHED
18 INFANT IS A MISSING CHILD; TO CREATE NEW SECTION 43-15-204,
19 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A COURT HEARING WITHIN A
20 CERTAIN TIMEFRAME FOR THE DEPARTMENT TO OBTAIN A COURT ORDER OF
21 CONTINUED CUSTODY OF THE INFANT IN THE DEPARTMENT PRIOR TO FINAL
22 ENTRY OF AN ORDER DECLARING PARENTAL RIGHTS TERMINATED; TO CREATE
23 NEW SECTION 43-15-204.1, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
24 DEPARTMENT TO PUBLISH NOTICE OF THE CIRCUMSTANCES OF THE
25 RELINQUISHMENT OF THE INFANT IN A NEWSPAPER OF GENERAL CIRCULATION
26 AND SEND A NEWS RELEASE TO BROADCAST AND PRINT MEDIA; THE NEWS
27 RELEASE AND PUBLICATION MUST STATE THAT ANY PERSON WISHING TO
28 ASSERT PARENTAL RIGHTS IN REGARD TO THE INFANT MUST DO SO AT THE
29 HEARING DESCRIBED IN THIS SECTION; TO REQUIRE THE DEPARTMENT TO
30 FILE A PETITION ALLEGING THAT THE INFANT HAS BEEN RELINQUISHED AND
31 TO SEEK APPROVAL OF A PLAN TO TERMINATE PARENTAL RIGHTS IN REGARD
32 TO THE INFANT; TO REQUIRE THE COURT TO HOLD A HEARING WITHIN A
33 CERTAIN TIMEFRAME; TO PROVIDE THAT IF THE COURT APPROVES THE PLAN
34 TO TERMINATE ANY PARENTAL RIGHTS IN REGARD TO THE INFANT, THE



35 DEPARTMENT SHALL FILE A PETITION TO DO SO; TO REQUIRE THE COURT TO
36 HOLD A HEARING IN REGARD TO THE TERMINATION OF PARENTAL RIGHTS
37 WITHIN A CERTAIN TIMEFRAME; TO REPEAL SECTION 43-15-207,
38 MISSISSIPPI CODE OF 1972, WHICH DEFINED THE TERM "EMERGENCY
39 MEDICAL SERVICES PROVIDER" FOR PURPOSES OF THE ARTICLE; AND FOR
40 RELATED PURPOSES.

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

42 **SECTION 1.** The following shall be codified as Section
43 43-15-200, Mississippi Code of 1972:

44 43-15-200. The purpose of this article is to provide a
45 mechanism whereby any parent may relinquish the care of an infant
46 to the state in safety, anonymity, and without fear of
47 prosecution. This article shall be known as and may be cited as
48 the "Mississippi Safe Haven Law".

49 **SECTION 2.** The following shall be codified as Section
50 43-15-200.1, Mississippi Code of 1972:

51 43-15-200.1. As used in this article, the following terms
52 have the meaning herein ascribed unless the context clearly
53 requires otherwise:

54 (a) "Department" means the Department of Child
55 Protection Services.

56 (b) "Emergency medical services provider" shall mean a
57 licensed hospital, as defined in Section 41-9-3, which operates an
58 emergency department, an adoption agency duly licensed by the
59 Department of Human Services, or fire station or mobile ambulance
60 staffed with full-time firefighters, emergency medical technicians
61 or paramedics. "Emergency medical services provider" does not
62 include the offices, clinics, surgeries or treatment facilities of



63 private physicians or dentists. "Emergency medical services
64 provider" does not include any individual licensed healthcare
65 provider, including physicians, dentists, nurses, physician
66 assistants or other health professionals under this article unless
67 such individual voluntarily assumes responsibility for the custody
68 of the child.

69 (c) "Infant" means a child not previously subjected to
70 abuse or neglect, who is not more than sixty (60) days old as
71 determined within a reasonable degree of medical certainty by an
72 examining physician.

73 (d) "Newborn safety device" means a device:

74 (i) Designed to permit a mother to anonymously
75 place an infant in the device with the intent to leave the infant
76 for an emergency medical services provider to remove the infant
77 from the device and take custody of the infant;

78 (ii) Installed in a conspicuous location with an
79 adequate dual alarm system connected to the physical location
80 where the device is installed. The dual alarm system must be:

81 1. Tested at least once per month to ensure
82 the alarm system is in working order; and

83 2. Visually checked at least twice per day to
84 ensure the alarm system is in working order; and

85 (iii) Approved by and located inside a
86 participating emergency medical services provider that is:



- 87 1. Licensed or otherwise legally operating in
88 this state; and
- 89 2. Staffed continuously on a twenty-four (24)
90 hour basis every day.

91 (e) "Relinquish" or "relinquishment" means the action
92 of a parent in leaving an infant on the premises of an emergency
93 medical services provider, with a facility employee or member of
94 the professional medical community at the facility, or in a
95 newborn safety device, without expressing an intention to return
96 for the infant.

97 **SECTION 3.** Section 43-15-201, Mississippi Code of 1972, is
98 amended as follows:

99 43-15-201. (1) An emergency medical services provider,
100 without a court order, shall take possession of a child who is
101 seven (7) days old or younger if the child is voluntarily
102 delivered to the provider by the child's parent and the parent did
103 not express an intent to return for the child.

104 (2) The parent who surrenders the baby shall not be required
105 to provide any information pertaining to his or her identity, nor
106 shall the emergency medical services provider inquire as to same.
107 If the identity of the parent is known to the emergency medical
108 services provider, the emergency medical services provider shall
109 keep the identity confidential.

110 (3) The emergency medical services provider must ask the
111 person relinquishing the infant to identify any parent of the



112 infant other than the person leaving the infant with the emergency
113 medical services provider. The emergency medical services
114 provider also must attempt to obtain from the person information
115 concerning the infant's background and medical history as
116 specified on a form provided by the department. This information
117 must include, but is not limited to, information concerning the
118 use of a controlled substance by the infant's mother, provided
119 that information regarding the use of a controlled substance by
120 the infant's mother is not admissible as evidence of the unlawful
121 use of a controlled substance in any court proceeding. The
122 emergency medical services provider must give the person a copy of
123 the form and a prepaid envelope for mailing the form to the
124 department if the person does not wish to provide the information
125 to the provider.

126 (4) An emergency medical services provider who takes
127 possession of an infant under this section shall perform any act
128 necessary to protect the physical health or safety of the infant.
129 A physician shall promptly conduct a comprehensive medical
130 screening to determine:

131 (a) If the infant suffered fetal exposure to alcohol or
132 drugs;

133 (b) If the infant appears to have been abused or
134 neglected; and

135 (c) The infant's estimated date of birth, if not
136 previously known.



137 (5) If an infant is relinquished to an emergency medical
138 services provider other than a hospital, the staff of the facility
139 shall immediately transfer the infant to a hospital.

140 (* * *6) A female presenting herself to a hospital through
141 the emergency room or otherwise, who is subsequently admitted for
142 purposes of labor and delivery, does not give up the legal
143 protections or anonymity guaranteed under this section. If the
144 mother clearly expresses a desire to voluntarily surrender custody
145 of the newborn after birth, the emergency medical services
146 provider can take possession of the child, without further action
147 by the mother, as if the child had been presented to the emergency
148 medical services provider in the same manner outlined above in
149 subsection (1) of this section.

150 (a) If the mother expresses a desire to remain
151 anonymous, identifying information may be obtained for purposes of
152 securing payment of labor and delivery costs only. If the birth
153 mother is a minor, the hospital may use the identifying
154 information to secure payment through Medicaid, but shall not
155 notify the minor's parent or guardian without the minor's consent.

156 (b) The identity of the birth mother shall not be
157 placed on the birth certificate or disclosed to the Department of
158 Human Services.

159 (* * *7) There is a presumption that by relinquishing a
160 child in accordance with this section, the parent consents to the
161 termination of his or her parental rights with respect to the



162 child. As such, the parent waives the right to notification
163 required by subsequent court proceedings.

164 * * *

165 **SECTION 4.** Section 43-15-203, Mississippi Code of 1972, is
166 amended as follows:

167 43-15-203. (1) No later than the close of the first
168 business day after the date on which an emergency medical services
169 provider takes possession of a child pursuant to Section
170 43-15-201, the provider shall notify the department * * * that the
171 provider has taken possession of the child.

172 (2) The department shall * * * take legal custody of
173 the * * * infant immediately on receipt of notice pursuant to
174 subsection (1). The department shall take physical custody of the
175 infant as soon as practicable but not later than twenty-four hours
176 after receiving notice that the infant is ready to be discharged
177 from the hospital.

178 (3) The department shall be responsible for all medical and
179 other costs associated with the child and shall reimburse the
180 hospital for any costs incurred prior to the child being placed in
181 the care of the department.

182 (4) Immediately after assuming legal custody of the infant,
183 the department shall report the child to appropriate state and
184 local law enforcement agencies as a potential missing child.



185 (5) A law enforcement agency that receives a report under
186 this section shall investigate whether the child is reported as
187 missing.

188 **SECTION 5.** The following shall be codified as Section
189 43-15-204, Mississippi Code of 1972:

190 43-15-204. (1) A hearing shall be held by the court within
191 forty-eight hours after the infant enters the custody of the
192 department. No notice to a parent or other caretaker shall be
193 required.

194 (2) The department has the burden to prove the following at
195 the hearing:

196 (a) There are reasonable grounds to believe that the
197 infant has been relinquished to the department in accordance with
198 this article.

199 (b) There is no evidence that the infant was abused or
200 neglected prior to the infant's relinquishment.

201 (3) If the court finds that the department has satisfied the
202 requirements of subsection (2) of this section and that removal of
203 the infant is necessary in order to safeguard the infant's
204 welfare, it shall order continued custody of the infant in the
205 department prior to final entry of an order declaring parental
206 rights terminated and enter a finding that the department is
207 deemed to have made reasonable efforts to prevent or eliminate the
208 need for removal and that reunification efforts are not required.



209 (4) The department is not required to conduct a search for
210 the relatives of a child for whom the department assumes care,
211 control, and custody under this article.

212 **SECTION 6.** The following shall be codified as Section
213 43-15-204.1, Mississippi Code of 1972:

214 43-15-204.1. (1) Within forty-eight hours after taking
215 legal custody of the infant, the department shall publish notice,
216 in a newspaper of general circulation in the area where the
217 emergency medical services provider that initially took the infant
218 is located, and send a news release to broadcast and print media
219 in the area. The notice and the news release must state the
220 circumstances under which the infant was left at the provider, a
221 description of the infant, and the date, time, and place of the
222 hearing provided for in this section. The notice and the news
223 release must also state that any person wishing to assert parental
224 rights in regard to the infant must do so at the hearing. If the
225 person who relinquished the infant identified anyone as being a
226 parent of the infant, the notice must be sent by certified mail to
227 the last known address of the person identified as a parent at
228 least two weeks prior to the hearing.

229 (2) Within forty-eight hours after obtaining legal custody
230 of the infant, the department shall file a petition alleging that
231 the infant has been abandoned, that the court should dispense with
232 reasonable efforts to preserve or reunify the family, that
233 continuation of keeping the infant in the home of the parent or



234 parents would be contrary to the welfare of the infant, and that
235 termination of parental rights is in the best interest of the
236 infant. A hearing on the petition must be held no earlier than
237 thirty and no later than forty-five days after the department
238 takes legal custody of the infant. This hearing shall be deemed
239 to satisfy any other requirements for an adjudication or
240 disposition hearing and shall further serve as the permanency
241 planning hearing for the infant.

242 (3) If the court approves the permanent plan of termination
243 of parental rights, the order must also provide that a petition
244 for termination of parental rights on the grounds of abandonment
245 must be filed within ten days after receipt of the order by the
246 department. A hearing on the petition for termination of parental
247 rights must be set for no later than thirty days after the
248 petition is filed.

249 **SECTION 7.** Section 43-15-207, Mississippi Code of 1972,
250 which defined the term "emergency medical services provider" for
251 the purposes of this article, is repealed.

252 **SECTION 8.** This act shall take effect and be in force from
253 and after July 1, 2023.

