

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

To: Judiciary A

HOUSE BILL NO. 1318
(As Sent to Governor)

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 REVISE THE DEFINITION OF EMERGENCY SERVICES PROVIDER; TO AMEND
11 SECTION 43-15-209, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
12 PRECEDING SECTION; TO CREATE NEW SECTION 43-15-211, MISSISSIPPI
13 CODE OF 1972, TO PRESCRIBE DUTIES TO INSTALL A BABY SAFETY DEVICE;
14 TO AMEND SECTION 93-15-103, MISSISSIPPI CODE OF 1972, TO CLARIFY
15 THAT SURRENDER OF A CHILD UNDER THE "BABY DROP-OFF LAW" IS
16 CONSIDERED ABANDONMENT FOR PURPOSES OF TERMINATION OF PARENTAL
17 RIGHTS; TO AMEND SECTION 93-15-109, MISSISSIPPI CODE OF 1972, TO
18 CLARIFY THE AUTHORITY OF EMERGENCY SERVICES PROVIDERS TO RECEIVE
19 BABIES FOR PURPOSES OF TERMINATION OF PARENTAL RIGHTS; AND FOR
20 RELATED PURPOSES.

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

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

24 43-15-201. (1) An emergency medical services provider,
25 without a court order, shall take possession of a child who
26 is * * * forty-five (45) days old or younger if the child is
27 voluntarily:



28 (a) Delivered to the provider;
29 (b) Placed in a baby safety device that is sponsored by
30 an emergency medical services provider and meets the requirements
31 described in subsection (2) of this section by the child's parent
32 and the parent did not express an intent to return for the
33 child * * *;

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

39 (d) A person designated by the parent.

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

42 (a) Designed to permit a parent to anonymously place an
43 infant in a climate controlled device with the intent to leave the
44 infant for an emergency medical services provider to remove the
45 infant from the device and take custody of the infant;

46 (b) Installed in a conspicuous location with an
47 adequate dual alarm system connected to the physical location
48 where the device is installed. The dual alarm system must be:

49 (i) Tested at least once per week to ensure the
50 alarm system is in working order; and

51 (ii) Visually checked at least twice per day to
52 ensure the alarm system is in working order; and



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

55 1. Licensed or otherwise legally operating in
56 this state; and

57 2. Staffed continuously on a twenty-four-hour
58 basis, seven (7) days a week and three hundred sixty-five (365)
59 days a year.

60 (c) Installed by a contractor licensed by the State of
61 Mississippi.

62 (d) The supporting frame of the device is anchored to
63 prevent movement of the unit as a whole.

64 (3) An adoption agency duly licensed by the Department of
65 Child Protection Services shall be prohibited from installing and
66 maintaining a baby safety device.

67 (* * *4) The parent or a person designated by the parent
68 who surrenders the baby shall not be required to provide any
69 information pertaining to his or her identity, nor shall the
70 emergency medical services provider inquire as to same. If the
71 identity of the parent or a person designated by the parent is
72 known to the emergency medical services provider, the emergency
73 medical services provider shall keep the identity confidential.

74 (* * *5) A female presenting herself to a hospital through
75 the emergency room or otherwise, who is subsequently admitted for
76 purposes of labor and delivery, does not give up the legal
77 protections or anonymity guaranteed under this section. If the



78 mother clearly expresses a desire to voluntarily surrender custody
79 of the newborn after birth, the emergency medical services
80 provider can take possession of the child, without further action
81 by the mother, as if the child had been presented to the emergency
82 medical services provider in the same manner outlined above in
83 subsection (1) of this section.

84 (a) If the mother expresses a desire to remain
85 anonymous, identifying information may be obtained for purposes of
86 securing payment of labor and delivery costs only. If the birth
87 mother is a minor, the hospital may use the identifying
88 information to secure payment through Medicaid, but shall not
89 notify the minor's parent or guardian without the minor's consent.

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

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

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



102 43-15-203. (1) No later than the close of the first
103 business day after the date on which an emergency medical services
104 provider takes possession of a child pursuant to Section
105 43-15-201, the provider shall notify the Department of * * * Child
106 Protection Services that the provider has taken possession of the
107 child.

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

114 (3) (a) Immediately after assuming legal custody of the
115 infant, the department shall contact the local law enforcement
116 agency in the municipality or county in which the infant was
117 surrendered and the Department of Public Safety to determine
118 whether the infant is a missing child in this state or another
119 state. If the department determines that the infant is a missing
120 child, then the department shall perform its due diligence to
121 reunite the infant with his or her family.

122 (b) A law enforcement agency that is contacted under
123 the provisions of this subsection shall investigate whether the
124 child is reported as missing.

125 (c) For purposes of this subsection (3), the term
126 "missing child" means person under the age of eighteen (18)



127 reported to police or by police as someone whose whereabouts are
128 unknown for any reason.

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

131 43-15-205. It shall be an absolute affirmative defense to
132 prosecution under Sections 97-5-1, 97-5-3 and 97-5-39 if the
133 parent or a person designated by the parent voluntarily delivers
134 the child unharmed to an emergency medical services provider
135 pursuant to * * * this act.

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

138 43-15-207. For the purposes of this article, * * * the
139 following words shall have the meanings described herein:

140 (a) "Emergency medical services provider" * * * means
141 a licensed hospital, as defined in Section 41-9-3, which operates
142 an emergency department, an adoption agency duly licensed by the
143 Department of * * * Child Protection Services, any county or
144 municipality that sponsors a baby safety device that meets the
145 requirements of this act, state or local law enforcement agency or
146 fire station or mobile ambulance staffed with full-time
147 firefighters, emergency medical technicians or paramedics. An
148 emergency medical services provider does not include the offices,
149 clinics, surgeries or treatment facilities of private physicians
150 or dentists. No individual licensed healthcare provider,
151 including physicians, dentists, nurses, physician assistants or



152 other health professionals shall be deemed to be an emergency
153 medical services provider under this article unless such
154 individual voluntarily assumes responsibility for the custody of
155 the child.

156 (b) "Surrender" or "Surrenders" means the action of a
157 parent in leaving an infant on the premises of an emergency
158 medical services provider, with a facility employee or member of
159 the professional medical community at the facility, or in a
160 newborn safety device, without expressing an intention to return
161 for the infant.

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

164 43-15-209. A person * * *, entity, county or municipality
165 taking possession of a child under the provisions of this article
166 shall be immune from liability for any civil action arising out of
167 any act or omission resulting from taking possession of the child
168 unless the act or omission was the result of the person's or
169 entity's gross negligence or willful misconduct or failure to meet
170 any other requirements of this act.

171 **SECTION 6.** The following shall be codified as Section
172 43-15-211, Mississippi Code of 1972:

173 43-15-211. (1) Any emergency services provider that
174 installs a baby safety device shall post signage that is approved
175 by the Department of Child Protection Services at the site of the
176 device that clearly identifies the device and provides both



177 written and pictorial instruction to the surrendering parent to
178 open the access door, place the infant inside the device, and
179 close the access door to engage the lock. The signage shall also
180 clearly indicate all of the following:

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

183 (b) That the infant must not have been previously
184 subjected to abuse or neglect.

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

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

191 93-15-103. For purposes of this chapter, unless a different
192 meaning is plainly expressed by the context, the following
193 definitions apply:

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

199 (i) For a child who is under three (3) years of
200 age on the date that the petition for termination of parental



201 rights was filed, that the parent has deliberately made no contact
202 with the child for six (6) months;

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

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

211 (iv) If the parent gives possession of the child
212 to an emergency medical services provider pursuant to Sections
213 43-15-201 et seq.

214 (b) "Child" means a person under eighteen (18) years of
215 age.

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

218 (d) "Desertion" means:

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

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



225 (e) "Home" means any charitable or religious
226 corporation or organization or the superintendent or head of the
227 charitable or religious corporation or organization organized
228 under the laws of the State of Mississippi, any public authority
229 to which has been granted the power to provide care for or procure
230 the adoption of children by any Mississippi statute, and any
231 association or institution engaged in placing children for
232 adoption on July 1, 1955.

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

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

240 (h) "Parent" means a natural or adoptive parent of the
241 child.

242 (i) "Permanency outcome" means achieving a permanent or
243 long-term custodial arrangement for the custody and care of the
244 child that ends the supervision of the Department of Child
245 Protection Services.

246 (j) "Qualified health professional" means a licensed or
247 certified professional who is engaged in the delivery of health
248 services and who meets all applicable federal or state
249 requirements to provide professional services.



250 (k) "Qualified mental health professional" means a
251 person with at least a master's degree in mental health or a
252 related field and who has either a professional license or a
253 Department of Mental Health credential as a mental health
254 therapist.

255 (l) "Reunification" means the restoration of the
256 parent's custodial rights in providing for the safety and welfare
257 of the child which ends the supervision of the Department of Child
258 Protection Services.

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

261 93-15-109. (1) A parent may accomplish the surrender of a
262 child to the Department of Child Protection Services or to a home
263 by:

264 (a) Delivering the child to the Department of Child
265 Protection Services or the home;

266 (b) Executing an affidavit of a written agreement that
267 names the child and which vests in the Department of Child
268 Protection Services or the home the exclusive custody, care and
269 control of the child; and

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

272 (2) If a child has been surrendered to a home or other
273 agency operating under the laws of another state, and the child is
274 delivered into the custody of a petitioner or home within this



275 state, the execution of consent by the nonresident home or agency
276 shall be sufficient.

277 (3) A parent may accomplish the surrender of a child to an
278 emergency medical services provider pursuant to Sections 43-15-201
279 et seq. Nothing in this section * * * shall be construed to limit
280 or restrict the delivery and surrender of a child to an emergency
281 medical services provider pursuant to * * * Section
282 43-15-201 * * * et seq.

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

