

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE NO. 2 FOR

SENATE BILL NO. 66

91ST GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, February 26, 2001, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0520S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 568.030, 568.045 and 568.050, RSMo 2000, relating to abandonment of a child, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 568.030, 568.045 and 568.050, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 210.950, 568.030, 568.045 and 568.050, to read as follows:

210.950. 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2001".

2. A parent shall not be prosecuted for a violation of section 568.030, 568.045 or 568.050, RSMo, if:

(1) The parent leaves his or her newborn child in the physical custody of an employee, agent or member of the staff of a hospital, as defined in section 197.020, RSMo, who is on duty in a paid or volunteer position;

(2) The newborn child is no more than five days old; and

(3) The newborn child has not been physically abused by such parent.

3. A hospital shall, without a court order, take physical custody of a child who is five days old or younger if the child is voluntarily delivered to the facility by the child's parent and the parent does not express an intent to return for the child. The hospital shall perform any act necessary to protect the physical health or safety of the child. The parent's voluntary delivery of the child in accordance with this section shall

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

constitute the parents implied consent to any such act. The hospital shall notify the division of family services at such time as such child is medically ready for discharge. Upon such notification, the division of family services shall take physical custody of the child within six hours.

4. The division of family services shall:

(1) Provide information and answer questions about the process established by this section on the statewide, toll-free telephone number maintained pursuant to section 210.145, RSMo;

(2) Provide information to the public by way of pamphlets, brochures, or by other ways to deliver information about the process established by this section.

568.030. 1. A person commits the crime of abandonment of a child in the first degree if, as a parent, guardian or other person legally charged with the care or custody of a child less than four years old, he leaves the child in any place with purpose wholly to abandon it, under circumstances which are likely to result in serious physical injury or death.

2. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

[2.] **3.** Abandonment of a child in the first degree is a class B felony.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age, unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950,

RSMo.

[2.] **3.** Endangering the welfare of a child in the first degree is a class D felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class C felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

[3.] **4.** Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.