

FIRST REGULAR SESSION

SENATE BILL NO. 256

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SILVEY.

Read 1st time February 4, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1371S.01I

AN ACT

To repeal sections 210.950 and 211.447, RSMo, and to enact in lieu thereof two new sections relating to the safe place for newborns act.

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

Section A. Sections 210.950 and 211.447, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 210.950 and 211.447, to
3 read as follows:

210.950. 1. This section shall be known and may be cited as the "Safe
2 Place for Newborns Act of 2002". The purpose of this section is to protect
3 newborn children from injury and death caused by abandonment by a parent, and
4 to provide safe and secure alternatives to such abandonment.

5 2. As used in this section, the following terms mean:

6 (1) "Hospital", as defined in section 197.020;

7 (2) "Nonrelinquishing parent", the biological parent who does not leave a
8 newborn infant with any person listed in subsection 3 of this section in
9 accordance with this section;

10 (3) "Relinquishing parent", the biological parent or person acting on such
11 parent's behalf who leaves a newborn infant with any person listed in subsection
12 3 of this section in accordance with this section.

13 3. A parent shall not be prosecuted for a violation of section 568.030,
14 568.032, 568.045 or 568.050 for actions related to the voluntary relinquishment
15 of a child up to [five] **forty-five** days old pursuant to this section [and it shall
16 be an affirmative defense to prosecution for a violation of sections 568.030,
17 568.032, 568.045 and 568.050, that a parent who is a defendant voluntarily
18 relinquished a child no more than one year old pursuant to this section] if:

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

19 (1) Expressing intent not to return for the child, the parent voluntarily
20 delivered the child safely to the physical custody of any of the following persons:

21 (a) An employee, agent, or member of the staff of any hospital, in a health
22 care provider position or on duty in a nonmedical paid or volunteer position;

23 (b) A firefighter or emergency medical technician on duty in a paid
24 position or on duty in a volunteer position; or

25 (c) A law enforcement officer;

26 (2) The child was no more than [one year] **forty-five days** old when
27 delivered by the parent to any person listed in subdivision (1) of this subsection;
28 and

29 (3) The child has not been abused or neglected by the parent prior to such
30 voluntary delivery.

31 **4. A parent voluntarily relinquishing a child under this section**
32 **shall not be required to provide any identifying information about the**
33 **child or the parent. No person shall induce or coerce, or attempt to**
34 **induce or coerce, a parent into revealing his or her identity. No officer,**
35 **employee, or agent of this state or any political subdivision of this state**
36 **shall attempt to locate or determine the identity of such parent. In**
37 **addition, any person who obtains information on the relinquishing**
38 **parent shall not disclose such information except to the following:**

39 (1) A birth parent who has waived anonymity or the child's
40 adoptive parent;

41 (2) The staff of the department of health and senior services, the
42 department of social services, or any county health or social services
43 agency or licensed child welfare agency that provides services to the
44 child;

45 (3) A person performing juvenile court intake or dispositional
46 services;

47 (4) The attending physician;

48 (5) The child's foster parent or any other person who has
49 physical custody of the child;

50 (6) A juvenile court or other court of competent jurisdiction
51 conducting proceedings relating to the child;

52 (7) The attorney representing the interests of the public in
53 proceedings relating to the child; and

54 (8) The attorney representing the interests of the child.

55 **5.** A person listed in subdivision (1) of subsection 3 of this section shall,
56 without a court order, take physical custody of a child the person reasonably
57 believes to be no more than [one year] **forty-five days** old and is delivered in
58 accordance with this section by a person purporting to be the child's parent. If
59 delivery of a newborn is made pursuant to this section in any place other than a
60 hospital, the person taking physical custody of the child shall arrange for the
61 immediate transportation of the child to the nearest hospital licensed pursuant
62 to chapter 197, RSMo.

63 **[5.] 6.** The hospital, its employees, agents and medical staff shall perform
64 treatment in accordance with the prevailing standard of care as necessary to
65 protect the physical health or safety of the child. The hospital shall notify the
66 division of family services and the local juvenile officer upon receipt of a child
67 pursuant to this section. The local juvenile officer shall immediately begin
68 protective custody proceedings and request the child be made a ward of the court
69 during the child's stay in the medical facility. Upon discharge of the child from
70 the medical facility and pursuant to a protective custody order ordering custody
71 of the child to the division, the **children's** division [of family services] shall take
72 physical custody of the child. The parent's voluntary delivery of the child in
73 accordance with this section shall constitute the parent's implied consent to any
74 such act and a voluntary relinquishment of such parent's parental rights.

75 **[6.] 7.** In any termination of parental rights proceeding initiated after the
76 relinquishment of a child pursuant to this section, the juvenile officer shall make
77 public notice that a child has been relinquished, including the sex of the child,
78 and the date and location of such relinquishment. Within thirty days of such
79 public notice, the [nonrelinquishing] parent wishing to establish parental rights
80 shall identify himself or herself to the court and state his or her intentions
81 regarding the child. The court shall initiate proceedings to establish paternity,
82 or if no person identifies himself as the father within thirty days, maternity. The
83 juvenile officer shall make examination of the putative father registry established
84 in section 192.016 to determine whether attempts have previously been made to
85 preserve parental rights to the child. If such attempts have been made, the
86 juvenile officer shall make reasonable efforts to provide notice of the
87 abandonment of the child to such putative father.

88 **[7.] 8.** (1) If a relinquishing parent of a child relinquishes custody of the
89 child to any person listed in subsection 3 of this section in accordance with this
90 section and to preserve the parental rights of the nonrelinquishing parent, the

91 nonrelinquishing parent shall take such steps necessary to establish parentage
92 within thirty days after the public notice or specific notice provided in subsection
93 [6] 7 of this section.

94 (2) If [a nonrelinquishing] **either** parent fails to take steps to establish
95 parentage within the thirty-day period specified in subdivision (1) of this
96 subsection, [the nonrelinquishing] **either** parent may have all of his or her rights
97 terminated with respect to the child.

98 (3) When [a nonrelinquishing] **either** parent inquires at a hospital
99 regarding a child whose custody was relinquished pursuant to this section, such
100 facility shall refer [the nonrelinquishing] **such** parent to the **children's** division
101 [of family services] and the juvenile court exercising jurisdiction over the child.

102 [8.] **9.** The persons listed in subdivision (1) of subsection 3 of this section
103 shall be immune from civil, criminal, and administrative liability for accepting
104 physical custody of a child pursuant to this section if such persons accept custody
105 in good faith. Such immunity shall not extend to any acts or omissions, including
106 negligent or intentional acts or omissions, occurring after the acceptance of such
107 child.

108 [9.] **10.** The **children's** division [of family services] shall:

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

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

114 [10.] **11. It shall be an affirmative defense to prosecution for a**
115 **violation of sections 568.030, 568.032, 568.045, and 568.050 that a parent**
116 **who is a defendant voluntarily relinquished a child no more than one**
117 **year old under this section.**

118 **12.** Nothing in this section shall be construed as conflicting with section
119 210.125.

211.447. 1. Any information that could justify the filing of a petition to
2 terminate parental rights may be referred to the juvenile officer by any
3 person. The juvenile officer shall make a preliminary inquiry and if it does not
4 appear to the juvenile officer that a petition should be filed, such officer shall so
5 notify the informant in writing within thirty days of the referral. Such
6 notification shall include the reasons that the petition will not be
7 filed. Thereupon, the informant may bring the matter directly to the attention

8 of the judge of the juvenile court by presenting the information in writing, and
9 if it appears to the judge that the information could justify the filing of a petition,
10 the judge may order the juvenile officer to take further action, including making
11 a further preliminary inquiry or filing a petition.

12 2. Except as provided for in subsection 4 of this section, a petition to
13 terminate the parental rights of the child's parent or parents shall be filed by the
14 juvenile officer or the division, or if such a petition has been filed by another
15 party, the juvenile officer or the division shall seek to be joined as a party to the
16 petition, when:

17 (1) Information available to the juvenile officer or the division establishes
18 that the child has been in foster care for at least fifteen of the most recent
19 twenty-two months; or

20 (2) A court of competent jurisdiction has determined the child to be an
21 abandoned infant. For purposes of this subdivision, an "infant" means any child
22 one year of age or under at the time of filing of the petition. The court may find
23 that an infant has been abandoned if:

24 (a) The parent has left the child under circumstances that the identity of
25 the child was unknown and could not be ascertained, despite diligent searching,
26 and the parent has not come forward to claim the child; or

27 (b) The parent has, without good cause, left the child without any
28 provision for parental support and without making arrangements to visit or
29 communicate with the child, although able to do so; or

30 **(c) The parent has voluntarily relinquished a child under section**
31 **210.950; or**

32 (3) A court of competent jurisdiction has determined that the parent has:

33 (a) Committed murder of another child of the parent; or

34 (b) Committed voluntary manslaughter of another child of the parent; or

35 (c) Aided or abetted, attempted, conspired or solicited to commit such a
36 murder or voluntary manslaughter; or

37 (d) Committed a felony assault that resulted in serious bodily injury to
38 the child or to another child of the parent.

39 3. A termination of parental rights petition shall be filed by the juvenile
40 officer or the division, or if such a petition has been filed by another party, the
41 juvenile officer or the division shall seek to be joined as a party to the petition,
42 within sixty days of the judicial determinations required in subsection 2 of this
43 section, except as provided in subsection 4 of this section. Failure to comply with

44 this requirement shall not deprive the court of jurisdiction to adjudicate a
45 petition for termination of parental rights which is filed outside of sixty days.

46 4. If grounds exist for termination of parental rights pursuant to
47 subsection 2 of this section, the juvenile officer or the division may, but is not
48 required to, file a petition to terminate the parental rights of the child's parent
49 or parents if:

50 (1) The child is being cared for by a relative; or

51 (2) There exists a compelling reason for determining that filing such a
52 petition would not be in the best interest of the child, as documented in the
53 permanency plan which shall be made available for court review; or

54 (3) The family of the child has not been provided such services as provided
55 for in section 211.183.

56 5. The juvenile officer or the division may file a petition to terminate the
57 parental rights of the child's parent when it appears that one or more of the
58 following grounds for termination exist:

59 (1) The child has been abandoned. For purposes of this subdivision a
60 "child" means any child over one year of age at the time of filing of the
61 petition. The court shall find that the child has been abandoned if, for a period
62 of six months or longer:

63 (a) The parent has left the child under such circumstances that the
64 identity of the child was unknown and could not be ascertained, despite diligent
65 searching, and the parent has not come forward to claim the child; or

66 (b) The parent has, without good cause, left the child without any
67 provision for parental support and without making arrangements to visit or
68 communicate with the child, although able to do so;

69 (2) The child has been abused or neglected. In determining whether to
70 terminate parental rights pursuant to this subdivision, the court shall consider
71 and make findings on the following conditions or acts of the parent:

72 (a) A mental condition which is shown by competent evidence either to be
73 permanent or such that there is no reasonable likelihood that the condition can
74 be reversed and which renders the parent unable to knowingly provide the child
75 the necessary care, custody and control;

76 (b) Chemical dependency which prevents the parent from consistently
77 providing the necessary care, custody and control of the child and which cannot
78 be treated so as to enable the parent to consistently provide such care, custody
79 and control;

80 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
81 toward the child or any child in the family by the parent, including an act of
82 incest, or by another under circumstances that indicate that the parent knew or
83 should have known that such acts were being committed toward the child or any
84 child in the family; or

85 (d) Repeated or continuous failure by the parent, although physically or
86 financially able, to provide the child with adequate food, clothing, shelter, or
87 education as defined by law, or other care and control necessary for the child's
88 physical, mental, or emotional health and development. Nothing in this
89 subdivision shall be construed to permit discrimination on the basis of disability
90 or disease;

91 (3) The child has been under the jurisdiction of the juvenile court for a
92 period of one year, and the court finds that the conditions which led to the
93 assumption of jurisdiction still persist, or conditions of a potentially harmful
94 nature continue to exist, that there is little likelihood that those conditions will
95 be remedied at an early date so that the child can be returned to the parent in
96 the near future, or the continuation of the parent-child relationship greatly
97 diminishes the child's prospects for early integration into a stable and permanent
98 home. In determining whether to terminate parental rights under this
99 subdivision, the court shall consider and make findings on the following:

100 (a) The terms of a social service plan entered into by the parent and the
101 division and the extent to which the parties have made progress in complying
102 with those terms;

103 (b) The success or failure of the efforts of the juvenile officer, the division
104 or other agency to aid the parent on a continuing basis in adjusting his
105 circumstances or conduct to provide a proper home for the child;

106 (c) A mental condition which is shown by competent evidence either to be
107 permanent or such that there is no reasonable likelihood that the condition can
108 be reversed and which renders the parent unable to knowingly provide the child
109 the necessary care, custody and control;

110 (d) Chemical dependency which prevents the parent from consistently
111 providing the necessary care, custody and control over the child and which cannot
112 be treated so as to enable the parent to consistently provide such care, custody
113 and control; or

114 (4) The parent has been found guilty or pled guilty to a felony violation
115 of chapter 566 when the child or any child in the family was a victim, or a

116 violation of section 568.020 when the child or any child in the family was a
117 victim. As used in this subdivision, a "child" means any person who was under
118 eighteen years of age at the time of the crime and who resided with such parent
119 or was related within the third degree of consanguinity or affinity to such parent;
120 or

121 (5) The child was conceived and born as a result of an act of forcible
122 rape. When the biological father has pled guilty to, or is convicted of, the forcible
123 rape of the birth mother, such a plea or conviction shall be conclusive evidence
124 supporting the termination of the biological father's parental rights; or

125 (6) The parent is unfit to be a party to the parent and child relationship
126 because of a consistent pattern of committing a specific abuse, including but not
127 limited to abuses as defined in section 455.010, child abuse or drug abuse before
128 the child or of specific conditions directly relating to the parent and child
129 relationship either of which are determined by the court to be of a duration or
130 nature that renders the parent unable, for the reasonably foreseeable future, to
131 care appropriately for the ongoing physical, mental or emotional needs of the
132 child. It is presumed that a parent is unfit to be a party to the parent-child
133 relationship upon a showing that within a three-year period immediately prior
134 to the termination adjudication, the parent's parental rights to one or more other
135 children were involuntarily terminated pursuant to subsection 2 or 4 of this
136 section or subdivisions (1), (2), (3) or (4) of [subsection 5 of this section] **this**
137 **subsection** or similar laws of other states.

138 6. The juvenile court may terminate the rights of a parent to a child upon
139 a petition filed by the juvenile officer or the division, or in adoption cases, by a
140 prospective parent, if the court finds that the termination is in the best interest
141 of the child and when it appears by clear, cogent and convincing evidence that
142 grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

143 7. When considering whether to terminate the parent-child relationship
144 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of
145 subsection 5 of this section, the court shall evaluate and make findings on the
146 following factors, when appropriate and applicable to the case:

147 (1) The emotional ties to the birth parent;

148 (2) The extent to which the parent has maintained regular visitation or
149 other contact with the child;

150 (3) The extent of payment by the parent for the cost of care and
151 maintenance of the child when financially able to do so including the time that

152 the child is in the custody of the division or other child-placing agency;

153 (4) Whether additional services would be likely to bring about lasting
154 parental adjustment enabling a return of the child to the parent within an
155 ascertainable period of time;

156 (5) The parent's disinterest in or lack of commitment to the child;

157 (6) The conviction of the parent of a felony offense that the court finds is
158 of such a nature that the child will be deprived of a stable home for a period of
159 years; provided, however, that incarceration in and of itself shall not be grounds
160 for termination of parental rights;

161 (7) Deliberate acts of the parent or acts of another of which the parent
162 knew or should have known that subjects the child to a substantial risk of
163 physical or mental harm.

164 8. The court may attach little or no weight to infrequent visitations,
165 communications, or contributions. It is irrelevant in a termination proceeding
166 that the maintenance of the parent-child relationship may serve as an
167 inducement for the parent's rehabilitation.

168 9. In actions for adoption pursuant to chapter 453, the court may hear and
169 determine the issues raised in a petition for adoption containing a prayer for
170 termination of parental rights filed with the same effect as a petition permitted
171 pursuant to subsection 2, 4, or 5 of this section.

172 10. The disability or disease of a parent shall not constitute a basis for a
173 determination that a child is a child in need of care, for the removal of custody
174 of a child from the parent, or for the termination of parental rights without a
175 specific showing that there is a causal relation between the disability or disease
176 and harm to the child.

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