

ENROLLED ACT NO. 66, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

AN ACT relating to children; providing a safe haven for a newborn child; providing for the termination of parental rights; authorizing rulemaking; requiring reports; making conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 14-11-101 through 14-11-109 are created to read:

CHAPTER 11
SAFETY FOR A NEWBORN CHILD

14-11-101. Purpose and intent.

The purpose of this act is to provide to a parent of a newborn child the means to relinquish the child so that the child may be cared for and protected in a safe haven.

14-11-102. Definitions.

(a) As used in this act:

(i) "Abuse" means as defined by W.S. 14-3-202(a)(ii);

(ii) "Child protective agency" means as defined by W.S. 14-3-202(a)(iv);

(iii) "Fire station" means a fire station that is open and operating twenty-four (24) hours a day, seven (7) days a week, and that is continually staffed with full-time, paid firefighters who have emergency medical services training;

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(iv) "Hospital" means a general acute hospital that is:

(A) Equipped with an emergency room;

(B) Open twenty-four (24) hours a day, seven (7) days a week; and

(C) Employs full-time health care professionals who have emergency medical services training.

(v) "Neglect" means as defined by W.S. 14-3-202(a)(vii);

(vi) "Newborn child" means a child who is fourteen (14) days of age or younger as determined within a reasonable degree of medical certainty;

(vii) "Safe haven provider" means any of the following that is staffed twenty-four (24) hours a day, seven (7) days a week:

(A) A fire station;

(B) A hospital;

(C) A police department or sheriff's office; or

(D) Any other place of shelter and safety identified by the department of family services which meets the requirements of rules and regulations promulgated pursuant to W.S. 14-11-107.

(viii) "This act" means W.S. 14-11-101 through 14-11-109.

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14-11-103. Relinquishment of a newborn child.

(a) A parent or a parent's designee may relinquish a newborn child to a safe haven provider in accordance with the provisions of this act and retain complete anonymity.

(b) Relinquishment of a newborn child shall not, in and of itself, constitute abuse or neglect and the child shall not be considered an abused or neglected child, so long as the relinquishment is carried out in substantial compliance with provisions of this act.

(c) A safe haven provider shall accept a newborn child who is relinquished pursuant to the provisions of this act, and may presume that the person relinquishing is the child's parent or parent's designee.

(d) The parent or parent's designee may provide information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the child, but the safe haven provider may not require that any information be given or the person relinquishing expresses an intent for return of the child.

(e) A safe haven provider may provide any necessary emergency medical care to the newborn child and shall deliver custody of the newborn child to the nearest hospital as soon as possible.

(f) A hospital receiving a relinquished newborn child may provide any necessary medical care to the child and shall notify the local child protective agency as soon as possible, but no later than twenty-four (24) hours after receiving the child.

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(g) The local child protective agency shall assume care and custody of the child immediately upon notice from the hospital. After receiving custody, the local child protective agency shall assist in placement of the newborn child pursuant to W.S. 14-11-105(a).

14-11-104. Newborn child identity.

Unless reliable and sufficient identifying information relating to the newborn child has been provided, the department of family services shall work with law enforcement agencies in an effort to ensure that the newborn child has not been identified as a missing child.

14-11-105. Child placement; termination of parental rights.

(a) The department of family services shall immediately place or contract for placement of the newborn child in a potential adoptive home.

(b) If neither parent of the newborn child affirmatively seeks the return of the child within three (3) months after the date of delivery to a safe haven provider, the department of family services shall file a petition for the termination of the parent-child legal relationship in accordance with W.S. 14-2-308 through 14-2-319.

(c) Prior to filing a petition for termination, the department of family services shall conduct a search of the putative father registry for unmarried biological fathers and if the putative father is identified, the petition shall be served pursuant to W.S. 14-2-313.

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14-11-106. Safe relinquishment is an affirmative defense.

If the person relinquishing a newborn child is the child's parent or the parent's designee, relinquishment of a newborn child in substantial compliance with the provisions of this act is an affirmative defense to any potential criminal liability for abandonment or neglect relating to that relinquishment.

14-11-107. Authority of department of family services to promulgate rules and regulations.

The department of family services may promulgate rules and regulations necessary for the effective implementation of this act. The rules and regulations shall specify conditions and qualifications for safe haven providers in rural areas of the state that do not have a safe haven provider as defined in W.S. 14-11-102(a)(vii)(A), (B) or (C).

14-11-108. Immunity from liability.

Any person, official, institution or agency participating in good faith in any act required or permitted by this act is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official, institution or agency participating in any act permitted or required by W.S. 14-11-101 through 14-11-109 shall be presumed.

14-11-109. Reports of relinquishments.

Each local child protective agency shall maintain and update on a monthly basis a report of the number of newborn

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children who have been relinquished pursuant to this act and shall submit the information to the department of family services. The department of family services shall submit an annual report to the joint labor, health and social services interim committee beginning July 1, 2004, and annually thereafter, that compiles the monthly reports required by this section.

Section 2. W.S. 14-2-309(a) by creating a new paragraph (vii) and 14-3-202(a)(ii)(intro) are amended to read:

14-2-309. Grounds for termination of parent-child relationship; clear and convincing evidence.

(a) The parent-child legal relationship may be terminated if any one (1) or more of the following facts is established by clear and convincing evidence:

(vii) The child was relinquished to a safe haven provider in accordance with W.S. 14-11-101 through 14-11-109, and neither parent has affirmatively sought the return of the child within three (3) months from the date of relinquishment.

14-3-202. Definitions.

(a) As used in W.S. 14-3-201 through 14-3-215:

(ii) "Abuse" means inflicting or causing physical or mental injury, harm or imminent danger to the physical or mental health or welfare of a child other than by accidental means, including abandonment, unless the abandonment is a relinquishment substantially in accordance with W.S. 14-11-101 through 14-11-109, excessive or unreasonable corporal punishment, malnutrition or

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substantial risk thereof by reason of intentional or unintentional neglect, and the commission or allowing the commission of a sexual offense against a child as defined by law:

Section 3. This act is effective July 1, 2003.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk