

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 594

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ALLOWING A PARENT TO LEAVE AN INFANT IN INFANT SAFETY DEVICES
WITHOUT CRIMINAL PROSECUTION FOR ABANDONMENT OR ABUSE OF A
CHILD IN CERTAIN CIRCUMSTANCES; PROVIDING FOR GENETIC TESTING;
DEFERRING TO THE REQUIREMENTS OF THE FEDERAL INDIAN CHILD
WELFARE ACT OF 1978 AND THE INDIAN FAMILY PROTECTION ACT IF AN
INFANT IS A MEMBER OF AN INDIAN NATION, TRIBE OR PUEBLO;
ALLOWING THE INSTALLATION AND OPERATION OF INFANT SAFETY
DEVICES; REQUIRING THE ASSESSING OF FINES FOR THE DISCLOSURE OF
CONFIDENTIAL INFORMATION RELATING TO INFANTS LEFT PURSUANT TO
THE SAFE HAVEN FOR INFANTS ACT; PROVIDING REQUIREMENTS FOR
INSTALLATION, OPERATION AND MONITORING OF INFANT SAFETY
DEVICES; PROVIDING LIMITED IMMUNITY FOR A SAFE HAVEN SITE AND
THE SAFE HAVEN SITE'S STAFF; REQUIRING THE CHILDREN, YOUTH AND
FAMILIES DEPARTMENT TO PROMULGATE RULES TO IMPLEMENT THE

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1 PROVISIONS OF THE SAFE HAVEN FOR INFANTS ACT; DEFINING TERMS.

2

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. Section 24-22-2 NMSA 1978 (being Laws 2001,
5 Chapter 31, Section 2 and Laws 2001, Chapter 132, Section 2, as
6 amended) is amended to read:

7 "24-22-2. DEFINITIONS.--As used in the Safe Haven for
8 Infants Act:

9 A. "department" means the children, youth and
10 families department;

11 [~~A.~~] B. "fire station" means a fire station that is
12 certified by the state fire marshal's office;

13 [~~B.~~] C. "hospital" means an acute care general
14 hospital or health care clinic licensed by the state;

15 [~~C.~~] ~~"Indian child" means an Indian child as defined~~
16 ~~by the federal Indian Child Welfare Act of 1978;~~

17 D. "infant" means a child no more than ninety days
18 old, as determined within a reasonable degree of medical
19 certainty;

20 E. "infant safety device" means a device used to
21 maintain an optimal environment for the care of a newborn
22 infant, affixed to a safe haven site and installed in
23 compliance with the provisions of the Safe Haven for Infants
24 Act;

25 [~~E.~~] F. "law enforcement agency" means a law

1 enforcement agency of the state or a political subdivision of
2 the state;

3 ~~[F-]~~ G. "safe haven site" means a hospital, law
4 enforcement agency or fire station that has staff ~~[on-site]~~
5 available at the time an infant is left at such a site; and

6 ~~[G-]~~ H. "staff" means an employee, contractor,
7 agent or volunteer performing services as required and on
8 behalf of the safe haven site."

9 **SECTION 2.** Section 24-22-3 NMSA 1978 (being Laws 2001,
10 Chapter 31, Section 3 and Laws 2001, Chapter 132, Section 3, as
11 amended) is amended to read:

12 "24-22-3. LEAVING AN INFANT--SAFE HAVEN SITE.--

13 A. A ~~[person]~~ parent may leave an infant with the
14 staff of a safe haven site without being subject to criminal
15 prosecution for abandonment or abuse ~~[if the infant was born~~
16 ~~within ninety days of being left at the safe haven site, as~~
17 ~~determined within a reasonable degree of medical certainty,~~
18 ~~and]~~ if the infant is left in a condition that would not
19 constitute abandonment or abuse of a child pursuant to Section
20 30-6-1 NMSA 1978.

21 B. The staff of a safe haven site may ask the
22 ~~[person]~~ parent leaving the infant pursuant to this section for
23 the name of the infant's biological father or biological
24 mother, the infant's name, ~~[and]~~ the infant's medical history
25 and whether the infant is a member of an Indian nation, tribe

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1 or pueblo, but the ~~[person]~~ parent leaving the infant is not
2 required to provide that information to the safe haven site.

3 ~~[C. The safe haven site is deemed to have received~~
4 ~~consent for medical services provided to an infant left at a~~
5 ~~safe haven site in accordance with the provisions of the Safe~~
6 ~~Haven for Infants Act or in accordance with procedures~~
7 ~~developed between the children, youth and families department~~
8 ~~and the safe haven site.]"~~

9 SECTION 3. A new section of the Safe Haven for Infants
10 Act is enacted to read:

11 "[NEW MATERIAL] LEAVING AN INFANT--INFANT SAFETY
12 DEVICE.--A parent may leave an infant inside an infant safety
13 device without being subject to criminal prosecution for
14 abandonment or abuse of a child if:

15 A. the infant safety device is:

16 (1) located on the property and attached as a
17 fixture to a safe haven site;

18 (2) conspicuously marked as safe for use
19 pursuant to rules promulgated by the department; and

20 (3) not otherwise marked as unsafe for use;

21 B. the parent properly secures the infant inside
22 the infant safety device pursuant to instructions provided at
23 the site of the infant safety device; and

24 C. the infant is left in a condition that would not
25 constitute abandonment or abuse of a child pursuant to Section

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1 30-6-1 NMSA 1978."

2 SECTION 4. Section 24-22-4 NMSA 1978 (being Laws 2001,
3 Chapter 31, Section 4 and Laws 2001, Chapter 132, Section 4, as
4 amended) is amended to read:

5 "24-22-4. SAFE HAVEN SITE PROCEDURES.--

6 A. A safe haven site shall accept an infant who is
7 left at ~~[the]~~ a safe haven site in accordance with the
8 provisions of the Safe Haven for Infants Act.

9 B. In conjunction with the ~~[children, youth and~~
10 ~~families]~~ department, a safe haven site shall develop
11 procedures for appropriate staff to accept and provide
12 necessary medical services to an infant left at the safe haven
13 site ~~[and to the person leaving the infant at the safe haven~~
14 ~~site, if necessary]~~.

15 C. Upon receiving an infant who is left at a safe
16 haven site in accordance with the provisions of the Safe Haven
17 for Infants Act, the safe haven site may provide the ~~[person]~~
18 parent leaving the infant, to the extent practicable, with:

19 (1) information about adoption services,
20 including the availability of private adoption services;
21 (2) brochures or telephone numbers for
22 agencies that provide adoption services or counseling services;
23 and

24 (3) written information regarding whom to
25 contact at the ~~[children, youth and families]~~ department if the

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1 parent decides to seek reunification with the infant.

2 D. A safe haven site shall ask the person leaving
3 the infant whether the infant has a parent who is either a
4 member of an Indian nation, tribe or pueblo or is eligible for
5 membership in an Indian nation, tribe or pueblo, but the person
6 leaving the infant is not required to provide that information
7 to the safe haven site.

8 E. Immediately after receiving an infant in
9 accordance with the provisions of the Safe Haven for Infants
10 Act, a safe haven site shall inform the [~~children, youth and~~
11 ~~families~~] department that [~~the~~] an infant has been left at the
12 safe haven site and shall inform law enforcement to determine
13 whether the infant is missing or abducted. The safe haven site
14 shall provide the [~~children, youth and families~~] department
15 with all available information regarding the [~~child~~] infant and
16 the parents, including the identity of the [~~child~~] infant and
17 the parents, the location of the parents and the [~~child's~~]
18 infant's medical records."

19 SECTION 5. A new section of the Safe Haven for Infants
20 Act is enacted to read:

21 "[NEW MATERIAL] CONFIDENTIALITY--CIVIL PENALTY.--

22 A. All information relating to an infant left at a
23 safe haven site is confidential and shall not be subject to
24 public disclosure. No staff of a safe haven site, employee of
25 the department or other person with access to such confidential

1 information acquired by virtue of the person's employment or
 2 the requirements of the Safe Haven for Infants Act shall use or
 3 disclose the confidential information, except as provided
 4 pursuant to state law for child welfare investigations or to
 5 carry out the provisions of the Safe Haven for Infants Act.

6 B. A person who violates Subsection A of this
 7 section may be assessed a civil penalty not to exceed five
 8 hundred dollars (\$500) per violation."

9 SECTION 6. A new section of the Safe Haven for Infants
 10 Act is enacted to read:

11 "[NEW MATERIAL] CONSENT FOR MEDICAL SERVICES.--A safe
 12 haven site and the department are deemed to have received
 13 consent for medical services provided to an infant left at a
 14 safe haven site in accordance with the provisions of the Safe
 15 Haven for Infants Act or in accordance with the procedures
 16 developed between the department and the safe haven site."

17 SECTION 7. Section 24-22-5 NMSA 1978 (being Laws 2001,
 18 Chapter 31, Section 5 and Laws 2001, Chapter 132, Section 5, as
 19 amended) is amended to read:

20 "24-22-5. RESPONSIBILITIES OF THE [~~CHILDREN, YOUTH AND~~
 21 ~~FAMILIES~~] DEPARTMENT.--

22 A. The [~~children, youth and families~~] department
 23 shall be deemed to have emergency custody of an infant who has
 24 been left at a safe haven site [~~according~~] pursuant to the
 25 provisions of the Safe Haven for Infants Act.

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1 ~~[B. Upon receiving a report of an infant left at a~~
2 ~~safe haven site pursuant to the provisions of the Safe Haven~~
3 ~~for Infants Act, the children, youth and families department~~
4 ~~shall immediately conduct an investigation, pursuant to the~~
5 ~~provisions of the Abuse and Neglect Act.~~

6 ~~G.]~~ B. When an infant is taken into custody by the
7 ~~[children, youth and families]~~ department, the department shall
8 make reasonable efforts, including conducting genetic testing,
9 to determine whether the infant is a member of an Indian
10 ~~[child]~~ nation, tribe or pueblo.

11 C. If the infant is ~~[an Indian child:~~

12 ~~(1) the child's tribe shall be notified as~~
13 ~~required by Section 32A-1-14 NMSA 1978 and the federal Indian~~
14 ~~Child Welfare Act of 1978; and~~

15 ~~(2) pre-adoptive placement and adoptive~~
16 ~~placement of the Indian child shall be in accordance with the~~
17 ~~provisions of Section 32A-5-5 NMSA 1978 regarding Indian child~~
18 ~~placement preferences]~~ a member of an Indian nation, tribe or
19 pueblo, the department shall proceed with any matter relating
20 to that infant in the manner provided for pursuant to the
21 federal Indian Child Welfare Act of 1978 and the Indian Family
22 Protection Act.

23 D. The ~~[children, youth and families]~~ department of
24 health, in collaboration with the public education department,
25 shall perform public outreach functions necessary to educate

1 the public about the Safe Haven for Infants Act, including
2 developing literature about [~~that act~~] the Safe Haven for
3 Infants Act and distributing it to safe haven sites.

4 E. If the department determines that an infant left
5 pursuant to the Safe Haven for Infants Act is not a member of
6 an Indian nation, tribe or pueblo, the department shall:

7 (1) by 5:00 p.m. on the next business day
8 following receipt of an infant at a safe haven site, file a
9 petition to assume legal custody of the infant; and

10 (2) commence proceedings to terminate the
11 parental rights of the parents of an infant left at a safe
12 haven site pursuant to the Safe Haven for Infants Act; provided
13 that prior to commencing such a proceeding, the department
14 shall determine whether a father of the infant is registered in
15 the putative father registry. If the father of the infant is
16 registered in the putative father registry, the department
17 shall not proceed with proceedings to terminate the parental
18 rights of both parents until the registered father provides
19 consent to terminate parental rights.

20 F. Upon receiving an infant left at a safe haven
21 site, if the department determines that evidence of child abuse
22 or neglect exists, the department shall conduct an
23 investigation and shall attempt to locate any relatives of the
24 infant.

25 [~~E.~~] G. An infant left at a safe haven site in

1 accordance with the provisions of the Safe Haven for Infants
2 Act shall presumptively be deemed eligible and enrolled for
3 medicaid benefits and services."

4 SECTION 8. A new section of the Safe Haven for Infants
5 Act is enacted to read:

6 "[NEW MATERIAL] INFANT SAFETY DEVICE--REQUIREMENTS.--

7 A. A safe haven site may install an infant safety
8 device inside the safe haven site for a parent to leave an
9 infant pursuant to the Safe Haven for Infants Act.

10 B. An infant safety device shall:

11 (1) be physically located:

12 (a) inside a facility that is staffed
13 twenty-four hours per day and seven days per week by the staff
14 of a safe haven site; and

15 (b) in an area conspicuous and visible
16 to the staff of a safe haven site; and

17 (2) be connected to an alarm system to audibly
18 notify the staff of a safe haven site that an infant has been
19 placed in the device.

20 C. A safe haven site that places an infant safety
21 device in the safe haven site's facilities shall develop
22 procedures to regularly verify that the device's alarm system
23 is in working order."

24 SECTION 9. Section 24-22-8 NMSA 1978 (being Laws 2001,
25 Chapter 31, Section 8 and Laws 2001, Chapter 132, Section 8, as
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1 amended) is amended to read:

2 "24-22-8. IMMUNITY.--

3 A. A safe haven site and its staff are immune from
4 criminal liability and civil liability for accepting, examining
5 or treating an infant and installing, operating or maintaining
6 an infant safety device in compliance with the provisions of
7 the Safe Haven for Infants Act but not for subsequent negligent
8 medical care or treatment of the infant.

9 B. A safe haven site and the safe haven site's
10 staff have no legal duty to detain or identify the parents of
11 an infant left at a safe haven site or in an infant safety
12 device unless evidence of abuse and neglect are present or
13 unless the infant is a member of an Indian nation, tribe or
14 pueblo and doing so is required pursuant to the federal Indian
15 Child Welfare Act of 1978 or the Indian Family Protection Act."

16 SECTION 10. A new section of the Safe Haven for Infants
17 Act is enacted to read:

18 "[NEW MATERIAL] RULEMAKING.--The department shall
19 promulgate rules to implement the provisions of the Safe Haven
20 for Infants Act, including rules for the determination of
21 whether an infant safety device is safe for use, for the
22 operation and monitoring of an infant safety device and for
23 genetic testing of infants left at a safe haven site."