

Proposed

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 594

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

AN ACT

RELATING TO THE PUBLIC 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 PROVISIONS OF

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1 THE SAFE HAVEN FOR INFANTS ACT; DEFINING TERMS; MAKING AN
2 APPROPRIATION.

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

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

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

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

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

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

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

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

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

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1 ~~[E.]~~ F. "law enforcement agency" means a law
2 enforcement agency of the state or a political subdivision of
3 the state;

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

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

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

13 "24-22-3. LEAVING AN INFANT--SAFE HAVEN SITE.--

14 A. A ~~[person]~~ parent may leave an infant with the
15 staff of a safe haven site without being subject to criminal
16 prosecution for abandonment or abuse ~~[if the infant was born~~
17 ~~within ninety days of being left at the safe haven site, as~~
18 ~~determined within a reasonable degree of medical certainty,~~
19 ~~and]~~ if the infant is left in a condition that would not
20 constitute abandonment or abuse of a child pursuant to Section
21 30-6-1 NMSA 1978.

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

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1 and whether the infant is a member of an Indian nation, tribe
2 or pueblo, but the ~~[person]~~ parent leaving the infant is not
3 required to provide that information to the safe haven site.

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

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

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

16 A. the infant safety device is:

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

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

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

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

25 C. the infant is left in a condition that would not

1 constitute abandonment or abuse of a child pursuant to Section
2 30-6-1 NMSA 1978."

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

6 "24-22-4. SAFE HAVEN SITE PROCEDURES.--

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

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

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

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

25 (3) written information regarding whom to

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1 contact at the [~~children, youth and families~~] department if the
2 parent decides to seek reunification with the infant.

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

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

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

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

23 A. All information relating to an infant left at a
24 safe haven site is confidential and shall not be subject to
25 public disclosure. No staff of a safe haven site, employee of

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

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

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

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

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

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

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

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1 provisions of the Safe Haven for Infants Act.

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

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

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

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

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

24 D. The ~~[children, youth and families]~~ department of
25 health, in collaboration with the public education department,

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

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

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

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

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

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1 ~~[E-]~~ G. An infant left at a safe haven site in
2 accordance with the provisions of the Safe Haven for Infants
3 Act shall presumptively be deemed eligible and enrolled for
4 medicaid benefits and services."

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

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

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

11 B. An infant safety device shall:

12 (1) be physically located:

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

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

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

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

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

3 "24-22-8. IMMUNITY.--

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

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

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

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

25 **SECTION 11.** APPROPRIATION.--One hundred thousand dollars

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1 (\$100,000) is appropriated from the general fund to the
2 department of health for expenditure in fiscal year 2026 and
3 subsequent fiscal years for the department of health, in
4 collaboration with the public education department, to perform
5 public outreach functions necessary to educate the public about
6 the Safe Haven for Infants Act. Any unexpended or unencumbered
7 balance remaining at the end of a fiscal year shall not revert
8 to the general fund.

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