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HOUSE BILL 251

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Pauline K. Gubbels

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

**RELATING TO CHILD PROTECTION; ENACTING THE SAFE HAVEN ACT;
PROVIDING PROTECTIONS FOR NEWBORN CHILDREN WHO MIGHT OTHERWISE
BE ABANDONED; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978;
DECLARING AN EMERGENCY.**

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

**Section 1. [NEW MATERIAL] SHORT TITLE. --Sections 1
through 8 of this act may be cited as the "Safe Haven Act".**

**Section 2. [NEW MATERIAL] DEFINITIONS. --As used in the
Safe Haven Act:**

**A. "hospital" means any public hospital, for-
profit or nonprofit private hospital or general or specific
hospital licensed by the state;**

**B. "Indian child" means a newborn who is the
biological child of a member of an Indian tribe; and**

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1 C. "newborn" means a child no more than thirty
2 days old, as determined within a reasonable degree of medical
3 certainty.

4 Section 3. [NEW MATERIAL] LEAVING A NEWBORN. --

5 A. A parent of a newborn may leave the newborn at
6 a hospital if the parent:

7 (1) expresses an intent to not return for the
8 newborn;

9 (2) expresses an intent that the hospital
10 assume temporary physical custody of the newborn; and

11 (3) provides the hospital with the newborn's
12 medical history.

13 B. A hospital may ask the parent leaving the
14 newborn for the parent's name, the other parent's name and the
15 newborn's name, but the parent leaving the newborn is not
16 required to provide that information to the hospital.

17 Section 4. [NEW MATERIAL] HOSPITAL PROCEDURES. --

18 A. A hospital shall accept a newborn who is left
19 at the hospital in accordance with the provisions of the Safe
20 Haven Act.

21 B. A hospital shall designate the following
22 personnel to provide services to a newborn left at the
23 hospital and the newborn's parents:

24 (1) physicians, including emergency room
25 physi ci ans;

- 1 (2) nurses, including emergency room nurses;
- 2 (3) social workers;
- 3 (4) counselors; and
- 4 (5) administrative staff.

5 C. Upon receiving a newborn who is left at a
6 hospital in accordance with the provisions of the Safe Haven
7 Act, the hospital shall:

8 (1) stabilize the newborn's medical condition
9 and provide all necessary medical services;

10 (2) if necessary, stabilize the mother's
11 medical condition and provide all necessary medical services;

12 (3) advise the newborn's parents regarding
13 the availability of counseling;

14 (4) provide the newborn's parents with
15 written information regarding the Safe Haven Act;

16 (5) provide the parent leaving the newborn
17 with a numbered identification bracelet that matches an
18 identification bracelet placed on the newborn, in the event
19 that the parent decides to seek reunification with the
20 newborn; and

21 (6) provide the parent leaving the newborn
22 with written information regarding who to contact at the
23 children, youth and families department, in the event that the
24 parent decides to seek reunification with the newborn.

25 D. Upon receiving a newborn who is left at a

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1 hospital in accordance with the provisions of the Safe Haven
2 Act, the hospital may provide the newborn's parents with:

3 (1) information about adoption services,
4 including information about the availability of confidential
5 adoption services; and

6 (2) brochures or telephone numbers for
7 agencies that provide adoption services or counseling
8 services.

9 E. Within twenty-four hours of receiving a newborn
10 in accordance with the provisions of the Safe Haven Act, a
11 hospital shall inform the children, youth and families
12 department that the newborn has been left at the hospital.

13 Section 5. [NEW MATERIAL] RESPONSIBILITIES OF THE
14 CHILDREN, YOUTH AND FAMILIES DEPARTMENT. --

15 A. Upon receiving a report of a newborn left at a
16 hospital pursuant to the provisions of the Safe Haven Act, the
17 children, youth and families department shall immediately
18 conduct an investigation, pursuant to the provisions of the
19 Abuse and Neglect Act, to determine if the child has been
20 abused or neglected. If adoption proceedings have not already
21 been initiated for the newborn, the department shall
22 immediately take custody of the newborn and initiate
23 proceedings pursuant to the provisions of the Adoption Act for
24 placement of the newborn with an adoptive family.

25 B. When a newborn is taken into custody by the

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1 children, youth and families department, the department shall
2 make reasonable efforts to determine whether the newborn is an
3 Indian child. If the newborn is an Indian child, pre-adoptive
4 placement and adoptive placement of the Indian child shall be
5 in accordance with the provisions of Section 32A-5-5 NMSA 1978
6 regarding Indian child placement preferences.

7 Section 6. [NEW MATERIAL] PROCEDURE IF REUNIFICATION IS
8 SOUGHT. --

9 A. If a person who possesses a numbered
10 identification bracelet that matches the identification
11 bracelet placed on the newborn at the hospital seeks
12 reunification with the newborn, that person shall have
13 standing to participate in all proceedings regarding the
14 newborn pursuant to the provisions of the Adoption Act.

15 B. Possession of a numbered identification
16 bracelet that matches the bracelet placed on the newborn at
17 the hospital does not create a presumption of maternity,
18 paternity or custody on behalf of the person who possesses the
19 numbered identification bracelet.

20 Section 7. [NEW MATERIAL] MEDICAID BENEFITS AND
21 SERVICES. --A newborn left at a hospital in accordance with the
22 provisions of the Safe Haven Act shall be eligible for
23 medicaid benefits and services.

24 Section 8. [NEW MATERIAL] IMMUNITY. --A hospital and its
25 employees are immune from criminal liability and civil

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1 liability for accepting a newborn in compliance with the
2 provisions of the Safe Haven Act.

3 Section 9. Section 30-6-1 NMSA 1978 (being Laws 1973,
4 Chapter 360, Section 10, as amended) is amended to read:

5 "30-6-1. ABANDONMENT OR ABUSE OF A CHILD. --

6 A. As used in this section:

7 (1) "child" means a person who is less than
8 eighteen years of age;

9 (2) "neglect" means that a child is without
10 proper parental care and control of subsistence, education,
11 medical or other care or control necessary for his well-being
12 because of the faults or habits of his parents, guardian or
13 custodian or their neglect or refusal, when able to do so, to
14 provide them; and

15 (3) "negligently" refers to criminal
16 negligence and means that a person knew or should have known
17 of the danger involved and acted with a reckless disregard for
18 the safety or health of the child.

19 B. Abandonment of a child consists of the parent,
20 guardian or custodian of a child intentionally leaving or
21 abandoning the child under circumstances whereby the child may
22 or does suffer neglect. Whoever commits abandonment of a
23 child is guilty of a misdemeanor, unless the abandonment
24 results in the child's death or great bodily harm, in which
25 case he is guilty of a second degree felony.

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C. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

(1) placed in a situation that may endanger the child's life or health;

(2) tortured, cruelly confined or cruelly punished; or

(3) exposed to the inclemency of the weather.

Whoever commits abuse of a child [~~which~~] that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm or death to the child, he is guilty of a first degree felony.

D. If a parent of a newborn, as defined in the Safe Haven Act, safely leaves the newborn at a hospital in compliance with the provisions of that act, the parent shall not be prosecuted for abandonment of a child."

Section 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.