STUDENTS FOR LIFE ACTION

Model Legislation

Safe Haven Security & Adoption Act

A bill to allow for safe haven boxes at locations with 24/7 monitoring; to enable adoption for babies deposited in safe haven boxes (instead of those babies going directly to foster care); to set the maximum age of infants received at safe haven boxes to 200 days.

HOUSE/SENATE BILL NO. _____

SECTION _____ is amended to read as follows:

Definitions, As used in this chapter, the following terms shall mean:

"Custodial parent," for the purposes of this chapter, means, in the absence of a court decree, the parent with whom the child resides.

"Indian child" means any unmarried person who is under eighteen (18) years of age and is either:

i. A member or citizen of an Indian tribe; or
ii. Eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.

“Infant safety box” means a device that is voluntarily installed in a supporting wall of a hospital, fire station, law enforcement agency, or medical services provider that is staffed twenty-four (24) hours per day and that has an exterior point of access allowing an individual to place an infant inside and an interior point of access allowing individuals inside the building to safely retrieve the infant.

“Safe haven” means:

i. Hospitals licensed in the state of _____;
ii. Licensed physicians in the state of _____ and staff working at their offices and clinics;
iii. Advanced practice professional nurses, including certified nurse-midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists licensed or registered pursuant to chapter ____, title ___, _____ Code;

iv. Physician assistants licensed pursuant to chapter ____, title ___, _____ Code;
v. Medical personnel acting or serving in the capacity as a licensed provider, affiliated with a recognized _____ [state] EMS agency.

For purposes of this act, "medical personnel" shall include those individuals certified by the department of health [_____] as:

i. First responders;
ii. Emergency medical technicians basic;
iii. Advanced emergency medical technicians ambulance;
iv. Emergency medical technicians intermediate; and
v. Emergency medical technicians paramedic; and
vi. A fire station operated by a city, a county, a tribal entity, a fire protection district or a volunteer fire department if there are personnel on duty.

SECTION _____ is amended to read as follows:

EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN -CONFIDENTIALITY - IMMUNITY.

A. A safe haven shall take temporary physical custody of a child, without court order, if the child is personally delivered to a safe haven or to an infant safety box, provided that:
   i. The child is no more than two hundred (200) days of age;
   ii. The custodial parent delivers the child to the safe haven; and
   iii. The custodial parent does not express an intent to return for the child.
B. A hospital, fire station, law enforcement agency, or medical services provider that is staffed twenty-four (24) hours per day seven (7) days a week, without exception, may use an infant safety box to accept surrendered infants pursuant to this section if the box is:
   i. Physically part of the building of the hospital, fire station, law enforcement agency, or medical services provider;
   ii. Temperature-controlled and ventilated for the safety of infants;
   iii. Equipped with a functional alarm system that automatically triggers an alarm inside the building when the infant is placed in the box; and
   iv. Located such that the interior point of access is in an area that is conspicuous and visible to the employees of the hospital, fire station, law enforcement agency, or medical services provider.

C. If a safe haven takes temporary physical custody of a child pursuant to subsection (1) of this section, the safe haven shall:
    i. Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health and safety of the child during the temporary physical custody, including, but not limited to, delivering the child to a hospital for care or treatment; and
    ii. Immediately notify a peace officer or other person appointed by the court of the abandonment.
D. The safe haven shall not inquire as to the identity of the custodial parent and, if the identity of a parent is known to the safe haven, the safe haven shall keep all information as to the identity confidential. The custodial parent leaving the child shall not be required to provide any information to the safe haven but may voluntarily provide information, including, but not limited to, Indian tribe membership or citizenship and medical history of the parent(s) or the child.
E. A safe haven with responsibility for performing duties under this section, and any employee, doctor, or other personnel working at the safe haven, are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a child and performing duties under this section. (6) A custodial parent may leave a child with a safe haven or with a safe haven through a safety box in this state without being subjected to prosecution for abandonment pursuant to the provisions of Title _____ Code _____, provided that the child was no more than two hundred (200) days of age when it was left at the safe haven or at a safe haven through an infant safety box, as determined within a reasonable degree of medical certainty.
F. If any provision of this section or its application to any particular person, entity or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.

SECTION _____ is amended to read as follows:

PROTECTIVE CUSTODY - PLACEMENT - IMMUNITY.

A. Upon notification by a safe haven that a child has been abandoned pursuant to the provisions of this chapter, a peace officer or other person appointed by the court shall take protective custody of the child and shall immediately deliver the child to

the care, control and custody of the department _____ [health and welfare or relevant department].

B. The department of _____ [health and welfare or relevant department] shall maintain a list of licensed adoption agencies to contact for the placement of abandoned children and shall transfer care, control, and custody of an abandoned child to the department's selected adoption agency for placement within twenty-four (24) hours of taking custody of an abandoned child, unless exigent circumstances exist.

C. When an abandoned child requires further medical evaluation, care, or treatment and the adoption agency selected by the department of health and welfare pursuant to subsection (B) [the previous paragraph] of this section is unable to locate a prospective adoptive family within forty-eight (48) hours, the child shall be left in the care of a hospital, and the peace officer or other person appointed by the court shall notify the court and prosecutor of the action taken and the location of the child so that a shelter care hearing may be held.

D. If, at any time, a party knows or has reason to know that the child is an Indian child, the jurisdiction of the Indian child welfare act (ICWA), 25 U.S.C. 1901, et seq., applies. If a party knows or has reason to know that the child is an Indian child, the department of health and welfare shall send immediate ICWA notification to the child's Indian tribe and to any other tribe or to the bureau of Indian affairs as required by ICWA or federal regulations implementing ICWA. Within ten (10) days of receiving the information that causes the department of health and welfare to know or have reason to know that the child is an Indian child, the department shall issue any notice required by this subsection.

E. A peace officer or other person appointed by the court who takes a child into custody under this section, shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith or in violation of the provisions of this chapter.

F. If any provision of this section or its application to any particular person, entity or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this section.