

As Further Amended by House Committee

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Session of 2023

HOUSE BILL No. 2024

By Joint Committee on Child Welfare System Oversight

1-12

1 AN ACT concerning children and minors; relating to the newborn infant  
2 protection act; allowing the surrender of physical custody of an infant  
3 to ~~an infant refuge bassinet~~ a newborn safety device; requiring  
4 inquiries and reporting of Indian child status; adding the  
5 requirement of great bodily harm to the crime of child  
6 abandonment to qualify for immunity; amending K.S.A. 38-2203  
7 and 38-2282 and K.S.A. 2022 Supp. 21-5605 and repealing the  
8 existing ~~section~~ sections.  
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 {Section 1. K.S.A. 2022 Supp. 21-5605 is hereby amended to read  
12 as follows: 21-5605. (a) Abandonment of a child is leaving a child  
13 under the age of 16 years, in a place where such child may suffer  
14 because of neglect by the parent, guardian or other person to whom  
15 the care and custody of such child shall have been entrusted, when  
16 done with intent to abandon such child.

17 (b) Aggravated abandonment of a child is abandonment of a  
18 child, as defined in subsection (a), which results in great bodily harm.

19 (c) (1) Abandonment of a child is a severity level 8, person felony.

20 (2) Aggravated abandonment of a child is a severity level 5,  
21 person felony.

22 (d) No parent or other person having lawful custody of an infant  
23 shall be prosecuted for a violation of subsection (a), if such parent or  
24 person surrenders custody of an infant in the manner provided by  
25 K.S.A. 38-2282, and amendments thereto, and if such infant has not  
26 suffered *great* bodily harm.

27 (e) A person who violates the provisions of this section may also  
28 be prosecuted for, convicted of, and punished for any form of battery  
29 or homicide.}

30 {Section 1. Sec. 2. K.S.A. 38-2203 is hereby amended to read as  
31 follows: 38-2203. (a) Proceedings concerning any child who may be a  
32 child in need of care shall be governed by this code, except in those  
33 instances when the court knows or has reason to know that an Indian  
34 child is involved in the proceeding, in which case, the Indian child

1 welfare act of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child  
2 welfare act may apply to: The filing to initiate a child in need of care  
3 proceeding, K.S.A. 38-2234, and amendments thereto; ex parte  
4 custody orders, K.S.A. 38-2242, and amendments thereto; temporary  
5 custody hearing, K.S.A. 38-2243, and amendments thereto;  
6 adjudication, K.S.A. 38-2247, and amendments thereto; burden of  
7 proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A.  
8 38-2255, and amendments thereto; permanency hearings, K.S.A. 38-  
9 2264, and amendments thereto; termination of parental rights, K.S.A.  
10 38-2267, 38-2268 and 38-2269, and amendments thereto;  
11 establishment of permanent custodianship, K.S.A. 38-2268 and 38-  
12 2272, and amendments thereto; *the newborn infant protection act*,  
13 *K.S.A. 38-2282, and amendments thereto*; the placement of a child in any  
14 foster, pre-adoptive and adoptive home and the placement of a child in  
15 a guardianship arrangement under article 30 of chapter 59 of the  
16 Kansas Statutes Annotated, and amendments thereto.

17 (b) Subject to the uniform child custody jurisdiction and  
18 enforcement act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and  
19 amendments thereto, the district court shall have original jurisdiction  
20 of proceedings pursuant to this code.

21 (c) The court acquires jurisdiction over a child by the filing of a  
22 petition pursuant to this code or upon issuance of an ex parte order  
23 pursuant to K.S.A. 38-2242, and amendments thereto. When the court  
24 acquires jurisdiction over a child in need of care, jurisdiction may  
25 continue until the child has: (1) Become 18 years of age, or until June  
26 1 of the school year during which the child became 18 years of age if  
27 the child is still attending high school unless there is no court  
28 approved transition plan, in which event jurisdiction may continue  
29 until a transition plan is approved by the court or until the child  
30 reaches the age of 21; (2) been adopted; or (3) been discharged by the  
31 court. Any child 18 years of age or over may request, in writing to the  
32 court, that the jurisdiction of the court cease. The court shall give  
33 notice of the request to all parties and interested parties and 30 days  
34 after receipt of the request, jurisdiction will cease.

35 (d) When it is no longer appropriate for the court to exercise  
36 jurisdiction over a child, the court, upon its own motion or the motion  
37 of a party or interested party at a hearing or upon agreement of all  
38 parties or interested parties, shall enter an order discharging the child.  
39 Except upon request of the child pursuant to subsection (c), the court  
40 shall not enter an order discharging a child until June 1 of the school  
41 year during which the child becomes 18 years of age if the child is in  
42 an out-of-home placement, is still attending high school and has not  
43 completed the child's high school education.

1 (e) When a petition is filed under this code, a person who is  
2 alleged to be under 18 years of age shall be presumed to be under that  
3 age for the purposes of this code, unless the contrary is proved.

4 (f) A court's order issued in a proceeding pursuant to this code,  
5 shall take precedence over such orders in a civil custody case, a  
6 proceeding under article 31 of chapter 60 of the Kansas Statutes  
7 Annotated, and amendments thereto, protection from abuse act, or a  
8 comparable case in another jurisdiction, except as provided by K.S.A.  
9 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto,  
10 uniform child custody jurisdiction and enforcement act.}

11 ~~Section 1. Sec. 2. 3.~~ K.S.A. 38-2282 is hereby amended to read as  
12 follows: 38-2282. (a) This section shall be known and may be cited as the  
13 newborn infant protection act. The purpose of this section is to protect  
14 newborn children from injury and death caused by abandonment by a  
15 parent; and to provide safe and secure alternatives to such abandonment.  
16 **This section shall not abridge the rights or obligations created by the**  
17 **Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq.**

18 (b) As used in this section:

19 (1) "Newborn safety device" means a container designed to safely  
20 accept delivery of an infant and that is:

21 (A) Voluntarily installed in a facility described in subsection (c)(1)  
22 (A) that is staffed 24 hours per day by an employee of such facility or  
23 has a dual alarm system that will dispatch first responders when all  
24 employees of the facility are unavailable;

25 (B) located on a structural wall in an area that is conspicuous and  
26 visible to employees of the facility described in subsection (c)(1)(A);

27 (C) equipped with an automatic lock that would restrict access to  
28 the device from the outside of the facility described in subsection (c)(1)  
29 (A) when an infant is placed inside the device;

30 (D) equipped with a temperature control; and

31 (E) equipped with an alarm system described in subsection (c)(3)  
32 that is triggered by an infant being placed inside the device;

33 (2) "non-relinquishing parent" means the biological parent of an  
34 infant who does not ~~leave~~ *surrender* the infant ~~with any person listed in~~  
35 ~~subsection (e) in accordance with this section; and~~

36 ~~(2)(3) "relinquishing parent" means the biological parent or person~~  
37 ~~having legal custody of an infant who ~~leaves~~ *surrenders* the infant ~~with~~~~  
38 ~~any person listed in subsection (e) in accordance with this section.~~

39 ~~(3) "Infant refuge bassinets" means a device or container designed to~~  
40 ~~safely accept delivery of an infant and that is:~~

41 ~~(A) Installed in a facility described in subsection (c)(1)(A) that is~~  
42 ~~staffed 24 hours per day by an employee of such facility;~~

43 ~~(B) located in an area that is conspicuous and visible to employees of~~

1 ~~the facility described in subsection (c)(1)(A);~~

2 ~~(C) equipped with an automatic lock that would restrict access to the~~  
3 ~~bassinet from the outside of the facility described in subsection (c)(1)(A)~~  
4 ~~when an infant is placed inside the bassinet;~~

5 ~~(D) equipped with a temperature control; and~~

6 ~~(E) equipped with an alarm system described in subsection (c)(3) that~~  
7 ~~is triggered by an infant being placed inside the bassinet.~~

8 (c) (1) A person purporting to be an infant's parent or other person  
9 having lawful custody of an infant who is **not more than** 60 days old ~~or~~  
10 ~~younger~~ and who has not suffered **great** bodily harm **as determined by a**  
11 **person licensed to practice medicine and surgery, advanced practice**  
12 **registered nurse or licensed physician assistant** may surrender physical  
13 custody of the infant to ~~any~~ **either**:

14 (A) An employee who is on duty at a police station, sheriff's office,  
15 law enforcement center, fire station, city or county health department or  
16 medical care facility as defined by K.S.A. 65-425, and amendments  
17 thereto. Such employee shall, without a court order, take physical custody  
18 of an infant surrendered pursuant to this section; *or*

19 (B) ~~an infant refuge bassinet~~ **a newborn safety device** installed at  
20 a facility described in subparagraph (A). An employee of such facility  
21 shall, without a court order, take physical custody of an infant surrendered  
22 pursuant to this section.

23 (2) A relinquishing parent voluntarily surrendering an infant under  
24 this subsection shall not be required to reveal personally identifiable  
25 information, but may be offered the opportunity to provide information  
26 concerning the infant's familial or medical history **or information**  
27 **described in subsection (k).**

28 (3) A facility described in this subsection that ~~installs an infant refuge~~  
29 ~~bassinet~~ **a newborn safety device** shall install a dual alarm system  
30 connected to the physical location of the ~~bassinet~~ **device**. Such dual alarm  
31 system shall be tested at least once per week and visually checked at least  
32 twice per day to ensure such alarm is in working order.

33 (d) ~~Any~~ An employee of a facility described in subsection ~~(e)~~ (c)(1)  
34 (A) to whom an infant is delivered pursuant to this section shall not reveal  
35 the name or other personally identifiable information of the person who  
36 delivered the infant unless there is a reasonable suspicion that the infant  
37 ~~has been abused or neglected~~ **suffered great bodily harm or such**  
38 **information is required pursuant to subsection (k),** and such facility  
39 and its employees shall be immune from administrative, civil or criminal  
40 liability for any action taken pursuant to this subsection. Such immunity  
41 shall not extend to any acts or omissions, including negligent or intentional  
42 acts or omissions, occurring after the acceptance of the infant.

43 (e) If an infant is delivered pursuant to this section to ~~any~~ a facility

1 described in subsection ~~(e)~~ (c)(1)(A) that is not a medical care facility, the  
2 employee of such facility who takes physical custody of the infant shall  
3 arrange for the immediate transportation of the infant to the nearest  
4 medical care facility as defined by K.S.A. 65-425, and amendments  
5 thereto. The medical care facility, its employees, agents and medical staff  
6 shall perform treatment in accordance with the prevailing standard of care  
7 as necessary to protect the physical health and safety of the infant and shall  
8 be immune from administrative, civil and criminal liability for treatment  
9 performed consistent with such standard.

10 (f) As soon as possible after an employee of ~~any~~ a facility described  
11 in subsection ~~(e)~~ (c)(1)(A) takes physical custody of an infant without a  
12 court order pursuant to this section, such ~~person~~ employee shall notify a  
13 local law enforcement agency that the ~~person~~ employee has taken physical  
14 custody of an infant pursuant to this section. Upon receipt of such notice a  
15 law enforcement officer from such law enforcement agency shall take  
16 custody of the infant as an abandoned infant. The law enforcement agency  
17 shall **report the surrender of the infant to the secretary and** deliver the  
18 infant to a facility or person designated by the secretary pursuant to K.S.A.  
19 38-2232, and amendments thereto.

20 (g) Any person, city or county or agency thereof or medical care  
21 facility taking physical custody of an infant surrendered pursuant to this  
22 section shall perform any act necessary to protect the physical health or  
23 safety of the infant, and shall be immune from liability for any injury to  
24 the infant that may result therefrom.

25 (h) (1) A relinquishing parent shall be immune from civil or criminal  
26 liability ~~for action taken pursuant to this section only~~ if:

27 (A) The relinquishing parent voluntarily delivered the infant safely to  
28 *either*:

29 (i) The physical custody of an employee at a facility described in  
30 subsection ~~(e)~~ (c)(1)(A); *or*

31 (ii) ~~an infant refuge bassinets~~ **a newborn safety device installed at**  
32 **a facility described in subsection (c)(1)(B); and**

33 (B) the infant was ~~no~~ *not* more than 60 days old ~~when delivered by~~  
34 ~~the relinquishing parent to the physical custody of an employee at a~~  
35 ~~facility described in subsection (e) (c)(1)(A); and~~

36 (C) ~~the infant was not abused or neglected by the relinquishing parent~~  
37 ~~prior to such delivery and has not suffered great bodily harm as~~  
38 **determined by a person licensed to practice medicine and surgery,**  
39 **advanced practice registered nurse or licensed physician assistant.**

40 (2) The relinquishing parent's voluntary delivery of an infant in  
41 accordance with this section shall constitute the parent's implied consent to  
42 the adoption of such infant and a voluntary relinquishment of such parent's  
43 parental rights.

1 (i) (1) In any termination of parental rights proceeding initiated after  
2 the relinquishment of an infant pursuant to this section, the state shall  
3 publish notice pursuant to chapter 60 of the Kansas Statutes Annotated,  
4 and amendments thereto, that an infant has been relinquished, including  
5 the sex of the infant and the date and location of such relinquishment.  
6 Within 30 days after publication of such notice, a non-relinquishing parent  
7 seeking to establish parental rights shall notify the court where the  
8 termination of parental rights proceeding is filed and state such parent's  
9 intentions regarding the infant. The court shall initiate proceedings to  
10 establish parentage if no person notifies the court within 30 days. **When**  
11 **such person is seeking to establish parental rights, the court shall**  
12 **require the person, at the person's expense, to submit to a genetic test**  
13 **to verify that the person is the biological parent of the child.** There  
14 shall be an examination of the putative father registry to determine  
15 whether attempts have previously been made to preserve parental rights to  
16 the infant. If such attempts have been made, the state shall make  
17 reasonable efforts to provide notice of the abandonment of the infant to  
18 such putative father.

19 (2) If a relinquishing parent of an infant relinquishes custody of the  
20 infant in accordance with this section, to preserve the parental rights of the  
21 non-relinquishing parent, the non-relinquishing parent shall take the steps  
22 necessary to establish parentage within 30 days after the published notice  
23 or specific notice provided in paragraph (1).

24 (3) If a non-relinquishing parent fails to take the steps necessary to  
25 establish parentage within the 30-day period specified in paragraph (2), the  
26 non-relinquishing parent may have all of such parent's rights terminated  
27 with respect to the child.

28 (4) If a non-relinquishing parent inquires at a facility described in  
29 subsection—~~(e)~~ (c)(1)(A) regarding an infant whose custody was  
30 relinquished pursuant to this section, such facility shall refer the non-  
31 relinquishing parent to the Kansas department for children and families  
32 and the court exercising jurisdiction over the child.

33 (j) Upon request, all medical records of the infant shall be made  
34 available to the Kansas department for children and families and given to  
35 the person awarded custody of such infant. The medical facility providing  
36 such records shall be immune from liability for such *release of records*  
37 *release*.

38 (k) **An employee of a facility described in subsection (c)(1)(A)**  
39 **shall ask the person surrendering an infant whether such infant or**  
40 **either biological parent is a member of or eligible for membership in a**  
41 **federally recognized Indian tribe and the identity of any such tribe or**  
42 **tribes. Any facility maintaining a newborn safety device shall provide**  
43 **the means for the person surrendering an infant to indicate whether**

1 such infant or either biological parent is a member of or eligible for  
2 membership in a federally recognized tribe or tribes. An employee of a  
3 facility taking custody of an infant pursuant to section (c)(1) shall  
4 provide to the secretary all information received pursuant to this  
5 subsection. The secretary shall provide such information to the court  
6 with jurisdiction over the infant.

7 (l) (1) A facility described in subsection (c)(1)(A) that receives an  
8 infant surrendered under this section shall make available, if possible,  
9 information to the relinquishing parent, but such parent shall not be  
10 required to accept such information.

11 (2) Such information to be made available shall include:

12 (A) A notice stating that 60 days after the surrender of the infant  
13 to the facility, the secretary shall commence proceedings for  
14 termination of parental rights and placement of the infant for  
15 adoption;

16 (B) a list of providers that provide counseling services on grief,  
17 pregnancy and adoption or other placement or care regarding an  
18 infant;

19 (C) a copy of this statute, the rights of birth parents, a  
20 questionnaire that a birth parent may answer questions about the  
21 medical or background information of the child and any information  
22 required by subsection (k); and

23 (D) a brochure on postpartum health.

24 (3) The form and manner of the information under this  
25 subsection shall be prescribed by the secretary. The secretary shall  
26 maintain the questionnaire under paragraph (2)(C) on a public  
27 website.

28 (m) Except as otherwise provided by law, the following  
29 individuals shall not disclose any information concerning the  
30 relinquishment of the infant and individuals involved in the  
31 relinquishment:

32 (1) Persons licensed to practice medicine and surgery, advanced  
33 practice registered nurse or licensed physician assistant;

34 (2) employees of a facility described in subsection (c)(1)(A);

35 (3) operators of a newborn safety device; or

36 (4) persons employed or involved with any location where an  
37 infant may be surrendered under this section.

38 ~~Sec. 2-3. 4.~~ K.S.A. 38-2203 and 38-2282-~~is~~ and K.S.A. 2022 Supp.  
39 21-5605 are hereby repealed.

40 ~~Sec. 3-4. 5.~~ This act shall take effect and be in force from and after  
41 its publication in the statute book.