

SENATE BILL No. 490

By Committee on Judiciary

2-10

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 crib; amending K.S.A. 38-2282 and repealing the  
4 existing section.

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

7 Section 1. K.S.A. 38-2282 is hereby amended to read as follows: 38-  
8 2282. (a) This section shall be known and may be cited as the newborn  
9 infant protection act. The purpose of this section is to protect newborn  
10 children from injury and death caused by abandonment by a parent; and to  
11 provide safe and secure alternatives to such abandonment.

12 (b) As used in this section:

13 (1) "Non-relinquishing parent" means the biological parent of an  
14 infant who does not leave the infant with any person listed in subsection  
15 (c) in accordance with this section; and

16 (2) "relinquishing parent" means the biological parent or person  
17 having legal custody of an infant who ~~leaves~~ surrenders the infant with  
18 any person listed in subsection (c) in accordance with this section.

19 ~~(3) "infant refuge crib" means a device or container designed to~~  
20 ~~safely accept delivery of an infant and that is:~~

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

23 ~~(B) located in an area that is conspicuous and visible to employees of~~  
24 ~~the facility described in subsection (c);~~

25 ~~(C) equipped with an automatic lock that would restrict access to the~~  
26 ~~crib from the outside of the facility described in subsection (c) when an~~  
27 ~~infant is placed inside the crib;~~

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

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

31 (c) (1) A person purporting to be an infant's parent or other person  
32 having lawful custody of an infant who is 60 days old or younger and who  
33 has not suffered bodily harm may surrender physical custody of the infant  
34 to ~~any~~ either:

35 (A) An employee who is on duty at a police station, sheriff's office,  
36 law enforcement center, fire station, city or county health department or

CHOICE 1  
line 22

add:  
or has a  
dual alarm  
system that  
will

dispatch the  
nearest first  
responder

to retrieve a  
child

voluntarily  
delivered to  
the fire

department  
under this

chapter in  
the event

that all first  
responders  
affiliated

with the  
fire  
department

are  
dispatched  
for a

separate  
emergency.

newborn  
safety device

Newborn  
safety  
device

Voluntarily

on a  
structural  
wall

device

CHOICE 2

line 22 add: except when first responders are dispatched for an emergency when the dual alarm system will dispatch the nearest first responder to retrieve the infant as in any similar emergency.

1 medical care facility as defined by K.S.A. 65-425, and amendments  
2 thereto. Such employee shall, without a court order, take physical custody  
3 of an infant surrendered pursuant to this section; or

Newborn  
safety  
device

4 ~~(B) an infant refuge crib installed at a facility described in~~  
5 ~~subparagraph (A). An employee of such facility shall, without a court~~  
6 ~~order, take physical custody of an infant surrendered pursuant to this~~  
7 ~~section.~~

8 (2) A relinquishing parent voluntarily surrendering an infant under  
9 this subsection shall not be required to reveal personally identifiable  
10 information, but may be offered the opportunity to provide information  
11 concerning the infant's familial or medical history.

12 (3) ~~A facility described in this subsection that installs an infant refuge~~  
13 ~~crib shall install a dual alarm system connected to the physical location of~~  
14 ~~the crib. Such dual alarm system shall be tested at least once per week and~~  
15 ~~visually checked at least twice per day to ensure such alarm is in working~~  
16 ~~order.~~

device

17 (d) ~~Any~~An employee of a facility described in subsection (c) to whom  
18 an infant is delivered pursuant to this section shall not reveal the name or  
19 other personally identifiable information of the person who delivered the  
20 infant unless there is a reasonable suspicion that the infant has been abused  
21 or neglected, and such facility and its employees shall be immune from  
22 administrative, civil or criminal liability for any action taken pursuant to  
23 this subsection. Such immunity shall not extend to any acts or omissions,  
24 including negligent or intentional acts or omissions, occurring after the  
25 acceptance of the infant.

26 (e) If an infant is delivered pursuant to this section to ~~any~~ a facility  
27 described in subsection (c) that is not a medical care facility, the employee  
28 of such facility who takes physical custody of the infant shall arrange for  
29 the immediate transportation of the infant to the nearest medical care  
30 facility as defined by K.S.A. 65-425, and amendments thereto. The  
31 medical care facility, its employees, agents and medical staff shall perform  
32 treatment in accordance with the prevailing standard of care as necessary  
33 to protect the physical health and safety of the infant and shall be immune  
34 from administrative, civil and criminal liability for treatment performed  
35 consistent with such standard.

36 (f) As soon as possible after an employee of ~~any~~ a facility described  
37 in subsection (c) takes physical custody of an infant without a court order  
38 pursuant to this section, such person shall notify a local law enforcement  
39 agency that the person has taken physical custody of an infant pursuant to  
40 this section. Upon receipt of such notice a law enforcement officer from  
41 such law enforcement agency shall take custody of the infant as an  
42 abandoned infant. The law enforcement agency shall deliver the infant to a  
43 facility or person designated by the secretary pursuant to K.S.A. 38-2232,

1 and amendments thereto.

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

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

9 (A) The relinquishing parent voluntarily delivered the infant safely to  
10 either:

11 (i) The physical custody of an employee at a facility described in  
12 subsection (c); or

13 ~~(ii) an infant refuge crib installed at a facility described in subsection~~  
14 ~~(c);~~

15 (B) the infant was ~~no~~ not more than 60 days old when delivered by  
16 the relinquishing parent to ~~the physical custody of an employee at a~~  
17 facility described in subsection (c); and

18 (C) the infant was not abused or neglected by the relinquishing parent  
19 prior to such delivery.

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

24 (i) (1) In any termination of parental rights proceeding initiated after  
25 the relinquishment of an infant pursuant to this section, the state shall  
26 publish notice pursuant to chapter 60 of the Kansas Statutes Annotated,  
27 and amendments thereto, that an infant has been relinquished, including  
28 the sex of the infant and the date and location of such relinquishment.  
29 Within 30 days after publication of such notice, a non-relinquishing parent  
30 seeking to establish parental rights shall notify the court where the  
31 termination of parental rights proceeding is filed and state such parent's  
32 intentions regarding the infant. The court shall initiate proceedings to  
33 establish parentage if no person notifies the court within 30 days. There  
34 shall be an examination of the putative father registry to determine  
35 whether attempts have previously been made to preserve parental rights to  
36 the infant. If such attempts have been made, the state shall make  
37 reasonable efforts to provide notice of the abandonment of the infant to  
38 such putative father.

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

newborn  
safety device

OPTIONAL  
If a person  
indicates to  
the court  
that the  
person is the  
parent of the  
child and  
that the  
person seeks  
to be  
reunited  
with the  
child, the  
court that  
adjudicatd  
the child  
shall require  
the person,  
at the  
person's  
expense, to  
submit to a  
DNA test to  
verify that  
the person is  
the biological  
parent of the  
child.

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

5 (4) If a non-relinquishing parent inquires at a facility described in  
6 subsection (c) regarding an infant whose custody was relinquished  
7 pursuant to this section, such facility shall refer the non-relinquishing  
8 parent to the Kansas department for children and families and the court  
9 exercising jurisdiction over the child.

10 (j) Upon request, all medical records of the infant shall be made  
11 available to the Kansas department for children and families and given to  
12 the person awarded custody of such infant. The medical facility providing  
13 such records shall be immune from liability for such *release of* records  
14 ~~release~~.

15 Sec. 2. K.S.A. 38-2282 is hereby repealed.

16 Sec. 3. This act shall take effect and be in force from and after its  
17 publication in the statute book.