House Children & Families Subcommittee Am. #1

Amendment No._____

FILED
Date _____
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Clerk _____
Comm. Amdt. _____
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Signature of Sponsor

AMEND Senate Bill No. 343* **House Bill No. 534**

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-11-255, is amended by deleting the section and substituting instead the following:

(a) As used in this section and in § 36-1-142:

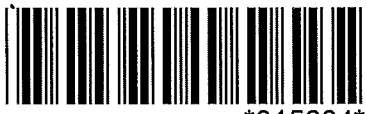
(1) "Department" means the department of children's services unless otherwise provided in this section;

(2) "Facility" means a hospital as defined in § 68-11-201, birthing center as defined in § 68-11-201, community health clinic, outpatient walk-in clinic, fire department that is staffed twenty-four (24) hours a day, law enforcement facility that is staffed twenty-four (24) hours a day, or emergency medical services facility;

(3) "Member of the professional medical community" means a licensed or permitted individual that is capable of rendering corrective action to human life-threatening illness or injury and is at the facility when the facility receives possession of an infant pursuant to subsection (b); and

(4) "Newborn safety incubator" means an enclosed, locked, and monitored receptacle that meets safety requirements as determined by rule by the department of health.

(b) A facility shall receive possession of an infant left on facility premises if the infant:



(1) Was born within the preceding two-week period, as determined within a reasonable degree of medical certainty;

(2) Is left in an unharmed condition; and

(3)

(A) Is voluntarily left with a facility employee or member of the professional medical community at the facility by an individual who purports to be the infant's mother and who does not express an intention to return for the infant; or

(B) Is voluntarily left by a mother in a newborn safety incubator provided by the facility.

(c) A facility employee or a member of the professional medical community at the facility shall inquire, whenever possible, about the medical history of the mother or infant and, whenever possible, shall seek the identity of the mother, infant, or the father of the infant. The facility shall also inform the mother that she is not required to respond but that the information will facilitate the adoption of the infant. Information obtained concerning the identity of the mother, infant, or other parent must be kept confidential and may only be disclosed to the department for use consistent with this section, § 36-1-142, and § 36-2-318. The facility may provide the parent with contact information regarding relevant social service agencies; shall provide the mother with the name, address, and phone number of the department contact person; and shall encourage the mother to involve the department in the relinquishment of the infant. If practicable, the facility shall also provide the mother with both orally delivered and written information concerning the requirements of this section, § 36-1-142, and § 36-2-318 relating to recovery of the infant and abandonment of the infant.

(d) A facility employee or member of the professional medical community at the facility shall perform any act necessary to protect the infant's physical health and safety.

(e) As soon as reasonably possible, and no later than twenty-four (24) hours after receiving the infant, the facility shall contact the department but shall not do so before the mother leaves the facility. Upon receipt of notification, the department shall immediately assume care, custody, and control of the infant.

(f) If an infant is received by a facility pursuant to subdivision (b)(3)(B), then a facility employee or member of the professional medical community at the facility does not have to inquire about, or provide, any information from or to the mother otherwise required by subsection (c).

(g) Notwithstanding any law to the contrary, a facility, facility employee, or member of the professional medical community is immune from any criminal or civil liability for damages as a result of any actions taken pursuant to this section and § 36-1-142, and a person shall not predicate any lawsuit on those actions. However, this section and § 36-1-142 do not abrogate any existing standard of care for medical treatment or preclude a cause of action based upon violation of the existing standard of care for medical treatment.

(h) A criminal prosecution must not be based upon an individual's act of voluntarily delivering an unharmed infant at a facility pursuant to this section if the individual acts in full compliance with this section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.