

SENATE BILL 459

By Yager

AN ACT to amend Tennessee Code Annotated, Title 33;
Title 36 and Title 37, relative to Neonatal
Abstinence Syndrome.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

WHEREAS, the Tennessee General Assembly declares that the growing misuse of prescription drugs by pregnant women leads too often to drug-affected infants with neonatal abstinence syndrome, that adversely affects the health and welfare of the newborn and places a heavy financial burden on Tennessee's taxpayers and those who pay for health care, so it is the policy of this state to take effective action that will minimize these costs; and

WHEREAS, special attention must be focused on preventive programs and services directed at pregnant women at risk of becoming prescription drug abusers and misusers as well as on pregnant women who use these substances or who are at risk of substance use or abuse; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known as the "Safe Harbor Act of 2013".

SECTION 2. Tennessee Code Annotated, Section 33-10-104, is amended by adding the following new subsection:

(f)

(1) Notwithstanding subsection (e), a pregnant woman referred for drug abuse or drug dependence treatment at any treatment resource that receives public funding shall be a priority user of available treatment. All records and reports regarding such pregnant woman shall be kept confidential. The department of mental health and substance abuse services shall ensure that family-oriented drug abuse or drug dependence treatment is available, as

appropriations allow. A treatment resource that receives public funds shall not refuse to treat a person solely because the person is pregnant as long as appropriate services are offered by the treatment resource.

(2) If during prenatal care, the attending obstetrical provider determines no later than the end of the twentieth week of pregnancy that the patient has used prescription drugs which may place the fetus in jeopardy, and drug abuse or drug dependence treatment is indicated, the provider shall encourage counseling, drug abuse or drug dependence treatment and other assistance to the patient.

(A) If the patient initiates drug abuse or drug dependence treatment based upon a clinical assessment prior to her next regularly-scheduled prenatal visit and maintains compliance with both drug abuse or drug dependence treatment based on a clinical assessment as well as prenatal care throughout the remaining term of the pregnancy, then the department of children's services shall not file any petition to terminate the mother's parental rights or otherwise seek protection of the newborn solely because of the patient's use of prescription drugs for non-medical purposes during the term of her pregnancy.

(B) Notwithstanding subdivision (f)(2)(A), nothing shall prevent the department of children's services from filing any petition to terminate the mother's parental rights or seek protection of the newborn should the department determine that the newborn's mother, or any other adult caring for the newborn, is unfit to properly care for such child.

(3) Any physician or other health care provider who does not recognize that the pregnant woman has used prescription drugs that place the fetus in jeopardy, or who complies with the provisions of this subsection, or any physician or facility that initiates substance abuse treatment consistent with community standards of care pursuant to this subsection, shall be presumed to be acting in

good faith and shall have immunity from any civil liability that might otherwise result by reason of such actions.

(4) The commissioner of mental health and substance abuse services is authorized to promulgate emergency rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. This act shall take effect on becoming law, the public welfare requiring it.