

TITLE 23

Health and Safety

CHAPTER 23-13.1

The Safe Haven For Infants Act

SECTION 23-13.1-1

§ 23-13.1-1 **Short title.** – This chapter may be cited as the "Safe Haven for Infants Act."

SECTION 23-13.1-2

§ 23-13.1-2 **Definitions.** – As used in this chapter:

(1) "Infant" means a newborn human child which is thirty (30) days old or younger.

SECTION 23-13.1-3

§ 23-13.1-3 **Voluntary surrender of infant child.** – (a) Every hospital, open medical emergency facility, fire station, or police station operating in the state of Rhode Island shall, without court order, take temporary physical custody of an infant, who appears to be age thirty (30) days or younger, who is voluntarily left with a staff member of the hospital, open medical emergency facility, fire station, or police station by any person who does not express an intent to return for the infant and the circumstances give rise to a reasonable belief that the person does not intend to return for the infant.

(b) The person leaving the infant may, but shall not be required to leave any information disclosing the identity of himself/herself, the infant, the parents of the infant or other family member of the infant and/or the medical history of himself/herself, the infant, the parents of the infant, or other family member of the infant. The hospital or other facility designated in this section shall offer the person leaving the infant written information concerning the legal effect of leaving the infant with the hospital or other facility designated in this section. The department of children, youth and families shall

create this information and provide it at no charge to hospitals and other facilities designated in this section. Any information obtained by the hospital or other facility designated in this section from the person leaving the infant relating to the identity of the person, the infant, the parents of the infant or other family member of the infant shall be kept confidential by the hospital or other facility and shared with no one other than the director of the department of children, youth and families or his or her designee. However, if a court of competent jurisdiction determines that the immunity provisions of § 23-13.1-4 do not apply, the hospital or other facility where the infant was left must disclose the information relating to the identity of the person, the infant, the parents of the infant, or other family member of the infant to the department of attorney general upon order of the court. Nothing in this section shall be construed to prevent disclosing to medical care providers any information about the infant necessary to provide medical care or treatment to the infant.

(c) Nothing contained in this section shall preclude the department of children, youth and families from notifying law enforcement authorities of any criminal wrongdoing in accordance with §§ 11-9-5 and/or 40-11-5.

(d) The hospital or other facility with responsibility for performing duties under this chapter, and/or any employee, independent contractor, agent, doctor, other medical professional, law enforcement or fire official associated with the hospital or facility shall be immune from any criminal or civil liability arising from action(s) taken in accordance with this chapter including, but not limited to, determining the age of, receiving, examining or otherwise treating the infant. This immunity does not apply to acts or omissions constituting negligence or reckless, wanton or intentional misconduct.

(e) The hospital or other facility in this section performing duties under this chapter and/or any staff member, employee, independent contractor, agent, doctor, other medical professional, law enforcement or fire official associated with the hospital or facility shall be immune from any criminal or civil liability that otherwise might result from the failure to make a report under the provisions of chapter 11 of title 40 if the entity or person acted in good faith in complying with this section.

(f) Any hospital, medical facility or licensed physician, and its employees, independent contractors and agents, are authorized to provide to an infant left at a hospital or other facility in accordance with this chapter any medical care and treatment, including testing for the human immunodeficiency virus and hepatitis, that the attending physician believes necessary for the infant's well-being.

SECTION 23-13.1-4

§ 23-13.1-4 Immunity. – A person who leaves an infant, age thirty (30) days or younger, at a hospital or other facility designated under this chapter, or directs another

person to do so, shall be immune from prosecution only for the act of abandonment of the infant pursuant to §§ 11-2-1 and 11-9-5(a) provided that:

- (1) The person is the parent of the infant or is acting at the direction of a parent;
- (2) The infant is left in the physical custody of a staff member of the hospital or other facility designated under this chapter;
- (3) A comprehensive medical examination of the infant determines the infant has not been harmed or been the victim of any physical neglect or abuse. Injuries and/or conditions resulting from childbirth shall not be considered harm, abuse or neglect for the purposes of this section.

SECTION 23-13.1-5

§ 23-13.1-5 DCYF – Procedure. – (a) Immediately upon any time that a hospital or other facility designated in this chapter takes physical possession of an infant pursuant to this chapter, the hospital or other facility designated in this chapter shall notify the director of the department of children, youth and families, or his or her designee, that it has physical possession of the infant. The director of the department of children, youth and families shall establish a procedure by which a hospital or other facility designated in this chapter can notify the department for children, youth and families. The department of children, youth and families shall immediately respond to the hospital or other facility designated in this chapter and place the infant in the temporary protective custody of the department and make arrangements for the infant to undergo a comprehensive medical examination by a licensed physician or a duly certified registered nurse practitioner in accordance with the provisions of § 40-11-5. Thereafter, the department of children, youth and families shall file an emergency petition for the removal of the infant from the care and custody of the parents in accordance with the provisions of § 40-11-7.

(b) The department of children, youth and families shall, upon obtaining temporary custody of the infant and provided that no person has asserted a claim to be the parent of the infant within ninety (90) days of the department obtaining custody, commence proceedings to terminate the parental rights of the parents of the infant in accordance with the provisions of § 15-7-7. The leaving of the infant at a hospital or other facility designated herein and the failure of a person to assert a claim to be the parent of the infant within ninety (90) days of the infant being placed in the temporary custody of the department of children, youth and families shall constitute prima facie evidence of permanent abandonment of the infant.

SECTION 23-13.1-6

§ 23-13.1-6 Awareness program. – There shall be established a "Safe Haven for Infants Awareness Program" which shall distribute literature relative to the rights and immunity established under this chapter. The awareness program shall be administered by the director of the department of children, youth and families or his or her designee. As part of the program, the director shall establish a toll free telephone information line, issue pamphlets and other literature, and secure print and other advertisements in order to disseminate information relative to this chapter.

SECTION 23-13.1-7

§ 23-13.1-7 Annual report to the legislature. – The director of the department of children, youth and families shall report annually to the general assembly at its January session as to the status of any infant abandoned under this chapter and all costs incurred by the department relative to this chapter.

SECTION 23-13.1-8

§ 23-13.1-8 Severability. – If any provision of this chapter or the application of any provision to any person or circumstance shall be held invalid, that invalidity shall not affect the provisions or application of this chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.