**South Carolina General Assembly**

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**H. 4687**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Dillard, Henegan and S. Jones

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Currently residing in the House

Summary: Infant Safe Havens

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/14/2023 House Prefiled

12/14/2023 House Referred to Committee on **Judiciary**

1/9/2024 House Introduced and read first time ([House Journal‑page 122](h:\hj\20240109.docx))

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1/9/2024 House Member(s) request name added as sponsor: S. Jones

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**VERSIONS OF THIS BILL**

[12/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4687_20231214.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 63-7-40, RELATING TO INFANT SAFE HAVENS, SO AS TO ALLOW FOR THE USE OF newborn safety devices, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63-7-40 of the S.C. Code is amended to read:

Section 63-7-40. (A) A safe haven in this State must, without a court order, take temporary physical custody of an infant who is voluntarily left with the safe haven by a 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. If the safe haven is a hospital or hospital outpatient facility, the hospital or hospital facility shall perform any act necessary to protect the physical health or safety of the infant; any other safe haven shall, as soon as possible, but no later than six hours after receiving an infant, immediately transport the infant to a hospital or hospital outpatient facility. The person leaving the infant is not required to disclose his or her identity; however, the person must leave the infant in the physical custody of a staff member or employee of the safe haven or in a newborn safety device when the safe haven offers a newborn safety device for use in accordance with this section.

(B)(1) A facility, agency, or other location designated as a safe haven pursuant to subsection (J)(2) must post a notice prepared by the department on its premises that is prominently displayed for view by the public, stating that the facility, agency, or other location is a safe haven at which a person may leave an infant.

(2) The safe haven must offer the person leaving the infant information concerning the legal effect of leaving the infant with the safe haven.

(3) The safe haven must ask offer the person leaving the infant an opportunity to identify any parent of the infant other than the person leaving the infant with the safe haven. The safe haven also must attempt to obtain from the person information concerning the infant's background and medical history as specified on a form provided by the department. This information must include, but is not limited to, information concerning the use of a controlled substance by the infant's mother, provided that information regarding the use of a controlled substance by the infant's mother is not admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The safe haven must give the person a copy of the form and a prepaid envelope for mailing the form to the department if the person does not wish to provide the information to the safe haven. The department must provide these materials to safe havens. The information and form required to be provided to a person leaving an infant with a safe haven as provided in this item must be included in every newborn safety device for a person using a newborn safety device.

(4) Identifying information disclosed by the person leaving the infant must be kept confidential by the safe haven and disclosed to no one other than the department. However, if a court determines that the immunity provisions of subsection (H) do not apply, the safe haven may disclose the information as permitted by confidentiality protections applicable to records of the safe haven, if the safe haven has such confidentiality protections for records. The department must maintain confidentiality of this information in accordance with Section 63-7-1990.

(C) Not later than the close of the first business day after the date on which a hospital or hospital outpatient facility takes possession of an infant pursuant to subsection (A), the hospital or hospital outpatient facility shall notify the department that it has taken temporary physical custody of the infant. The department has legal custody of the infant immediately upon receipt of the notice. The department shall assume physical control of the infant as soon as practicable upon receipt of the notice, but no later than twenty-four hours after receiving notice that the infant is ready for discharge from the hospital or hospital outpatient facility. Assumption of custody by the department pursuant to this subsection does not constitute emergency protective custody, and the provisions of Subarticle 3 of , Article 3 do not apply. The department is not required to initiate prohibited from initiating a child protective services investigation solely because an infant comes into its custody under this subsection.

(D) Immediately after receiving notice from a hospital or hospital outpatient facility pursuant to subsection (C), the department shall contact the South Carolina Law Enforcement Division for assistance in assuring that the infant is not a missing infant. The South Carolina Law Enforcement Division shall treat the request as ongoing for a period of thirty days and shall contact the department if a missing infant report is received that might relate to the infant.

(E)(1) Within forty-eight hours after taking legal custody of the infant, the department shall publish notice, in a newspaper of general circulation in the area where the safe haven that initially took the infant is located, and send a news release to broadcast and print media in the area. The notice and the news release must state the circumstances under which the infant was left at the safe haven or in a newborn safety device, a description of the infant, and the date, time, and place of the permanency planning and termination of parental rights hearing provided for in subsection (E)(2). The notice and the news release must also state that any person wishing to assert parental rights in regard to the infant must do so at the hearing. If the person leaving the infant identified anyone as being a parent of the infant, the notice must be sent by certified mail to the last known address of the person identified as a parent at least two weeks prior to the hearing.

(2) Within forty-eight hours after obtaining legal custody of the infant, the department shall file a petition for permanency planning alleging that the infant has been abandoned, that the court should dispense with reasonable efforts to preserve or reunify the family, that continuation of keeping the infant in the home of the parent or parents would be contrary to the welfare of the infant, and that termination of parental rights is in the best interest of the infant. The department shall file concurrently with the petition for permanency planning a petition for termination of parental rights pursuant to Section 63-7-2570 based on abandonment and any other applicable grounds. A hearing on both petitions must be held no earlier than thirty and no later than sixty days after the department takes legal custody of the infant. Unless a person wishing to assert parental rights does so at the hearing, this hearing shall serve as the permanency planning hearing and the termination of parental rights hearing for the infant. If the court approves the permanent plan of termination of parental rights and issues an order terminating parental rights to the infant, the order must also provide that the department shall, within thirty days of the close of the hearing, submit a plan to the court and to the infant's guardian ad litem for permanent placement of the infant and otherwise comply with the requirements of Section 63-7-2580(A). If a person asserts parental rights to the infant at the hearing, and the court approves a permanent plan of termination of parental rights and adoption, the court shall schedule a hearing on the petition to terminate parental rights no later than thirty days after the close of the permanency planning hearing.

(F) In any judicial proceeding in which the abuse or neglect of an infant is an issue, the act of voluntarily leaving an infant with a safe haven or in a newborn safety device pursuant to this section is conclusive evidence that the infant has been abused or neglected for purposes of Department of Social Services' jurisdiction and for evidentiary purposes. The act of voluntarily leaving an infant with a safe haven or in a newborn safety device pursuant to this section is also conclusive evidence that the requirements for termination of parental rights have been satisfied as to any parent who left the infant or acted in concert with the person leaving the infant.

(G) A person who leaves an infant at a safe haven or in a newborn safety device, or directs another person to do so, must not be prosecuted for any criminal offense on account of such action if:

(1) the person is a parent of the infant or is acting at the direction of a parent;

(2)(a) the person leaves the infant in the physical custody of a staff member or an employee of the safe haven or in a newborn safety device; and

(b) the person relinquishes physical custody of the infant to medical staff at a hospital or other facility following delivery of the infant in the hospital or other facility when the parent notifies the medical staff that the parent is voluntarily relinquishing physical custody of the infant without expressing an intent to again assume physical custody; or

(c) the person makes telephone contact with a 911 service and relinquishes physical custody of the infant without expressing an intent to again assume physical custody to a first responder who responds to the 911 telephone call at a location agreed upon in the call; provided, however, the person must remain with the infant until the first responder arrives; and

(3) the infant is not more than sixty days old or the infant is reasonably determined by the hospital or hospital outpatient facility to be not more than sixty days old.

This subsection does not apply to prosecution for the infliction of any harm upon the infant other than the harm inherent in abandonment.

(H) A safe haven, including a safe haven offering a newborn safety device, and its agents, and any health care professionals practicing within a hospital or hospital outpatient facility, are immune from civil or criminal liability for any action authorized by this section, so long as the safe haven, or health care professional, complies with all provisions of this section.

(I) The department, either alone or in collaboration with any other public entity, shall take appropriate measures to achieve public awareness of the provisions of this section.

(J) For purposes of this section:

(1) “Infant” means a person not more than sixty days old; and.

(2) “Newborn safety device” means a padded and climate-controlled receptacle that meets one of the following requirements:

(a) If the newborn safety device is located at a hospital or hospital outpatient facility, the newborn safety device is conspicuous and visible to hospital staff.

(b) If the newborn safety device is located at a fire station, a law enforcement agency, or an emergency medical services station:

(i) The fire station, law enforcement agency, or emergency medical services station is staffed by a first responder twenty-four hours per day, seven days per week, not including the time staff is dispatched for an emergency.

(ii) The newborn safety device is located in an area that is conspicuous and visible to staff, or the newborn safety device is located in an area that is not visible to staff but is equipped with a motion sensor and a dual alarm system that is tested at least one time per month to ensure the alarm system is in working order. The dual alarm system must be programmed to sound first when the newborn safety device is opened, immediately notifying a 911 emergency service and dispatching an emergency medical services provider, law enforcement officer, or fire fighter to the location of the newborn safety device, and to sound a second time, immediately notifying a 911 emergency service, after movement is detected inside the newborn safety device.

(3) “Safe haven” means a hospital or hospital outpatient facility, a law enforcement agency, a fire station, an emergency medical services station, or any staffed house of worship during hours when the facility is staffed any safe haven location offering a newborn safety device.

(K) Annually the department shall submit a report to the General Assembly containing data on infants who come into the custody of the department pursuant to this section. The data must include, but are not limited to, the date, time, and place where the infant was left, the hospital to which the infant was taken, the health of the infant at the time of being admitted to the hospital, disposition and placement of the infant, and, if available, circumstances surrounding the infant being left at the safe haven or in a newborn safety device. No data in the report may contain identifying information.

SECTION 2. This act takes effect upon approval by the Governor.

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