

2024 Regular Session

HOUSE BILL NO. 891

BY REPRESENTATIVES CHENEVERT AND MYERS

CHILDREN/NEWBORNS: Provides relative to the Safe Haven Law

1 AN ACT

2 To amend and reenact Children's Code Article 502(4)(introductory paragraph), 1150(2)(a),
3 1151(A)(1), (B) and (C) and 1152(A)(1) and (2)(f), (C)(3) and (G), 1153(B)(2) and
4 (3), 1154(A), and 1157(A)(1) and to repeal Children's Code Articles 1150(2)(e) and
5 1152(A)(3), relative to the Safe Haven Law; to provide for definitions; to require
6 twenty-four hour medical services; to establish certain provisions for first responders
7 upon dispatch; to remove requirements for a designee; to establish requirements for
8 the production of safe haven informational materials; to amend the requirement for
9 an instructional video; to require certain determinations by a physician; to include
10 contacting the Missing and Exploited Children Information Clearinghouse for
11 information on missing children and endangered adults; to provide that certain
12 actions constitute a crime against a child; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Children's Code Article 502(4)(introductory paragraph), 1150(2)(a),
15 1151(A)(1), (B) and (C) and 1152(A)(1) and (2)(f), (C)(3) and (G), 1153(B)(2) and (3),
16 1154(A), and 1157(A)(1) are hereby amended and reenacted to read as follows:

17 Art. 502. Definitions

18 For the purposes of this Title, the following terms have the following
19 meanings, unless the context clearly indicates otherwise:

20 * * *

1 (4) "Crime against the child" ~~shall include~~ includes the commission of or the
2 attempted commission of any of the following crimes against the child as provided
3 by federal or state statutes:

4 * * *

5 Art. 1150. Definitions

6 As used in this Chapter:

7 * * *

8 (2) "Designated emergency care facility" means any of the following:

9 (a) Any hospital licensed in the state of Louisiana that has an emergency
10 department staffed twenty-four hours per day, seven days per week.

11 * * *

12 Art. 1151. Relinquishment of infants; defense to prosecution

13 A.(1) If a parent wishes to relinquish his an infant, ~~he~~ the parent may leave
14 the infant in the care of any employee of a designated emergency care facility or in
15 a newborn safety device that meets the specifications provided in Subparagraph (2)
16 of this Paragraph and is physically located inside of a facility which is licensed as a
17 hospital in accordance with the Hospital Licensing Law, R.S. 40:2100 et seq., ~~and~~
18 that has an emergency department that is staffed twenty-four hours per day, fire
19 department manned twenty-four hours, seven days a week by an emergency response
20 provider, as defined in 6 U.S.C. 101, who is certified in neonatal resuscitation as
21 defined in R.S. 40:1567, or law enforcement personnel who are hired to provide
22 emergency medical services as defined in R.S. 40:1131.

23 * * *

24 B. If the parent is unable to travel to a designated emergency care facility,
25 ~~he~~ the parent may call "911", and a firefighter, a law enforcement officer, or an
26 emergency medical service provider shall immediately be dispatched to meet the
27 parent and transport the child to a hospital, and to ensure that all requirements listed
28 in Article 1152(D) through (I) have been met.

1 C. Relinquishment of an infant in accordance with this Chapter is not a
2 criminal act of neglect, abandonment, cruelty, or a crime against the child and shall
3 not be subject to an investigation for abandonment by the department.

4 Art. 1152. Designated emergency care facility, emergency medical service provider,
5 firefighter, and law enforcement officer responsibilities; newborn safety
6 devices authorized

7 A.(1) Every designated emergency care facility shall appoint as its
8 representative one or more employees on duty during regular business hours who is
9 knowledgeable about the requirements of this Chapter. ~~In addition, at other times~~
10 ~~each facility shall designate a representative who can be reached by emergency~~
11 ~~telephone service or post instructions to contact "911" for a safe haven~~
12 ~~relinquishment if outside of normal operating hours.~~

13 (2)

14 * * *

15 (f) Each designated emergency care facility that installs a newborn safety
16 device as authorized by this Subparagraph shall ~~install adjacent to the device a card~~
17 ~~holder and shall keep the card holder stocked with safe haven informational cards~~
18 provide all information required by the state and supplied by the department pursuant
19 to Paragraph D of this Article and other safe haven informational materials produced
20 in accordance with Article 1160 in an orange envelope conspicuous and readily
21 available in the newborn safety device for the relinquishing parent.

22 * * *

23 C. Instruction by a designated emergency care facility on safe haven
24 relinquishment procedures may:

25 * * *

26 (3) Utilize the downloadable instructional video and training materials
27 provided by the Department of Children and Family Services on the department's
28 website and the manufacturer of the newborn safety device.

29 * * *

1 G. ~~In the event that~~ When an infant is relinquished ~~to a designated~~
 2 emergency care facility ~~other than a hospital~~, or to an emergency medical service
 3 provider, firefighter, or law enforcement officer, ~~the staff of the facility~~, the
 4 emergency medical service provider, the firefighter, or the law enforcement officer
 5 shall immediately transfer the infant to a hospital.

6 * * *

7 Art. 1153. Medical evaluation of the infant

8 * * *

9 B. A physician shall promptly conduct a comprehensive medical
 10 examination and such tests to determine:

11 * * *

12 (2) If the infant suffered fetal exposure to alcohol or drug, which shall
 13 prompt an investigation by the department.

14 (3) If the infant appears to have been abused or neglected, which shall
 15 require the department to open an investigation.

16 * * *

17 Art. 1154. Safe haven continued custody hearing; instanter order

18 A. Immediately after notification that an infant has been relinquished, the
 19 department shall request an oral instanter order of custody from the court in
 20 accordance with Article 620 and shall take physical custody of the infant within
 21 twelve hours of notice that the infant is ready to be discharged from the hospital.
 22 The department shall exercise due diligence in attempting to identify and locate any
 23 non-relinquishing parent, including but not limited to performing a missing children
 24 search, which shall include contacting the Missing and Exploited Children
 25 Information Clearinghouse, as defined in R.S. 46:1431, for information on missing

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 endangered adults and missing children to determine if the child has been reported
2 missing.

3 * * *

4 Art. 1157. Reclaiming of parental rights by the relinquishing parent; hearing

5 A. A relinquishing parent may reclaim parental rights by proving by clear
6 and convincing evidence that:

7 (1) ~~He~~ The parent is the parent of the child.

8 * * *

9 Section 2. Children's Code Articles 1150(2)(e) and 1152(A)(3) are hereby repealed
10 in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 891 Engrossed 2024 Regular Session Chenevert

Abstract: Revises provisions relative to the "Safe Haven Law".

Present law clarifies definitions of "crime against the child" and "designated emergency care facility".

Proposed law adds "Safe Haven Law" provisions to the aforementioned definitions. Proposed law otherwise retains present law.

Present law provides that if a parent wishes to relinquish his infant, the parent may leave the infant in the care of any employee of a designated emergency care facility or in a newborn safety device that meets the specifications provided in present law and is physically located inside of a facility which is licensed as a hospital with an emergency department that is staffed 24 hours a day, 7 days a week.

Proposed law extends the places that a parent may relinquish an infant to include a fire department or with certain law enforcement personnel.

Present law provides that if the parent is unable to travel to a designated emergency care facility, the parent may call "911", and a firefighter, a law enforcement officer, or an emergency medical service provider shall immediately be dispatched to meet the parent and transport the child to a hospital. Proposed law retains present law.

Present law further provides that every designated emergency care facility shall appoint as its representative 1 or more employees on duty during regular business hours who are knowledgeable about the requirements provided for in present law and provides that each facility shall designate a representative who can be reached by emergency telephone service or post instructions to contact "911" for a safe haven relinquishment if outside of normal operating hours.

Present law further requires each designated emergency care facility that installs a newborn safety device to install, adjacent to the device, a card holder, stocked with safe haven informational cards supplied by the Dept. of Children and Family Services (DCFS) and other safe haven informational materials.

Proposed law removes the representative requirement and the requirement to install a card holder stocked with safe haven informational cards and instead requires the safe haven informational materials to be included in an orange envelope placed in the newborn safety device. Proposed law otherwise retains present law.

Present law provides that instruction by a designated emergency care facility on safe haven relinquishment procedures may utilize the downloadable instructional video and training materials provided by DCFS on its website.

Proposed law adds that the training materials shall also be provided by the manufacturer of the newborn safety device. Proposed law otherwise retains present law.

Present law provides that a physician shall promptly conduct a comprehensive medical examination and such tests to determine all of the following:

- (1) If the infant suffers from HIV or hepatitis, if suspected.
- (2) If the infant suffered fetal exposure to alcohol or drugs.
- (3) If the infant appears to have been abused or neglected.
- (4) The infant's estimated date of birth, if not previously known.

Proposed law provides that if the infant is found to have drugs in his system, proposed law shall prompt an investigation by DCFS. Proposed law further provides that if the infant has been abused, proposed law shall require DCFS to open an investigation.

Present law provides that immediately after notification that an infant has been relinquished, DCFS shall request an oral instanter order of custody from the court and shall take physical custody of the infant within 12 hours of notice that the infant is ready to be discharged from the hospital. Proposed law retains present law.

Present law provides that DCFS shall exercise due diligence in attempting to identify and locate any non-relinquishing parent, including but not limited to performing a missing children search. Proposed law retains present law.

Proposed law further requires DCFS to exercise due diligence to perform a missing children search that includes contacting the Missing and Exploited Children Information Clearinghouse for information on missing endangered adults and missing children to determine if the child was reported missing.

Present law provides that a designated emergency care facility means any Child Advocacy Center accredited by the National Children's Alliance, during normal and customary hours of operation. Proposed law repeals present law.

Present law provides that the La. Dept. of Health may promulgate hospital licensing rules regarding newborn safety devices installed in hospitals. Present law further provides that the provisions of present law may include but not be limited to adequate alarms, testing, cleaning, documentation, policies, procedures, and training of staff. Proposed law repeals present law.

(Amends Ch.C.Art. 502(4)(intro. para.), 1150(2)(a), 1151(A)(1), (B), and (C) and 1152(A)(1) and (2)(f), (C)(3) and (G), 1153(B)(2) and (3), 1154(A), and 1157(A)(1); Repeals Ch.C.Art. 1150(2)(e) and 1152(A)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Restore the present law provision that identifies criminal abandonment as a "crime against a child".
2. Restore the present law provision that details which hospitals or other centers shall be identified as designated emergency care facilities.
3. Remove the requirement for a dual alarm system for dispatch of a first responder.
4. Restore the present law requirement for the utilization of a downloadable instructional video on DCFS' website.
5. Require a prompt investigation in instances where there has been fetal exposure to alcohol or drugs.
6. Restore the present law requirement for DCFS to do its due diligence to locate a non-relinquishing parent.
7. Require fire departments to be manned 24 hours on a daily by an emergency response provider as provided in present law.
8. Make technical corrections.