

SECOND REGULAR SESSION

HOUSE BILL NO. 1443

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BARRY, HANAWAY, HOSMER, PORTWOOD (Co-sponsors),
ABEL, BRITT, GAMBARO, VILLA, LEGAN, BOWMAN AND BONNER.

Read 1st time January 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3865L.011

AN ACT

To repeal sections 568.030, 568.045 and 568.050, RSMo 2000, and to enact in lieu thereof four new sections relating to the Safe Place for Newborns Act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 568.030, 568.045 and 568.050, RSMo 2000, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 210.950, 568.030, 568.045 and
3 568.050, to read as follows:

**210.950. 1. This section shall be known and may be cited as the "Safe Place for
2 Newborns Act of 2002". The purpose of this section is to protect newborn children from
3 injury and death caused by abandonment by a parent, and to provide safe and secure
4 alternatives to such abandonment.**

5 2. As used in this section, the following terms mean:

**6 (1) "Nonrelinquishing parent", the biological parent who does not leave a newborn
7 infant with any person listed in subsection 3 of this section in accordance with this section;**

**8 (2) "Relinquishing parent", the biological parent or person acting on such parent's
9 behalf who leaves a newborn infant with any person listed in subsection 3 of this section
10 in accordance with this section.**

**11 3. In any prosecution of a parent for a violation of section 568.030, 568.045 or
12 568.050, RSMo, relating to the parent's child, it shall be an affirmative defense that:**

**13 (1) Expressing intent not to return for the child, the parent voluntarily delivered
14 the child safely to the physical custody of any of the following persons:**

15 (a) An employee, agent or member of the staff of any twenty-four-hour medical

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended
to be omitted in the law.**

16 facility licensed pursuant to chapter 197, RSMo, on duty in a paid or volunteer position;

17 (b) A firefighter or emergency medical technician on duty in a paid or volunteer
18 position;

19 (c) A law enforcement officer on duty;

20 (d) A member of the clergy;

21 (e) An employee of the division of family services; or

22 (f) An employee of the division of youth services;

23 (2) The child was no more than thirty days old when delivered by the parent to any
24 person listed in subdivision (1) of this subsection; and

25 (3) The child was not abused or neglected by the parent.

26 4. A person listed in subdivision (1) of subsection 2 of this section shall, without a
27 court order, take physical custody of a child the person reasonably believes to be no more
28 than thirty days old and is delivered in accordance with this section by a person purporting
29 to be the child's parent. If delivery of a newborn is made pursuant to this section in any
30 place other than a twenty-four-hour medical facility licensed pursuant to chapter 197,
31 RSMo, the person taking physical custody of the child shall arrange for the immediate
32 transportation of the child to the nearest twenty-four-hour medical facility licensed
33 pursuant to chapter 197, RSMo.

34 5. The twenty-four-hour medical facility, its employees, agents and medical staff
35 shall perform any act necessary, in accordance with generally accepted standards of
36 professional practice, to protect the physical health or safety of the child. The twenty-four-
37 hour medical facility shall notify the division of family services upon receipt of a child
38 pursuant to this section and shall notify the local juvenile officer at such time as the child
39 is medically ready for discharge and the local juvenile officer shall begin protective custody
40 proceedings. Upon receipt of the protective custody order, the division of family services
41 shall take physical custody of the child within six hours. The parent's voluntary delivery
42 of the child in accordance with this section shall constitute the parent's implied consent to
43 any such act and a voluntary relinquishment of such parent's parental rights.

44 6. In any termination of parental rights proceeding initiated after the
45 relinquishment of a child pursuant to this section, the court shall make public notice that
46 a child has been relinquished, including the sex of the child, and the date and location of
47 such relinquishment. Within thirty days, the nonrelinquishing parent shall identify
48 himself or herself to the court and state his or her intentions regarding the child. The court
49 shall initiate proceedings to establish paternity.

50 7. (1) If a relinquishing parent of a child relinquishes custody of the child to any
51 person listed in subsection 3 of this section in accordance with this section, the

52 nonrelinquishing parent may file an action for custody of the child. The nonrelinquishing
53 parent shall file such action, pursuant to the procedures in section 453.030, RSMo, within
54 thirty days after any person listed in subsection 3 of this section accepts custody of the
55 child from the relinquishing parent. In such action, the nonrelinquishing parent shall
56 prove that he or she is the parent of the child.

57 (2) If a nonrelinquishing parent fails to file an action within the thirty-day period
58 specified in subdivision (1) of this subsection, the nonrelinquishing parent shall be forever
59 barred from filing an action for custody of the child and, by operation of law and without
60 any court proceeding, shall have all of his or her rights terminated with respect to the
61 child.

62 (3) When a nonrelinquishing parent inquires at a twenty-four-hour medical facility
63 regarding a child whose custody was relinquished pursuant to this section, such facility
64 shall refer the nonrelinquishing parent to the division of family services.

65 8. The twenty-four-hour medical facility and the persons listed in subdivision (1)
66 of subsection 3 of this section shall be immune from civil, criminal and administrative
67 liability for discharging in good faith the duties provided for in this section.

68 9. The division of family services shall:

69 (1) On the statewide toll-free telephone number maintained pursuant to section
70 191.975, RSMo, provide information and answer questions concerning the process
71 established by this section; and

72 (2) Provide information to the public through general public service
73 announcements or by other means to deliver information concerning the process
74 established by this section.

75 10. Nothing in this section shall be construed as conflicting with section 210.125.

568.030. 1. A person commits the crime of abandonment of a child in the first degree
2 if, as a parent, guardian or other person legally charged with the care or custody of a child less
3 than four years old, he leaves the child in any place with purpose wholly to abandon it, under
4 circumstances which are likely to result in serious physical injury or death.

5 2. It shall be an affirmative defense to prosecution pursuant to this section that the
6 defendant voluntarily delivered the child pursuant to section 210.950, RSMo.

7 3. Abandonment of a child in the first degree is a class B felony.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first
2 degree if:

3 (1) The person knowingly acts in a manner that creates a substantial risk to the life, body,
4 or health of a child less than seventeen years old; or

5 (2) The person knowingly engages in sexual conduct with a person under the age of

6 seventeen years over whom the person is a parent, guardian, or otherwise charged with the care
7 and custody;

8 (3) The person knowingly encourages, aids or causes a child less than seventeen years
9 of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

10 (4) Such person enlists the aid, either through payment or coercion, of a person less than
11 seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport,
12 test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any
13 material used to manufacture, compound, produce, prepare, test or analyze amphetamine or
14 methamphetamine or any of their analogues; or

15 (5) Such person, in the presence of a person less than seventeen years of age, unlawfully
16 manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine
17 or methamphetamine or any of their analogues.

18 **2. It shall be an affirmative defense to prosecution pursuant to this section that the**
19 **defendant voluntarily delivered the child pursuant to section 210.950, RSMo.**

20 **3.** Endangering the welfare of a child in the first degree is a class D felony unless the
21 offense is committed as part of a ritual or ceremony, or except on a second or subsequent
22 offense, in which case the crime is a class C felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the
2 second degree if:

3 (1) [He] **Such person** with criminal negligence acts in a manner that creates a substantial
4 risk to the life, body or health of a child less than seventeen years old; or

5 (2) [He] **Such person** knowingly encourages, aids or causes a child less than seventeen
6 years old to engage in any conduct which causes or tends to cause the child to come within the
7 provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection
8 1 of section 211.031, RSMo; or

9 (3) Being a parent, guardian or other person legally charged with the care or custody of
10 a child less than seventeen years old, [he] **such person** recklessly fails or refuses to exercise
11 reasonable diligence in the care or control of such child to prevent him **or her** from coming
12 within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of
13 subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

14 (4) [He] **Such person** knowingly encourages, aids or causes a child less than seventeen
15 years of age to enter into any room, building or other structure which is a public nuisance as
16 defined in section 195.130, RSMo.

17 **2.** Nothing in this section shall be construed to mean the welfare of a child is endangered
18 for the sole reason that [he] **the child** is being provided nonmedical remedial treatment
19 recognized and permitted under the laws of this state.

20 **3. It shall be an affirmative defense to prosecution pursuant to this section that the**
21 **defendant voluntarily delivered the child pursuant to section 210.950, RSMo.**

22 **4.** Endangering the welfare of a child in the second degree is a class A misdemeanor
23 unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class
24 D felony.