

FIRST REGULAR SESSION

HOUSE BILL NO. 668

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES TORPEY (Sponsor), MCMANUS, SOLON, GRISAMORE,
KOENIG, MONTECILLO, CROSS, BRATTIN, LAUER, BERRY AND HAEFNER (Co-sponsors).

0914H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.950 and 211.447, RSMo, and to enact in lieu thereof two 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Section A. Sections 210.950 and 211.447, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 210.950 and 211.447, to read as follows:

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

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

(1) "Hospital", as defined in section 197.020;

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

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

3. A parent shall not be prosecuted for a violation of section 568.030, 568.032, 568.045 or 568.050 for actions related to the voluntary relinquishment of a child up to **[five] forty-five** days old pursuant to this section **[and it shall be an affirmative defense to prosecution for a violation of sections 568.030, 568.032, 568.045 and 568.050 that a parent who is a defendant voluntarily relinquished a child no more than one year old pursuant to this section] if:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

19 (a) An employee, agent, or member of the staff of any hospital, in a health care provider
20 position or on duty in a nonmedical paid or volunteer position;

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

23 (c) A law enforcement officer;

24 (2) The child was no more than [one year] **forty-five days** old when delivered by the
25 parent to any person listed in subdivision (1) of this subsection; and

26 (3) The child has not been abused or neglected by the parent prior to such voluntary
27 delivery.

28 **4. A parent voluntarily relinquishing a child under this section shall not be**
29 **required to provide any identifying information about the child or the parent. No person**
30 **shall induce or coerce, or attempt to induce or coerce, a parent into revealing his or her**
31 **identity. No officer, employee, or agent of this state or any political subdivision of this state**
32 **shall attempt to locate or determine the identity of such parent. In addition, any person**
33 **who obtains information on the relinquishing parent shall not disclose such information**
34 **except to the following:**

35 **(1) A birth parent who has waived anonymity or the child's adoptive parent;**

36 **(2) The staff of the department of health and senior services, the department of**
37 **social services, or any county health or social services agency or licensed child welfare**
38 **agency that provides services to the child;**

39 **(3) A person performing juvenile court intake or dispositional services;**

40 **(4) The attending physician;**

41 **(5) The child's foster parent or any other person who has physical custody of the**
42 **child;**

43 **(6) A juvenile court or other court of competent jurisdiction conducting proceedings**
44 **relating to the child;**

45 **(7) The attorney representing the interests of the public in proceedings relating to**
46 **the child; and**

47 **(8) The attorney representing the interests of the child.**

48 **5.** A person listed in subdivision (1) of subsection 3 of this section shall, without a court
49 order, take physical custody of a child the person reasonably believes to be no more than [one
50 year] **forty-five days** old and is delivered in accordance with this section by a person purporting
51 to be the child's parent. If delivery of a newborn is made pursuant to this section in any place

52 other than a hospital, the person taking physical custody of the child shall arrange for the
53 immediate transportation of the child to the nearest hospital licensed pursuant to chapter 197.

54 [5.] 6. The hospital, its employees, agents and medical staff shall perform treatment in
55 accordance with the prevailing standard of care as necessary to protect the physical health or
56 safety of the child. The hospital shall notify the **children's** division [of family services] and the
57 local juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer
58 shall immediately begin protective custody proceedings and request the child be made a ward
59 of the court during the child's stay in the medical facility. Upon discharge of the child from the
60 medical facility and pursuant to a protective custody order ordering custody of the child to the
61 division, the **children's** division [of family services] shall take physical custody of the child.
62 The parent's voluntary delivery of the child in accordance with this section shall constitute the
63 parent's implied consent to any such act and a voluntary relinquishment of such parent's parental
64 rights.

65 [6.] 7. In any termination of parental rights proceeding initiated after the relinquishment
66 of a child pursuant to this section, the juvenile officer shall make public notice that a child has
67 been relinquished, including the sex of the child, and the date and location of such
68 relinquishment. Within thirty days of such public notice, the [nonrelinquishing] parent wishing
69 to establish parental rights shall identify himself or herself to the court and state his or her
70 intentions regarding the child. The court shall initiate proceedings to establish paternity, or if
71 no person identifies himself as the father within thirty days, maternity. The juvenile officer shall
72 make examination of the putative father registry established in section 192.016 to determine
73 whether attempts have previously been made to preserve parental rights to the child. If such
74 attempts have been made, the juvenile officer shall make reasonable efforts to provide notice of
75 the abandonment of the child to such putative father.

76 [7.] 8. (1) If a relinquishing parent of a child relinquishes custody of the child to any
77 person listed in subsection 3 of this section in accordance with this section and to preserve the
78 parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take such steps
79 necessary to establish parentage within thirty days after the public notice or specific notice
80 provided in subsection [6] 7 of this section.

81 (2) If [a nonrelinquishing] **either** parent fails to take steps to establish parentage within
82 the thirty-day period specified in subdivision (1) of this subsection, [the nonrelinquishing] **either**
83 parent may have all of his or her rights terminated with respect to the child.

84 (3) When [a nonrelinquishing] **either** parent inquires at a hospital regarding a child
85 whose custody was relinquished pursuant to this section, such facility shall refer [the
86 nonrelinquishing] **such** parent to the **children's** division [of family services] and the juvenile
87 court exercising jurisdiction over the child.

88 [8.] 9. The persons listed in subdivision (1) of subsection 3 of this section shall be
89 immune from civil, criminal, and administrative liability for accepting physical custody of a child
90 pursuant to this section if such persons accept custody in good faith. Such immunity shall not
91 extend to any acts or omissions, including negligent or intentional acts or omissions, occurring
92 after the acceptance of such child.

93 [9.] 10. The **children's** division [of family services] shall:

94 (1) Provide information and answer questions about the process established by this
95 section on the statewide, toll-free telephone number maintained pursuant to section 210.145;

96 (2) Provide information to the public by way of pamphlets, brochures, or by other ways
97 to deliver information about the process established by this section.

98 **11. It shall be an affirmative defense to prosecution for a violation of sections**
99 **568.030, 568.032, 568.045, and 568.050 that a parent who is a defendant voluntarily**
100 **relinquished a child no more than one year old under this section.**

101 [10.] 12. Nothing in this section shall be construed as conflicting with section 210.125.

211.447. 1. Any information that could justify the filing of a petition to terminate
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the
6 informant may bring the matter directly to the attention of the judge of the juvenile court by
7 presenting the information in writing, and if it appears to the judge that the information could
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,
9 including making a further preliminary inquiry or filing a petition.

10 2. Except as provided for in subsection 4 of this section, a petition to terminate the
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,
12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek
13 to be joined as a party to the petition, when:

14 (1) Information available to the juvenile officer or the division establishes that the child
15 has been in foster care for at least fifteen of the most recent twenty-two months; or

16 (2) A court of competent jurisdiction has determined the child to be an abandoned infant.
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time
18 of filing of the petition. The court may find that an infant has been abandoned if:

19 (a) The parent has left the child under circumstances that the identity of the child was
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come
21 forward to claim the child; or

22 (b) The parent has, without good cause, left the child without any provision for parental
23 support and without making arrangements to visit or communicate with the child, although able
24 to do so;

25 **(c) The parent has voluntarily relinquished a child under section 210.950;** or

26 (3) A court of competent jurisdiction has determined that the parent has:

27 (a) Committed murder of another child of the parent; or

28 (b) Committed voluntary manslaughter of another child of the parent; or

29 (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or
30 voluntary manslaughter; or

31 (d) Committed a felony assault that resulted in serious bodily injury to the child or to
32 another child of the parent.

33 3. A termination of parental rights petition shall be filed by the juvenile officer or the
34 division, or if such a petition has been filed by another party, the juvenile officer or the division
35 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations
36 required in subsection 2 of this section, except as provided in subsection 4 of this section.
37 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate
38 a petition for termination of parental rights which is filed outside of sixty days.

39 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this
40 section, the juvenile officer or the division may, but is not required to, file a petition to terminate
41 the parental rights of the child's parent or parents if:

42 (1) The child is being cared for by a relative; or

43 (2) There exists a compelling reason for determining that filing such a petition would
44 not be in the best interest of the child, as documented in the permanency plan which shall be
45 made available for court review; or

46 (3) The family of the child has not been provided such services as provided for in section
47 211.183.

48 5. The juvenile officer or the division may file a petition to terminate the parental rights
49 of the child's parent when it appears that one or more of the following grounds for termination
50 exist:

51 (1) The child has been abandoned. For purposes of this subdivision a "child" means any
52 child over one year of age at the time of filing of the petition. The court shall find that the child
53 has been abandoned if, for a period of six months or longer:

54 (a) The parent has left the child under such circumstances that the identity of the child
55 was unknown and could not be ascertained, despite diligent searching, and the parent has not
56 come forward to claim the child; or

57 (b) The parent has, without good cause, left the child without any provision for parental
58 support and without making arrangements to visit or communicate with the child, although able
59 to do so;

60 (2) The child has been abused or neglected. In determining whether to terminate parental
61 rights pursuant to this subdivision, the court shall consider and make findings on the following
62 conditions or acts of the parent:

63 (a) A mental condition which is shown by competent evidence either to be permanent
64 or such that there is no reasonable likelihood that the condition can be reversed and which
65 renders the parent unable to knowingly provide the child the necessary care, custody and control;

66 (b) Chemical dependency which prevents the parent from consistently providing the
67 necessary care, custody and control of the child and which cannot be treated so as to enable the
68 parent to consistently provide such care, custody and control;

69 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child
70 or any child in the family by the parent, including an act of incest, or by another under
71 circumstances that indicate that the parent knew or should have known that such acts were being
72 committed toward the child or any child in the family; or

73 (d) Repeated or continuous failure by the parent, although physically or financially able,
74 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other
75 care and control necessary for the child's physical, mental, or emotional health and development.

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77 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability
78 or disease;

79 (3) The child has been under the jurisdiction of the juvenile court for a period of one
80 year, and the court finds that the conditions which led to the assumption of jurisdiction still
81 persist, or conditions of a potentially harmful nature continue to exist, that there is little
82 likelihood that those conditions will be remedied at an early date so that the child can be returned
83 to the parent in the near future, or the continuation of the parent-child relationship greatly
84 diminishes the child's prospects for early integration into a stable and permanent home. In
85 determining whether to terminate parental rights under this subdivision, the court shall consider
86 and make findings on the following:

87 (a) The terms of a social service plan entered into by the parent and the division and the
88 extent to which the parties have made progress in complying with those terms;

89 (b) The success or failure of the efforts of the juvenile officer, the division or other
90 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to
91 provide a proper home for the child;

92 (c) A mental condition which is shown by competent evidence either to be permanent
93 or such that there is no reasonable likelihood that the condition can be reversed and which
94 renders the parent unable to knowingly provide the child the necessary care, custody and control;

95 (d) Chemical dependency which prevents the parent from consistently providing the
96 necessary care, custody and control over the child and which cannot be treated so as to enable
97 the parent to consistently provide such care, custody and control; or

98 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566
99 when the child or any child in the family was a victim, or a violation of section 568.020 when
100 the child or any child in the family was a victim. As used in this subdivision, a "child" means
101 any person who was under eighteen years of age at the time of the crime and who resided with
102 such parent or was related within the third degree of consanguinity or affinity to such parent; or

103 (5) The child was conceived and born as a result of an act of forcible rape. When the
104 biological father has pled guilty to, or is convicted of, the forcible rape of the birth mother, such
105 a plea or conviction shall be conclusive evidence supporting the termination of the biological
106 father's parental rights; or

107 (6) The parent is unfit to be a party to the parent and child relationship because of a
108 consistent pattern of committing a specific abuse, including but not limited to abuses as defined
109 in section 455.010, child abuse or drug abuse before the child or of specific conditions directly
110 relating to the parent and child relationship either of which are determined by the court to be of
111 a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care
112 appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed
113 that a parent is unfit to be a party to the parent-child relationship upon a showing that within a
114 three-year period immediately prior to the termination adjudication, the parent's parental rights
115 to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this
116 section or subdivisions (1), (2), (3) or (4) of [subsection 5 of this section] **this subsection** or
117 similar laws of other states.

118 6. The juvenile court may terminate the rights of a parent to a child upon a petition filed
119 by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court
120 finds that the termination is in the best interest of the child and when it appears by clear, cogent
121 and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of
122 this section.

123 7. When considering whether to terminate the parent-child relationship pursuant to
124 subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section,
125 the court shall evaluate and make findings on the following factors, when appropriate and
126 applicable to the case:

127 (1) The emotional ties to the birth parent;

128 (2) The extent to which the parent has maintained regular visitation or other contact with
129 the child;

130 (3) The extent of payment by the parent for the cost of care and maintenance of the child
131 when financially able to do so including the time that the child is in the custody of the division
132 or other child-placing agency;

133 (4) Whether additional services would be likely to bring about lasting parental
134 adjustment enabling a return of the child to the parent within an ascertainable period of time;

135 (5) The parent's disinterest in or lack of commitment to the child;

136 (6) The conviction of the parent of a felony offense that the court finds is of such a
137 nature that the child will be deprived of a stable home for a period of years; provided, however,
138 that incarceration in and of itself shall not be grounds for termination of parental rights;

139 (7) Deliberate acts of the parent or acts of another of which the parent knew or should
140 have known that subjects the child to a substantial risk of physical or mental harm.

141 8. The court may attach little or no weight to infrequent visitations, communications, or
142 contributions. It is irrelevant in a termination proceeding that the maintenance of the
143 parent-child relationship may serve as an inducement for the parent's rehabilitation.

144 9. In actions for adoption pursuant to chapter 453, the court may hear and determine the
145 issues raised in a petition for adoption containing a prayer for termination of parental rights filed
146 with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

147 10. The disability or disease of a parent shall not constitute a basis for a determination
148 that a child is a child in need of care, for the removal of custody of a child from the parent, or for
149 the termination of parental rights without a specific showing that there is a causal relation
150 between the disability or disease and harm to the child.

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