

# SENATE BILL NO. 627

November 01, 2023, Introduced by Senators BUMSTEAD, OUTMAN, DAMOOSE, HUIZENGA and WOJNO and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 1, 2, 3, 5, 7, 10, 17, and 20 of chapter XII (MCL 712.1, 712.2, 712.3, 712.5, 712.7, 712.10, 712.17, and 712.20), sections 1, 3, 7, and 10 as amended by 2006 PA 488, sections 2 and 5 as added by 2000 PA 232, section 17 as amended by 2010 PA 348, and section 20 as amended by 2003 PA 245, and by adding section 3a to chapter XII.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

## CHAPTER XII

1  
2 Sec. 1. (1) This chapter ~~shall~~**may** be known ~~and may be cited~~  
3 as the "safe delivery of newborns law".

4 (2) As used in this chapter:

5 (a) "Child placing agency" means that term as defined in  
6 section 1 of 1973 PA 116, MCL 722.111.

7 (b) "Court" means the family division of circuit court.

8 (c) "Department" means the department of **health and** human  
9 services.

10 (d) "DNA identification profile" and "DNA identification  
11 profiling" mean those terms as defined in section 1 of the  
12 paternity act, 1956 PA 205, MCL 722.711.

13 (e) "Domestic violence" means that term as defined in section  
14 1 of 1978 PA 389, MCL 400.1501.

15 (f) "Emergency service provider" means a uniformed or  
16 otherwise identified employee or contractor of a fire department,  
17 hospital, or police station when that individual is inside the  
18 premises and on duty. Emergency service provider also includes a  
19 paramedic or an emergency medical technician when either of those  
20 individuals is responding to a 9-1-1 emergency call.

21 (g) "Fire department" means an organized fire department as  
22 that term is defined in section 1 of the fire prevention code, 1941  
23 PA 207, MCL 29.1.

24 (h) "Gross negligence" means conduct so reckless as to  
25 demonstrate a substantial lack of concern for whether an injury  
26 results.

27 (i) "Hospital" means a hospital that is licensed under ~~article~~  
28 ~~17~~**part 215** of the public health code, 1978 PA 368, MCL ~~333.20101~~  
29 ~~to 333.22260.~~**333.21501 to 333.21571.**

1 (j) "Lawyer-guardian ad litem" means an attorney appointed  
2 under section 2 of this chapter. A lawyer-guardian ad litem  
3 represents the newborn, and has the powers and duties, as set forth  
4 in section 17d of chapter XIIIA.

5 (k) "Newborn" means a child who a physician reasonably  
6 believes to be not more than 72 hours old.

7 **(l) "Newborn safety device" means a device provided by an**  
8 **emergency service provider that conforms to the provisions of**  
9 **section 3a of this chapter.**

10 (m) ~~(l)~~—"Police station" means that term as defined in section  
11 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

12 (n) ~~(m)~~—"Preplacement assessment" means an assessment of a  
13 prospective adoptive parent as described in section 23f of chapter  
14 X.

15 (o) ~~(n)~~—"Surrender" means to leave a newborn with an emergency  
16 service provider without expressing an intent to return for the  
17 newborn.

18 Sec. 2. (1) The court has jurisdiction over a newborn who is  
19 surrendered to an emergency service provider as provided in section  
20 3 of this chapter **and a newborn who is surrendered to a newborn**  
21 **safety device as provided in section 3a of this chapter.** The court  
22 may appoint a lawyer-guardian ad litem to represent a newborn in  
23 proceedings under this chapter.

24 (2) Except as provided in section 5 of this chapter, the  
25 reporting requirement of section 3 of the child protection law,  
26 1975 PA 238, MCL 722.623, does not apply regarding a child  
27 surrendered to an emergency service provider as provided in section  
28 3 of this chapter **or to a newborn safety device as provided in**  
29 **section 3a of this chapter.**

1 (3) Unless this chapter specifically provides otherwise, a  
2 provision in another chapter of this act does not apply to a  
3 proceeding under this chapter. Unless this chapter specifically  
4 provides otherwise, the child custody act of 1970, 1970 PA 91, MCL  
5 722.21 to ~~722.30~~, **722.31**, does not apply to a proceeding under this  
6 chapter.

7 (4) A hospital and a child placing agency, and their agents  
8 and employees, are immune in a civil action for damages for an act  
9 or omission in accepting or transferring a newborn under this  
10 chapter, except for an act or omission constituting gross  
11 negligence or willful or wanton misconduct. To the extent not  
12 protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to  
13 ~~691.1415~~, **691.1419**, an employee or contractor of a fire department  
14 or police station has the same immunity that this subsection  
15 provides to a hospital's or child placing agency's agent or  
16 employee.

17 Sec. 3. (1) If a parent surrenders a child who may be a  
18 newborn to an emergency service provider, the emergency service  
19 provider shall comply with the requirements of this section under  
20 the assumption that the child is a newborn. The emergency service  
21 provider shall, without a court order, immediately accept the  
22 newborn, taking the newborn into temporary protective custody. The  
23 emergency service provider shall make a reasonable effort to do all  
24 of the following:

25 (a) Take action necessary to protect the physical health and  
26 safety of the newborn.

27 (b) Inform the parent that by surrendering the newborn, the  
28 parent is releasing the newborn to a child placing agency to be  
29 placed for adoption.

1 (c) Inform the parent that the parent has 28 days to petition  
2 the court to regain custody of the newborn.

3 (d) Provide the parent with written material approved by or  
4 produced by the department that includes, but is not limited to,  
5 all of the following statements:

6 (i) By surrendering the newborn, the parent is releasing the  
7 newborn to a child placing agency to be placed for adoption.

8 (ii) The parent has 28 days after surrendering the newborn to  
9 petition the court to regain custody of the newborn.

10 (iii) After the 28-day period to petition for custody elapses,  
11 there will be a hearing to determine and terminate parental rights.

12 (iv) There will be public notice of this hearing, and the  
13 notice will not contain the parent's name.

14 (v) The parent will not receive personal notice of this  
15 hearing.

16 (vi) Information the parent provides to an emergency service  
17 provider will not be made public.

18 (vii) A parent can contact the safe delivery line established  
19 under section 20 of this chapter for more information.

20 (2) After providing a parent with the information described in  
21 subsection (1), an emergency service provider shall make a  
22 reasonable attempt to do all of the following:

23 (a) Encourage the parent to provide any relevant family or  
24 medical information.

25 (b) Provide the parent with the pamphlet produced under  
26 section 20 of this chapter and inform the parent that he or she can  
27 receive counseling or medical attention.

28 (c) Inform the parent that information that he or she provides  
29 will not be made public.

1 (d) Ask the parent to identify himself or herself.

2 (e) Inform the parent that in order to place the newborn for  
3 adoption the state is required to make a reasonable attempt to  
4 identify the other parent, and then ask the parent to identify the  
5 other parent.

6 (f) Inform the parent that the child placing agency that takes  
7 temporary protective custody of the newborn can provide  
8 confidential services to the parent.

9 (g) Inform the parent that the parent may sign a release for  
10 the newborn that may be used at the parental rights termination  
11 hearing under this chapter.

12 **(3) If a parent surrenders a child who may be a newborn to a**  
13 **newborn safety device, the emergency service provider shall proceed**  
14 **as described in the rules for newborn safety devices under section**  
15 **3a of this chapter.**

16 **(4)** ~~(3)~~—A newborn whose birth is described in the born alive  
17 infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and  
18 who is in a hospital setting or transferred to a hospital under  
19 section 3(1) of the born alive infant protection act, 2002 PA 687,  
20 MCL 333.1073, is a newborn surrendered as provided in this chapter.  
21 An emergency service provider who has received a newborn under the  
22 born alive infant protection act, 2002 PA 687, MCL 333.1071 to  
23 333.1073, shall do all of the following:

24 (a) Comply with the requirements of subsections (1) and (2) to  
25 obtain information from or supply information to the surrendering  
26 parent by requesting the information from or supplying the  
27 information to the attending physician who delivered the newborn.

28 (b) Make no attempt to directly contact the parent or parents  
29 of the newborn.

1 (c) Provide humane comfort care if the newborn is determined  
2 to have no chance of survival due to gestational immaturity in  
3 light of available neonatal medical treatment or other condition  
4 incompatible with life.

5 **Sec. 3a. (1) A parent may voluntarily deliver his or her**  
6 **newborn to a newborn safety device provided by an emergency service**  
7 **provider. The newborn safety device must meet the requirements**  
8 **described in this section.**

9 (2) A newborn safety device must meet the following  
10 requirements:

11 (a) Allows a newborn to be placed anonymously from the outside  
12 of the emergency service provider's building, if that building is  
13 staffed 24 hours per day for 7 days per week.

14 (b) Locks the newborn safety device after a newborn is placed  
15 in it so that a person outside the building is unable to access the  
16 newborn.

17 (c) Provides a controlled environment for the care and  
18 protection of the newborn.

19 (d) Triggers a call to the emergency service provider on duty  
20 at that time and provides notification to a centralized location in  
21 the emergency service provider's building within 30 seconds after a  
22 newborn is placed in the newborn safety device.

23 (e) Requires that the interior wall of the newborn safety  
24 device be transparent so that the interior of the newborn safety  
25 device is visible to staff inside the emergency service provider's  
26 building.

27 (3) An emergency service provider that has a building offering  
28 a newborn safety device must adopt and receive operating policies,  
29 supervision, and maintenance requirements for the newborn safety

1 device from the manufacturer. A newborn safety device must have a  
2 sign placed on or near it identifying it as a newborn safety  
3 device.

4 (4) The emergency service provider must notify the department  
5 of the address of the newborn safety device. The department must  
6 post on its website regarding the safe delivery program the address  
7 where each newborn safety device is located.

8 (5) An emergency service provider must do both of the  
9 following:

10 (a) Publicly post information regarding the newborn safety  
11 device. The information must include the purpose of the newborn  
12 safety device.

13 (b) Create and provide an accessible form that allows a  
14 surrendering parent the option to input the following and includes  
15 notification to the surrendering parent that this information shall  
16 not be published publicly but shall be accessible to a child  
17 placing agency:

18 (i) The known date and time of surrender of the newborn.

19 (ii) The address of the location of surrender of the newborn.

20 (iii) Name and contact information.

21 (iv) Family medical information.

22 (v) Whether or not the information provided may be shared with  
23 the child and prospective adoptive parent.

24 (6) A newborn safety device must be installed in a location  
25 where the interior of the newborn safety device will be in a safe  
26 and secure location that is visible to the staff. Alternatively,  
27 the emergency service provider must install, at the security desk,  
28 a video feed and an audio feed to capture the newborn safety  
29 device. The camera must be placed in a way that protects the



1 anonymity of the parent delivering the newborn.

2 (7) An emergency service provider must inspect and test a  
3 newborn safety device to ensure that the newborn safety device is  
4 functioning properly according to the manufacturer's guidance.  
5 Inspecting and testing required under this section must be  
6 performed 1 time per month. The emergency service provider staff  
7 member who inspects and tests the newborn safety device must  
8 confirm by initialing a form that testing and inspecting have been  
9 completed and must record the inspection and keep the record of the  
10 inspection on the premises.

11 (8) A newborn safety device must be locked and inaccessible to  
12 anyone except the emergency service provider staff responsible for  
13 monitoring it in either of the following situations:

14 (a) There is no staff member present in the emergency service  
15 provider's building.

16 (b) The newborn safety device has a malfunction.

17 (9) An emergency service provider that does not lock a newborn  
18 safety device as required under subsection (8) is liable for any  
19 damages for personal injury, including death, that result from the  
20 use of the unlocked newborn safety device.

21 (10) The manufacturer is liable for any damages for personal  
22 injury, including death, that result from the malfunction or  
23 manufacturer's defect of a newborn safety device.

24 Sec. 5. (1) An emergency service provider that is not a  
25 hospital and that takes a newborn into temporary protective custody  
26 under section 3 of this chapter **or receives a newborn through a**  
27 **newborn safety device under this chapter** shall transfer the newborn  
28 to a hospital. The hospital shall accept a newborn who an emergency  
29 service provider transfers to the hospital in compliance with this

1 chapter, taking the newborn into temporary protective custody.

2 (2) A hospital that takes a newborn into temporary protective  
3 custody under this chapter **or receives a newborn through a newborn**  
4 **safety device under this chapter** shall have the newborn examined by  
5 a physician. If a physician who examines the newborn either  
6 determines that there is reason to suspect the newborn has  
7 experienced child abuse or child neglect, other than being  
8 surrendered to an emergency service provider under section 3 of  
9 this chapter **or surrendered to a newborn safety device under**  
10 **section 3a of this chapter**, or comes to a reasonable belief that  
11 the child is not a newborn, the physician shall immediately report  
12 to the department as required by section 3 of the child protection  
13 law, 1975 PA 238, MCL 722.623.

14 (3) If a physician is not required to report to the department  
15 as provided in subsection (2), the hospital shall notify a child  
16 placing agency that the hospital has taken a newborn into temporary  
17 protective custody under this chapter **or has received a newborn**  
18 **through a newborn safety device under this chapter**.

19 Sec. 7. Upon receipt of notice from a hospital under section 5  
20 of this chapter, the child placing agency shall do all of the  
21 following:

22 (a) Immediately assume the care, control, and temporary  
23 protective custody of the newborn.

24 (b) If a parent is known and willing, immediately meet with  
25 the parent.

26 (c) Unless otherwise provided in this subdivision, make a  
27 temporary placement of the newborn with a prospective adoptive  
28 parent who has an approved preplacement assessment. If a petition  
29 for custody is filed under section 10 of this chapter, the child

1 placing agency may make a temporary placement of the newborn with a  
2 licensed foster parent.

3 (d) Unless the birth was witnessed by the emergency service  
4 provider, immediately request assistance from law enforcement  
5 officials to investigate and determine, through the missing  
6 children information clearinghouse, the ~~national center for missing  
7 and exploited children,~~ **National Center for Missing and Exploited  
8 Children**, and any other national and state resources, whether the  
9 newborn is a missing child.

10 (e) Not later than 48 hours after a transfer of physical  
11 custody to a prospective adoptive parent, petition the court in the  
12 county in which the prospective adoptive parent resides to provide  
13 authority to place the newborn and provide care for the newborn.  
14 The petition shall include all of the following:

15 (i) The date of the transfer of physical custody.

16 (ii) The name and address of the emergency service provider to  
17 whom the newborn was surrendered **or the name and address of the  
18 emergency service provider where the newborn safety device, to  
19 which the newborn was surrendered, is located.**

20 (iii) Any information, either written or verbal, that was  
21 provided by and to the parent who surrendered the newborn. The  
22 emergency service provider that originally accepted the newborn as  
23 required by section 3 of this chapter shall provide this  
24 information to the child placing agency.

25 (f) Within 28 days, make reasonable efforts to identify,  
26 locate, and provide notice of the surrender of the newborn to the  
27 nonsurrendering parent. The child placing agency shall file a  
28 written report with the court that issued the order placing the  
29 child. The report shall state the efforts the child placing agency

1 made in attempting to identify and locate the nonsurrendering  
2 parent and the results of those efforts. If the identity and  
3 address of the nonsurrendering parent are unknown, the child  
4 placing agency shall provide notice of the surrender of the newborn  
5 by publication in a newspaper of general circulation in the county  
6 where the newborn was surrendered.

7       Sec. 10. (1) If a surrendering parent wants custody of a  
8 newborn who was surrendered under section 3 of this chapter, the  
9 parent shall, within 28 days after the newborn was surrendered,  
10 file a petition with the court for custody. Not later than 28 days  
11 after notice of surrender of a newborn has been published, an  
12 individual claiming to be the nonsurrendering parent of that  
13 newborn may file a petition with the court for custody. The  
14 surrendering parent or nonsurrendering parent shall file the  
15 petition for custody in 1 of the following counties:

16       (a) If the parent has located the newborn, the county where  
17 the newborn is located.

18       (b) If subdivision (a) does not apply and the parent knows the  
19 location of the emergency service provider **that provides the**  
20 **newborn safety device** to ~~whom~~ **which** the newborn was surrendered,  
21 the county where the emergency service provider **that provides the**  
22 **newborn safety device** is located.

23       (c) If neither subdivision (a) nor (b) applies, the county  
24 where the parent is located.

25       (2) If the court in which the petition for custody is filed  
26 did not issue the order placing the newborn, the court in which the  
27 petition for custody is filed shall locate and contact the court  
28 that issued the order and shall transfer the proceedings to that  
29 court.

1 (3) Before holding a custody hearing on a petition filed under  
2 this section and not later than 7 days after a petition for custody  
3 under this section has been filed, the court shall conduct a  
4 hearing to make the determinations of paternity or maternity as  
5 described in section 11.

6 Sec. 17. (1) A parent who surrenders a newborn under section 3  
7 **or 3a** of this chapter and who does not file a custody action under  
8 section 10 of this chapter is presumed to have knowingly released  
9 his or her parental rights to the newborn.

10 (2) If the surrendering parent has not filed a petition for  
11 custody of the newborn within 28 days of the surrender, the child  
12 placing agency with authority to place the newborn shall  
13 immediately file a petition with the court to determine whether the  
14 release shall be accepted and whether the court shall enter an  
15 order terminating the rights of the surrendering parent.

16 (3) If the nonsurrendering parent has not filed a petition for  
17 custody of the newborn within 28 days of notice of surrender of a  
18 newborn under section 10 of this chapter, the child placing agency  
19 with authority to place the newborn shall immediately file a  
20 petition with the court to determine whether the court shall enter  
21 an order terminating the rights of the nonsurrendering parent.

22 (4) The court shall schedule a hearing on the petition from  
23 the child placing agency within 14 days of receipt of that  
24 petition. At the hearing, the child placing agency shall present  
25 evidence that demonstrates that the surrendering parent released  
26 the newborn and that demonstrates the efforts made by the child  
27 placing agency to identify, locate, and provide notice to the  
28 nonsurrendering parent.

29 (5) If the court finds by a preponderance of the evidence that

1 the surrendering parent has knowingly released his or her rights to  
2 the child and that reasonable efforts were made to locate the  
3 nonsurrendering parent and a custody action has not been filed, the  
4 court shall enter an order terminating parental rights of the  
5 surrendering parent and the nonsurrendering parent under this  
6 chapter.

7       Sec. 20. The department ~~of community health in conjunction~~  
8 ~~with the department shall~~ **must** establish a safe delivery program.  
9 The safe delivery program ~~shall~~ **must** include, but is not limited  
10 to, both of the following:

11       (a) A toll-free, 24-hour telephone line. The information  
12 provided with this telephone line shall include, but is not limited  
13 to, all of the following:

14       (i) Information on prenatal care and the delivery of a newborn.

15       (ii) Names of health agencies that can assist in obtaining  
16 services and supports that provide for the pregnancy-related health  
17 of the mother and the health of the baby.

18       (iii) Information on adoption options and the name and telephone  
19 number of a child placing agency that can assist a parent or  
20 expecting parent in obtaining adoption services.

21       (iv) Information that, in order to safely provide for the  
22 health of the mother and her newborn, the best place for the  
23 delivery of a child is in a hospital, hospital-based birthing  
24 center, or birthing center that is accredited by the commission for  
25 the accreditation of birth centers.

26       (v) An explanation that, to the extent of the law, prenatal  
27 care and delivery services are routinely confidential within the  
28 health care system, if requested by the mother.

29       (vi) Information that a hospital will take into protective

1 custody a newborn that is surrendered as provided for in this  
2 chapter and, if needed, provide emergency medical assistance to the  
3 mother, the newborn, or both.

4 (vii) Information regarding legal and procedural requirements  
5 related to the voluntary surrender of a child as provided for in  
6 this chapter.

7 (viii) Information regarding the legal consequences for  
8 endangering a child, including child protective service  
9 investigations and potential criminal penalties.

10 (ix) Information that surrendering a newborn for adoption as  
11 provided in this chapter is an affirmative defense to charges of  
12 abandonment as provided in section 135 of the Michigan penal code,  
13 1931 PA 328, MCL 750.135.

14 (x) Information about resources for counseling and assistance  
15 with crisis management.

16 (b) A pamphlet that provides information to the public  
17 concerning the safe delivery program, **including information**  
18 **regarding newborn safety devices**. The department ~~of community~~  
19 ~~health and the department~~ shall jointly publish and distribute the  
20 pamphlet. The pamphlet ~~shall~~ **must** prominently display the toll-free  
21 telephone number prescribed by subdivision (a).

22 Enacting section 1. This amendatory act takes effect 90 days  
23 after the date it is enacted into law.