

# MICHIGAN LAW

## **712.1 Short title of chapter; definitions. Sec. 1.**

- (1) This chapter shall be known and may be cited as the "safe delivery of newborns law".
- (2) As used in this chapter:
  - (a) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
  - (b) "Court" means the family division of circuit court.
  - (c) "Department" means the family independence agency.
  - (d) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.
  - (e) "Emergency service provider" means a uniformed or otherwise identified employee or contractor of a fire department, hospital, or police station when such an individual is inside the premises and on duty.
  - (f) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.
  - (g) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.
  - (h) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.
  - (i) "Lawyer-guardian ad litem" means an attorney appointed under section 2 of this chapter. A lawyer-guardian ad litem represents the newborn, and has the powers and duties, as set forth in section 17d of chapter XIA.
  - (j) "Newborn" means a child who a physician reasonably believes to be not more than 72 hours old.
  - (k) "Police station" means that term as defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.
  - (l) "Preplacement assessment" means an assessment of a prospective adoptive parent as described in section 23f of chapter X.
  - (m) "Surrender" means to leave a newborn with an emergency service provider without expressing an intent to return for the newborn.

**712.2 Newborn surrendered to emergency service provider; court jurisdiction; effect of other provisions of law; immunity from civil action. Sec. 2.**

(1) The court has jurisdiction over a newborn who is surrendered to an emergency service provider as provided in section 3 of this chapter. The court may appoint a lawyer-guardian ad litem to represent a newborn in proceedings under this chapter.

(2) Except as provided in section 5 of this chapter, the reporting requirement of section 3 of the child protection law, 1975 PA 238, MCL 722.623, does not apply regarding a child surrendered to an emergency service provider as provided in section 3 of this chapter.

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

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

**712.3 Conduct of emergency service provider. Sec. 3.**

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

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

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

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

(d) Provide the parent with written material approved by or produced by the family independence agency that includes, but is not limited to, all of the following statements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Inform the parent that the parent may sign a release for the newborn which may be used at the parental rights termination hearing.

(3) A newborn whose birth is described in the born alive infant protection act and who is in a hospital setting or transferred to a hospital under section 3(1) of the born alive infant protection act is a newborn surrendered as provided in this act. An emergency service provider who has received a newborn pursuant to the born alive infant protection act shall do all of the following:

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

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

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

**712.5 Transfer of newborn to hospital; physician report of abuse, neglect, or child not a newborn; notice to child placing agency. Sec. 5.**

(1) An emergency service provider that is not a hospital and that takes a newborn into temporary protective custody under section 3 of this chapter shall transfer the newborn to a hospital. The hospital shall accept a newborn who an emergency service provider transfers to the hospital in compliance with this chapter, taking the newborn into temporary protective custody.

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

(3) If a physician is not required to report to the department as provided in subsection (2), the hospital shall notify a child placing agency that the hospital has taken a newborn into temporary protective custody under this chapter.

**712.20 Safe delivery program; establishment. Sec. 20.**

The department of community health in conjunction with the department shall establish a safe delivery program. The safe delivery program shall include, but is not limited to, both of the following:

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

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

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

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

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

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

(vi) Information that a hospital will take into protective custody a newborn that is surrendered as provided for in this chapter and, if needed, provide emergency medical assistance to the mother, the newborn, or both.

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

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

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

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

(b) A pamphlet that provides information to the public concerning the safe delivery program. The department of community health and the department shall jointly publish and distribute the pamphlet. The pamphlet shall prominently display the toll-free telephone number prescribed by subdivision (a).