

# NEW MEXICO LAW

## **24-22-2. Definitions.**

As used in the Safe Haven for Infants Act [ 24-22-1 NMSA 1978]:

- A. "hospital" means an acute care general hospital or health care clinic licensed by the state;
- B. "Indian child" means an Indian child as defined by the federal Indian Child Welfare Act of 1978;
- C. "infant" means a child no more than ninety days old, as determined within a reasonable degree of medical certainty; and
- D. "staff" means an employee, contractor, agent or volunteer performing services as required and on behalf of the hospital.

## **24-22-3. Leaving an infant.**

- A. A person may leave an infant with the staff of a hospital without being subject to criminal prosecution for abandonment or abuse if the infant was born within ninety days of being left at the hospital, as determined within a reasonable degree of medical certainty, and if the infant is left in a condition that would not constitute abandonment or abuse of a child pursuant to Section 30-6-1 NMSA 1978.
- B. A hospital may ask the person leaving the infant for the name of the infant's biological father or biological mother, the infant's name and the infant's medical history, but the person leaving the infant is not required to provide that information to the hospital.
- C. The hospital is deemed to have received consent for medical services provided to an infant left at a hospital in accordance with the provisions of the Safe Haven for Infants Act [ 24-22-1 NMSA 1978] or in accordance with procedures developed between the children, youth and families department and the hospital.

## **24-22-4. Hospital procedures.**

- A. A hospital shall accept an infant who is left at the hospital in accordance with the provisions of the Safe Haven for Infants Act [ 24-22-1 NMSA 1978].
- B. In conjunction with the children, youth and families department, a hospital shall develop procedures for appropriate staff to accept and provide necessary medical services to an infant left at the hospital and to the person leaving the infant at the hospital, if necessary.
- C. Upon receiving an infant who is left at a hospital in accordance with the provisions of the Safe Haven for Infants Act, the hospital may provide the person leaving the infant with:
  - (1) information about adoption services, including the availability of private adoption services;
  - (2) brochures or telephone numbers for agencies that provide adoption services or counseling services; and

(3) written information regarding whom to contact at the children, youth and families department if the parent decides to seek reunification with the infant.

D. A hospital shall ask the person leaving the infant whether the infant has a parent who is either a member of an Indian tribe or is eligible for membership in an Indian tribe, but the person leaving the infant is not required to provide that information to the hospital.

E. Immediately after receiving an infant in accordance with the provisions of the Safe Haven for Infants Act, a hospital shall inform the children, youth and families department that the infant has been left at the hospital. The hospital shall provide the children, youth and families department with all available information regarding the child and the parents, including the identity of the child and the parents, the location of the parents and the child's medical records.

**24-22-5. Responsibilities of the children, youth and families department.**

A. The children, youth and families department shall be deemed to have emergency custody of an infant who has been left at a hospital according to the provisions of the Safe Haven for Infants Act [ 24-22-1 NMSA 1978].

B. Upon receiving a report of an infant left at a hospital pursuant to the provisions of the Safe Haven for Infants Act, the children, youth and families department shall immediately conduct an investigation, pursuant to the provisions of the Abuse and Neglect Act [ 32A-4-1 NMSA 1978].

C. When an infant is taken into custody by the children, youth and families department, the department shall make reasonable efforts to determine whether the infant is an Indian child. If the infant is an Indian child:

(1) the child's tribe shall be notified as required by Section 32A-1-14 NMSA 1978 and the federal Indian Child Welfare Act of 1978; and

(2) pre-adoptive placement and adoptive placement of the Indian child shall be in accordance with the provisions of Section 32A-5-5 NMSA 1978 regarding Indian child placement preferences.

D. The children, youth and families department shall perform public outreach functions necessary to educate the public about the Safe Haven for Infants Act, including developing literature about that act and distributing it to hospitals.

E. An infant left at a hospital in accordance with the provisions of the Safe Haven for Infants Act shall presumptively be deemed eligible and enrolled for medicaid benefits and services.

**24-22-7. Procedure if reunification is sought.**

A. A person established as a parent of an infant previously left at a hospital shall have standing to participate in all proceedings regarding the child pursuant to the provisions of the Abuse and Neglect Act [ 32A-4-1 NMSA 1978].

B. If a person not previously established as a parent seeks reunification with an infant previously left at a hospital and the person's DNA indicates parentage of the infant, that person shall have standing to participate in all proceedings regarding the infant pursuant to the provisions of the Abuse and Neglect Act.

**24-22-8. Immunity.**

A hospital and its staff are immune from criminal liability and civil liability for accepting an infant in compliance with the provisions of the Safe Haven for Infants Act [ 24-22-1 NMSA 1978] but not for subsequent negligent medical care or treatment of the infant.