

WISCONSIN LAW

48.195 Taking a newborn child into custody.

(1) Taking child into custody. In addition to being taken into custody under [s. 48.19](#), a child whom a law enforcement officer, emergency medical technician, or hospital staff member reasonably believes to be 72 hours old or younger may be taken into custody under circumstances in which a parent of the child relinquishes custody of the child to the law enforcement officer, emergency medical technician, or hospital staff member and does not express an intent to return for the child. If a parent who wishes to relinquish custody of his or her child under this subsection is unable to travel to a sheriff's office, police station, fire station, hospital, or other place where a law enforcement officer, emergency medical technician, or hospital staff member is located, the parent may dial the telephone number "911" or, in an area in which the telephone number "911" is not available, the number for an emergency medical service provider, and the person receiving the call shall dispatch a law enforcement officer or emergency medical technician to meet the parent and take the child into custody. A law enforcement officer, emergency medical technician, or hospital staff member who takes a child into custody under this subsection shall take any action necessary to protect the health and safety of the child, shall, within 24 hours after taking the child into custody, deliver the child to the intake worker under [s. 48.20](#), and shall, within 5 days after taking the child into custody, file a birth certificate for the child under [s. 69.14 \(3\)](#)

48.195(2)

(2) Anonymity and confidentiality.

(a) Except as provided in this paragraph, a parent who relinquishes custody of a child under [sub. \(1\)](#) and any person who assists the parent in that relinquishment have the right to remain anonymous. The exercise of that right shall not affect the manner in which a law enforcement officer, emergency medical technician, or hospital staff member performs his or her duties under this section. No person may induce or coerce or attempt to induce or coerce a parent or person assisting a parent who wishes to remain anonymous into revealing his or her identity, unless the person has reasonable cause to suspect that the child has been the victim of abuse or neglect, as defined in [s. 48.981 \(1\) \(d\)](#), or that the person assisting the parent is coercing the parent into relinquishing custody of the child.

48.195(2)(b) (b) A parent who relinquishes custody of a child under [sub. \(1\)](#) and any person who assists the parent in that relinquishment may leave the presence of the law enforcement officer, emergency medical technician, or hospital staff member who took custody of the child at any time, and no person may follow or pursue the parent or person assisting the parent, unless the person has reasonable cause to suspect that the child has been the victim of abuse or neglect, as defined in [s. 48.981 \(1\) \(d\)](#), or that the person assisting the parent has coerced the parent into relinquishing custody of the child.

48.195(2)(c)

(c) No officer, employee, or agent of this state or of a political subdivision of this state may attempt to locate or ascertain the identity of a parent who relinquishes custody of a child under [sub. \(1\)](#) or any person who assists the parent in that relinquishment, unless the officer, employee, or agent has reasonable cause to suspect that the child has been the victim of abuse or neglect, as defined in [s. 48.981 \(1\) \(d\)](#), or that the person assisting the parent has coerced the parent into relinquishing custody of the child.

48.195(2)(d)

(d) Any person who obtains any information relating to the relinquishment of a child under [sub. \(1\)](#) shall keep that information confidential and may not disclose that information, except to the following persons:

48.195(2)(d)1.

1. The birth parent of the child, if the birth parent has waived his or her right under [par. \(a\)](#) to remain anonymous, or the adoptive parent of the child, if the child is later adopted.

48.195(2)(d)2.

2. Appropriate staff of the department, county department, or licensed child welfare agency that is providing services to the child.

48.195(2)(d)3.

3. A person authorized to provide or providing intake or dispositional services under [s. 48.067](#), [48.069](#), or [48.10](#).

48.195(2)(d)4.

4. An attending physician for purposes of diagnosis and treatment of the child.

48.195(2)(d)5.

5. The child's foster parent, treatment foster parent, or other person having physical custody of the child.

48.195(2)(d)6.

6. A court conducting proceedings under [s. 48.21](#), proceedings relating to a petition under [s. 48.13 \(2m\)](#) or [48.42](#), or dispositional proceedings under [subch. VI](#) or [VIII](#) relating to the child, the county corporation counsel, district attorney, or agency legal counsel representing the interests of the public in those proceedings, or the guardian ad litem representing the interests of the child in those proceedings.

48.195(2)(d)7.

7. A tribal court, or other adjudicative body authorized by an American Indian tribe or band to perform child welfare functions, that is exercising jurisdiction over proceedings relating to the child, an attorney representing the interests of the American Indian tribe or band in those proceedings, or an attorney representing the interests of the child in those proceedings.

48.195(3)

(3) Information for parent.

48.195(3)(a)

(a) Subject to [par. \(b\)](#), a law enforcement officer, emergency medical technician, or hospital staff member who takes a child into custody under [sub. \(1\)](#) shall make available to the parent who relinquishes custody of the child the maternal and child health toll-free telephone number maintained by the department under 42 USC 705 (a) (5) (E).

48.195(3)(b) (b) The decision whether to accept the information made available under [par. \(a\)](#) is

entirely voluntary on the part of the parent. No person may induce or coerce or attempt to induce or coerce any parent into accepting that information.

48.195(4)

(4) Immunity from liability.

48.195(4)(a)

(a) Any parent who relinquishes custody of his or her child under sub. (1) and any person who assists the parent in that relinquishment are immune from any civil or criminal liability for any good faith act or omission in connection with that relinquishment. The immunity granted under this paragraph includes immunity for exercising the right to remain anonymous under sub. (2) (a), the right to leave at any time under sub. (2) (b), and the right not to accept any information under sub. (3) (b) and immunity from prosecution under s. 948.20 for abandonment of a child or under s. 948.21 for neglecting a child.

48.195(4)(b)

(b) Any law enforcement officer, emergency medical technician, or hospital staff member who takes a child into custody under sub. (1) is immune from any civil liability to the child's parents, or any criminal liability for any good faith act or omission occurring solely in connection with the act of receiving custody of the child from the child's parents, but is not immune from any civil or criminal liability for any act or omission occurring in subsequently providing care for the child.

48.195(4)(c)

(c) In any civil or criminal proceeding, the good faith of a person specified in par. (a) or (b) is presumed. This presumption may be overcome only by clear and convincing evidence.

48.195(5)

(5) Medical assistance eligibility. A child who is taken into custody under sub. (1) is presumed to be eligible for medical assistance under s. 49.46 or 49.47.

48.195(6)

(6) Rules. The department shall promulgate rules to implement this section. In promulgating those rules, the department shall consider the different circumstances under which a parent might relinquish custody of a child under sub. (1). The rules shall include rules prescribing a means by which a parent who relinquishes custody of his or her child under sub. (1) may, until the granting of an order terminating parental rights, choose to be identified as the child's parent.