

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1139** Session of
2017

INTRODUCED BY TOPPER, BLOOM, CUTLER, A. HARRIS, KAUFFMAN,
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RAPP AND ROZZI, APRIL 10, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, DECEMBER 11, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes, in
3 offenses against the family, further providing for newborn
4 protection; in child protective services, further providing
5 for taking child into protective custody; and, in newborn
6 protection, further providing for definitions and for health
7 care providers accepting newborns, providing for emergency
8 services providers accepting newborns and for incubators for
9 newborns and further providing for reporting acceptance of
10 newborns, for immunity and for duties of department.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 4306 of Title 18 of the Pennsylvania
14 Consolidated Statutes is amended to read:

15 § 4306. Newborn protection.

16 (a) General rule.--A parent of a newborn shall not be
17 criminally liable for any violation of this title solely for
18 leaving a newborn in the care of a hospital [or], a police
19 officer at a police station pursuant to 23 Pa.C.S. Ch. 65
20 (relating to newborn protection) [providing that] or an

1 emergency services provider on the grounds of an entity
2 employing the emergency services provider or otherwise providing
3 access to the emergency services provider pursuant to 23 Pa.C.S.
4 Ch. 65 if the following criteria are met:

5 (1) The parent expresses, either orally or through
6 conduct, the intent to have the hospital [or], police officer
7 or emergency services provider accept the newborn pursuant to
8 23 Pa.C.S. Ch. 65.

9 (2) The newborn is not a victim of child abuse or
10 criminal conduct.

11 (a.1) Incubator.--A parent of a newborn shall not be
12 criminally liable for any violation of this title solely for
13 leaving a newborn in an incubator if the newborn is not a victim
14 of child abuse or criminal conduct and the incubator is located:

15 (1) at a hospital;

16 (2) at a police station pursuant to 23 Pa.C.S. Ch. 65;

17 or

18 (3) on the grounds of an entity employing the emergency
19 services provider or otherwise providing access to the
20 emergency services provider pursuant to 23 Pa.C.S. Ch. 65.

21 (b) Definitions.--As used in this section, the following
22 words and phrases shall have the meanings given to them in this
23 subsection unless the context clearly indicates otherwise:

24 "Child abuse." As defined in 23 Pa.C.S. § 6303(b.1)
25 (relating to definitions).

26 "Emergency services provider." An emergency medical
27 responder, emergency medical technician, advanced emergency
28 medical technician or a paramedic as defined in 35 Pa.C.S. §
29 8103 (relating to definitions).

30 "Newborn." As defined in 23 Pa.C.S. § 6502 (relating to

1 definitions).

2 "Police department." A public agency of a political
3 subdivision having general police powers and charged with making
4 arrests in connection with the enforcement of criminal or
5 traffic laws.

6 "Police officer." A full-time or part-time employee assigned
7 to criminal or traffic law enforcement duties of a police
8 department of a county, city, borough, town or township. The
9 term also includes a member of the State Police Force.

10 "Police station." The station or headquarters of a police
11 department or a Pennsylvania State Police station or
12 headquarters.

13 Section 2. Section 6315(a) of Title 23 is amended by adding
14 a paragraph to read:

15 § 6315. Taking child into protective custody.

16 (a) General rule.--A child may be taken into protective
17 custody:

18 * * *

19 (6) By an emergency services provider on the grounds of
20 an entity that employs or otherwise provides access to the
21 emergency services provider under Chapter 65.

22 * * *

23 Section 3. Section 6502 of Title 23 is amended by adding a
24 definition to read:

25 § 6502. Definitions.

26 The following words and phrases when used in this chapter
27 shall have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 * * *

30 "Emergency services provider." An emergency medical

1 responder, emergency medical technician, advanced emergency
2 medical technician or a paramedic as defined in 35 Pa.C.S. §
3 8103 (relating to definitions).

4 * * *

5 Section 4. Section 6504(b) of Title 23 is amended to read:

6 § 6504. Health care providers accepting newborns.

7 * * *

8 (b) Accepting newborns.--When a health care provider accepts
9 a newborn pursuant to this chapter, a parent [or], police
10 officer or emergency services provider may provide a health care
11 provider with information about the newborn's medical history
12 and any identifying information.

13 Section 5. Title 23 is amended by adding sections to read:

14 § 6504.2. Emergency services providers accepting newborns.

15 (a) Duties.--In accepting a newborn under this chapter, an
16 emergency services provider shall:

17 (1) take the newborn into protective custody as
18 specified under section 6315(a)(6) (relating to taking child
19 into protective custody); and

20 (2) ensure the newborn is transported to a hospital and
21 placed into the care of a health care provider as specified
22 under section 6504 (relating to health care providers
23 accepting newborns).

24 (b) Medical history.--When an emergency services provider
25 accepts a newborn under this chapter, a parent may provide the
26 emergency services provider with information about the newborn's
27 medical history and identifying information.

28 (C) TEMPORARY SIGNAGE.--AN ENTITY EMPLOYING AN EMERGENCY
29 SERVICES PROVIDER ACCEPTING NEWBORNS UNDER THIS CHAPTER SHALL
30 ENSURE ITS GROUNDS OR THE GROUNDS OF AN ENTITY OTHERWISE

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1 PROVIDING ACCESS TO AN EMERGENCY SERVICES PROVIDER CLEARLY
2 INDICATE, FOR A MINIMUM OF 18 MONTHS, THAT EMERGENCY SERVICES
3 PROVIDERS MAY ACCEPT NEWBORNS UNDER SECTION 6315(A) (RELATING TO
4 TAKING CHILD INTO PROTECTIVE CUSTODY) AND 18 PA.C.S. § 4306
5 (RELATING TO NEWBORN PROTECTION).

6 § 6504.3. Incubators for newborns.

7 (a) Provision optional.--A hospital, police station or other
8 entity employing or otherwise providing access to an emergency
9 services provider may provide an incubator for the care of a
10 newborn accepted under this chapter.

11 (b) Regulations.--The Department of Health shall promulgate
12 regulations for providing an incubator under subsection (a). The
13 regulations shall include all of the following:

14 (1) Sanitation standards for an incubator.

15 (2) Procedures to provide emergency care for an infant
16 placed in an incubator.

17 (3) Manufacturing and manufacturer standards for an
18 incubator.

19 (4) Design and function requirements for an incubator
20 which shall include all of the following:

21 (i) Installation of an incubator at a hospital,
22 police station or other entity which employs or otherwise
23 provides access to an emergency services provider.

24 (ii) Allowance of an infant to be placed in the
25 incubator anonymously by the parent.

26 (iii) Locking an incubator after the parent places
27 the infant in the incubator to prevent third parties from
28 having access to the infant.

29 (iv) Providing a controlled environment to protect
30 and care for the infant.

1 (v) Providing notice to the personnel of a hospital,
2 police station or other entity which employs or otherwise
3 provides access to an emergency services provider within
4 30 seconds of the infant being placed by the parent in
5 the incubator.

6 (vi) Triggering a 9-1-1 call if the personnel of a
7 hospital, police station or other entity which employs or
8 otherwise provides access to emergency services provider
9 does not respond within a reasonable amount of time under
10 subparagraph (v).

11 (5) Operating policy, supervision and maintenance
12 requirements for an incubator, including that only an
13 emergency services provider at an entity that employs or
14 otherwise provides access to the emergency services provider,
15 a health CARE provider at a hospital or police officer at a <--
16 police station may take an infant into protective custody in
17 accordance with Chapter 63 (relating to child protective
18 services).

19 (6) Qualifications to install an incubator.

20 (7) Procedures and forms for the free registration with
21 the Department of Health of installers qualified to install
22 incubators in accordance with this chapter.

23 (8) Procedures for the free registration with the
24 Department of Health of an incubator installed in accordance
25 with this chapter.

26 (9) The creation and installation of signs near an
27 incubator to provide information to parents about how to use
28 the incubators.

29 (10) Any other provisions deemed necessary by the
30 Department of Health to ensure the safety of an infant and

1 the safe use of an incubator by a parent.

2 (c) Notice.--The Department of Health shall publish notice
3 in the Pennsylvania Bulletin of the promulgation of final
4 regulations regarding incubators under subsection (b).

5 Section 6. Sections 6505, 6507 and 6509 of Title 23 are
6 amended to read:

7 § 6505. Reporting acceptance of newborns.

8 A health care provider at a hospital shall in all cases
9 notify the county agency and the local municipal police
10 department or the Pennsylvania State Police where no municipal
11 police jurisdiction exists immediately by telephone regarding a
12 newborn accepted by a hospital under this chapter. A written
13 report shall be submitted to the county agency and local
14 municipal police department or the Pennsylvania State Police
15 within 48 hours after the oral report. This section applies in
16 the case of a hospital accepting a newborn pursuant to [section]
17 sections 6504.1(a)(2) (relating to police officers accepting
18 newborns) and 6504.2(a)(2) (relating to emergency services
19 providers accepting newborns). For purposes of this section, the
20 term "health care provider" shall include administrative,
21 managerial and security personnel employed by a hospital.

22 § 6507. Immunity.

23 Except for a violation of section 6506 (relating to failure
24 to report acceptance of newborns), no emergency services
25 provider, entity that employs or otherwise provides access to an
26 emergency services provider, hospital, health care provider at a
27 hospital or police department, police officer or administrative
28 or managerial personnel of a police department shall be subject
29 to civil liability or criminal penalty solely by reason of
30 complying with the provisions of this chapter.

1 § 6509. Duties of department.

2 The department shall provide educational materials for use by
3 emergency services providers, entities which employ or otherwise
4 provide access to emergency services providers, hospitals,
5 health care providers, employees at hospitals and police
6 officers regarding this chapter, section 6315(a)(3) (relating to
7 taking child into protective custody) and other applicable
8 provisions of Chapter 63 (relating to child protective services)
9 that relate to newborn protection. The department shall
10 promulgate such regulations as may be necessary to implement
11 this chapter, section 6315(a)(3) and other applicable provisions
12 of Chapter 63 that relate to newborn protection. The department
13 shall also provide emergency services providers, entities which
14 employ or otherwise provide access to emergency services
15 providers, health care providers, hospitals, the Pennsylvania
16 State Police and police departments with an informational
17 pamphlet regarding this chapter, section 6315(a)(3) and other
18 applicable provisions of Chapter 63 that relate to newborn
19 protection which may be distributed to the public. In addition,
20 the department shall comply with the provisions regarding infant
21 abandonment in sections 6365 (relating to services for
22 prevention, investigation and treatment of child abuse) and 6383
23 (relating to education and training). A report shall be made
24 annually to the General Assembly on the number and disposition
25 of newborns accepted in accordance with this chapter, section
26 6315(a)(3) and (5) and other applicable provisions of Chapter 63
27 that relate to newborn protection.

28 Section 7. This act shall take effect as follows:

29 (1) The following shall take effect immediately:

30 (i) This section.

1 (ii) The amendment or addition of 23 Pa.C.S. §§
2 6504.3(b) and (c) and 6509.

3 (2) The addition of 18 Pa.C.S. § 4306(a.1) and 23
4 Pa.C.S. § 6504.3(a) shall take effect 120 days after the
5 publication in the Pennsylvania Bulletin of the promulgation
6 of final regulations under 23 Pa.C.S. § 6504.3(c).

7 (3) The remainder of this act shall take effect in 60
8 days.