

CHAPTER 303**(SB 55)**

AN ACT relating to abandoned infants and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.6526 is amended to read as follows:

- (1) The Kentucky Board of Emergency Medical Services may hire a coordinator for the Emergency Medical Services for Children Program and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.
- (2) The coordinator shall, subject to the direction of the Kentucky Board of Emergency Medical Services:
 - (a) Implement and oversee the Emergency Medical Services for Children Program described in this section; and
 - (b) Serve as liaison for collaboration and coordination between the Emergency Medical Services for Children Program, the Kentucky Board of Emergency Medical Services, and other public and private organizations, the state traffic safety office, the maternal and child health program, the Medicaid department, ***the Department for Community Based Services of the Cabinet for Families and Children***, the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.
- (3) The Emergency Medical Services for Children Program may include, but not be limited to, the establishment of the following:
 - (a) Guidelines for necessary out-of-hospital medical service equipment;
 - (b) Guidelines and protocols for out-of-hospital pediatric emergency medical services;
 - (c) Assistance in the development and provision of professional education programs for emergency medical services personnel in the emergency care of infants and children;
 - (d) Coordination and cooperation between the Emergency Medical Services for Children Program and other public and private organizations interested or involved in emergency care for children, including those persons and organizations identified in subsection (2)(b) of this section; and
 - (e)
 1. ***Guidelines and protocols for initial stabilization, treatment, and transportation regarding newborn infants placed with emergency medical services providers that include methods to preserve the confidentiality of a parent who places a newborn infant in the care of any emergency medical services provider in accordance with Section 4 of this Act and to provide voluntary informational materials required by Section 6 of this Act.***
 2. ***As used in this paragraph, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.***
- ~~(4)(e)}~~ The scope of activities carried out by the Emergency Medical Services for Children Program shall be commensurate with the availability of funds.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.*
- (2) *Any emergency medical services provider accepting physical custody of a newborn infant in accordance with Section 4 of this Act shall have implied consent to any and all appropriate medical treatment.*
- (3) *Notwithstanding any provision of law to the contrary, the identity of a person placing a newborn infant with an emergency medical services provider shall be confidential.*
- (4) *The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.*
- (2) *Every hospital of this state that offers emergency services shall admit and provide all necessary medical care, diagnostic tests, and medical treatment to any newborn infant brought to the hospital when the identity of the parents is unknown. Any person performing medical care, diagnostic testing, or medical treatment shall be immune from criminal or civil liability for having performed the act. Nothing in this subsection shall limit liability for negligence.*
- (3) *Any person or parent, other than an emergency medical services provider, a police officer, or a firefighter acting in the course of his or her official duties, who leaves a newborn infant at an emergency room, or brings a newborn infant to an emergency room and expresses an intent to leave the infant and not return, shall have the right to remain anonymous and to leave at any time, and shall not be pursued or followed. The physician shall consider these actions as implied consent for treatment.*
- (4) *Upon admittance, the physician or hospital administrator shall immediately contact the local office of the Department for Community Based Services. The Department for Community Based Services shall immediately seek an emergency custody order in accordance with Section 5 of this Act.*
- (5) *Every emergency room shall make available materials to gather health and medical information concerning the infant and the parents. The materials shall be offered to the person leaving the newborn infant and it shall be clearly stated that acceptance is completely voluntary and completion of the materials may be done anonymously.*
- (6) *The provisions of subsection (3) of this section shall not apply when indicators of child physical abuse or child neglect are present.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "newborn infant" means an infant who is medically determined to be less than seventy-two (72) hours old.*
- (2) *A parent who places a newborn infant with an emergency medical services provider, police station, fire station, or hospital and expresses no intent to return for the infant*

shall have the right to remain anonymous and not be pursued and shall not be considered to have abandoned or endangered the newborn infant under KRS Chapters 508 and 530.

- (3) *Any emergency medical services provider, police officer, or firefighter who accepts physical custody of a newborn infant in accordance with this section shall immediately arrange for the infant to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.*
- (4) *By placing a newborn infant in the manner described in this section, the parent:*
 - (a) *Waives the right to notification required by subsequent court proceedings conducted under KRS Chapter 620 until such time as a claim of parental rights is made; and*
 - (b) *Waives legal standing to make a claim of action against any person who accepts physical custody of the newborn infant.*
- (5) *The provisions of subsection (2) of this section shall not apply when indicators of child physical abuse or child neglect are present.*
- (6) *Sections 1, 2, 3, 4, 5, and 6 of this Act shall be known as "The Representative Thomas J. Burch Safe Infants Act".*

SECTION 5. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "newborn infant" who is medically determined to be less than seventy-two (72) hours old.*
- (2) *Upon notice from any emergency medical services provider or hospital staff that a newborn infant has been abandoned at a hospital, the cabinet shall immediately seek an order for emergency custody of the infant.*
 - (a) *No child protective services investigation or assessment shall be initiated regarding the abandonment of an infant in accordance with Section 4 of this Act. The provisions of this subsection shall not apply when indicators of child physical abuse or child neglect are present.*
 - (b) *Upon the infant's release from the hospital, the cabinet shall place the child in a foster home approved by the cabinet to provide concurrent planning placement services. As used in this paragraph, "concurrent planning placement services" means the foster family shall work with the cabinet on reunification with the birth family, if known, and shall seek to adopt the infant if reunification cannot be accomplished.*
- (3) *At the temporary removal hearing required by KRS 620.080, if the court places temporary custody with the cabinet, the custody order shall remain in effect for a minimum of thirty (30) days.*
- (4) *During the initial thirty (30) days of placement, the cabinet shall request assistance from law enforcement officials to investigate through the Missing Child Information Center established by KRS 17.450 and other national resources to ensure that the infant is not a missing child.*
- (5) *As soon as practicable following the thirty (30) day placement period, the cabinet shall file a petition in Circuit Court seeking the involuntary termination of parental rights of the unknown parents and authority to place the child for adoption in accordance with KRS Chapter 625.*

- (6) *If a claim of parental rights is made at any time prior to the court order issued under KRS 625.100, the Circuit Court may hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed ninety (90) days and immediately remand the case to the District Court.*
- (a) *If a case is remanded to District Court under this subsection, an adjudicatory hearing shall be conducted as required by KRS 620.100 within ten (10) days of the assertion of parental rights;*
 - (b) *The District Court may order genetic testing to establish maternity or paternity at the expense of the claimant;*
 - (c) *The cabinet shall conduct a child protective services investigation or assessment and home evaluation to develop recommendations for the District Court; and*
 - (d) *Further proceedings shall be conducted in accordance with KRS Chapter 620; however, a newborn infant who has been placed in accordance with Section 4 of this Act shall not be found to be a neglected child based on that act alone.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall make available standardized health, medical, and background information forms for use in gathering voluntary, nonidentifying information from a person who leaves an infant in accordance with Section 4 of this Act and as required by Sections 1 and 3 of this Act. The materials shall clearly state on each page that the information requested is designed to facilitate medical care for the infant. The material shall include information on family services, termination of parental rights, and adoption. The material shall also include:*
- (a) *Information on the importance of medical and health information regarding the infant; and*
 - (b) *Written notification that failure to contact the Department for Community Based Services and assert a claim of parental rights within thirty (30) days of the receipt of the material shall result in the commencement of proceedings for involuntary termination of parental rights and placement of the child for adoption.*
- (2) *Subject to available funding, the cabinet shall produce and distribute a media campaign to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents, and information regarding adoption procedures.*

Section 7. Whereas Kentucky and the nation have experienced grief from the knowledge that newborn infants are abandoned in life-threatening situations and that some died from their abandonment; and whereas the parents of these newborn infants are under severe emotional stress; and whereas anonymity, confidentiality, and freedom from prosecution may encourage the parent to leave an infant safely and save the life of the infant, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved April 9, 2002