

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To provide that a parent may surrender a newborn infant to an authorized receiving facility without being charged with abuse, neglect, or abandonment of the newborn infant where there is no actual or suspected abuse or neglect, to require the Mayor to post signs for further information on the exterior of each authorized receiving facility, to require hospitals to accept a surrendered newborn infant, to provide for further placement with the Child and Family Services Agency, to provide for the relinquishment and restoration of parental rights, to provide immunity to a facility and personnel receiving a surrendered new-born infant, to require the Mayor to submit an annual status report, and to require the Mayor to issue rules to implement this act and to submit the proposed rules to the Council for approval; to amend section 16-304 of the District of Columbia Official Code to provide for adoption under this act; and to amend An act to provide for the organization of the militia of the District of Columbia to provide that funds contributed to the District of Columbia National Guard Tuition Assistance Program may be used for all members or for all new recruits if the member or new recruit is a resident of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Newborn Safe Haven Amendment Act of 2010".

TITLE I. SAFE HAVEN.

Sec. 101. Definitions.

For the purposes of this act, the term:

- (1) "Authorized Receiving Facility" means a hospital, or other place authorized by the Mayor, by rule, to accept a newborn for surrender pursuant to this act.
- (2) "CFSA" means the Child and Family Services Agency.
- (3) "Newborn" means an infant whose parent refuses or is unable to assume the responsibility for the infant's care, control, and subsistence and who is surrendered by that parent and who a licensed physician or other person authorized to accept the surrender reasonably believes is 14 days old or less.

(4) "Surrender" means to bring a newborn to an Authorized Receiving Facility during its hours of operation and to leave the newborn with personnel of the Authorized Receiving Facility.

Sec. 102. Surrender.

(a) Except when there is actual or suspected child abuse or neglect, a custodial parent who is a resident of the District of Columbia may surrender a newborn in accordance with this act and shall have the right to remain anonymous and to leave the place of surrender at any time and shall not be pursued by any person at the time of surrender or prosecuted for the surrender of the newborn.

(b) To surrender a newborn in accordance with this act, and rules promulgated pursuant to this act, shall not, by itself, constitute a basis for a finding of abuse, neglect, or abandonment.

(c) The Authorized Receiving Facility personnel receiving the surrendered newborn shall make a reasonable effort to obtain family and medical history from the surrendering parent, including personal information such as both of the parents' identities, and shall provide to the surrendering parent information on adoption and counseling services.

(d) The Authorized Receiving Facility personnel receiving the surrender of a newborn shall file a written statement with the CFSA, on or before the time CFSA assumes physical custody of the newborn, that includes the:

- (1) Date of the surrender;
- (2) Time of the surrender;
- (3) Circumstances of the surrender; and
- (4) Personal information obtained, if any.

Sec. 103. Signage.

The Mayor shall develop and post uniform signage with a toll-free number to call for further information in a conspicuous place on the exterior of each Authorized Receiving Facility that states in plain terms that a newborn may be surrendered at the facility in accordance with this act.

Sec. 104. Placement.

(a) After the surrender of a newborn, an Authorized Receiving Facility that is not a hospital shall transport the newborn to the nearest hospital as soon as transportation can be arranged.

(b)(1) The act of surrender shall constitute implied consent for the hospital to which the newborn is surrendered or transported and the hospital's medical personnel to treat and provide care for the newborn and arrange for further placement with CFSA and, through CFSA, with a preadoptive home whenever possible.

(2) Hospital personnel shall immediately contact CFSA to report the surrender

of the newborn and arrange for transport of the newborn to CFSA. The CFSA shall assume physical custody of the newborn within 23 hours of the surrender.

Sec. 105. Parental rights.

(a) Notwithstanding section 6(b) of An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 193; D.C. Official Code § 4-1406(b)) (“placement act”), there shall be no 72-hour waiting period prior to relinquishment of parental rights under this act. A relinquishment of parental rights shall take place upon surrender. Upon CFSA’s receipt of the statement required by section 102(d) and assuming physical custody, CFSA shall assume immediate care, custody, and control of the surrendered newborn.

(b) A relinquishment of parental rights under this act may be revoked and parental rights restored in accordance with section 6(c) and (d) of the placement act; provided, that:

- (1) The parent agrees to genetic testing to establish maternity or paternity;
- (2) The genetic test establishes that the surrendering parent is the biological parent of the newborn; and

(3) A risk assessment is conducted to determine if a further investigation is necessary or that the family needs to be referred for support services and is so referred.

(c)(1) A relinquishment of parental rights and any revocation of the relinquishment shall be recorded and filed by CFSA in a properly sealed file in the Family Court of the Superior Court for the District of Columbia, along with a copy of the statement required by section 102(d), within 20 days after the expiration of the 10-day revocation period in section 6(c) of the placement act.

(2) The seal of the relinquishment file shall not be broken except for good cause shown and upon the written order of a judge.

(d)(1) No later than 90 days after surrender, CFSA shall attempt to identify, locate, and notify the non-surrendering parent by performing a missing-child search and publishing notice of the surrender of the newborn in accordance with paragraph (2) of this subsection.

(2) The notice required by paragraph (1) of this subsection shall, at a minimum, include:

- (A) In regard to the surrender, the:
 - (i) Place;
 - (ii) Date; and
 - (iii) Time;
- (B) In regard to the newborn, the:
 - (i) Sex;
 - (ii) Race;
 - (iii) Approximate age;
 - (iv) Any identifying marks; and

(v) Any other identifying information CFSA considers necessary;
and

(C) A statement that the non-surrendering parent's failure to notify CFSA, or other contact as set forth in the notice, of the intent to exercise his or her parental rights and responsibilities within 20 days of publication of this notice shall be deemed to be the non-surrendering parent's irrevocable consent to the termination of all parental rights and his or her irrevocable waiver of any right to notice of, or opportunity to participate in, any termination of parental rights proceeding involving the surrendered newborn.

(3) The court may grant a petition for adoption without consent following relinquishment of parental rights and the termination of parental rights pursuant to this section and D.C. Official Code § 16-304(g).

Sec. 106. Immunity from liability.

(a) An Authorized Receiving Facility and the personnel of an Authorized Receiving Facility shall be immune from civil or criminal liability for the good-faith performance of the reporting and placement responsibilities under this act, including liability for the failure to file a report that might otherwise be incurred or imposed on a person required to report suspected incidents of child abuse or neglect under section 2 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 5, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02).

(b) In any civil or criminal proceeding brought under this act concerning the surrender of a newborn, good faith shall be presumed unless rebutted.

Sec. 107. Status report.

The Mayor shall submit a status report by January 1, 2011, and on January 1 of each year thereafter, to the Council, which shall include the:

- (1) Number of newborns surrendered;
- (2) Services provided to surrendered newborns;
- (3) Outcome of the care provided for each surrendered newborn; and
- (4) Number and disposition of cases of surrendered newborns.

Sec. 108. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

TITLE II. CONFORMING AMENDMENT.

Sec. 201. Section 16-304 of the District of Columbia Official Code is amended as follows:

Amend
§ 16-304

(a) The heading is amended to read as follows:

“§ 16-304. Consent; exceptions.”.

(b) A new subsection (g) is added to read as follows:

“(g) The court may grant a petition for adoption without consent when there has been a relinquishment of parental rights and the termination of parental rights pursuant to section 105 of the Newborn Safe Haven Amendment Act of 2010, passed on 2nd reading on February 2, 2010 (Enrolled version of Bill 18-180).”.

TITLE III. DISTRICT OF COLUMBIA
NATIONAL GUARD TUITION ASSISTANCE PROGRAM

Sec. 301. An act to provide for the organization of the militia of the District of Columbia, approved March 1, 1889 (25 Stat. 772; D.C. Official Code § 49-101 *et seq.*), is amended by adding a new section 77 to read as follows:

“Sec. 77. Any funds contributed by the District of Columbia to the District of Columbia National Guard Tuition Assistance Program may be utilized, at the discretion of the District of Columbia National Guard, for tuition assistance benefits for all members or for new recruits; provided, that the member or new recruit is a resident of the District of Columbia.”.

TITLE IV. FISCAL IMPACT STATEMENT.

Sec. 401. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE V. EFFECTIVE DATE.

Sec. 501. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia