

HOUSE BILL NO. HB0041

Regan's safe haven for abandoned newborns.

Sponsored by: Representative(s) McGraw, Illoway, Law,
Meyer, Robinson, Shivler and Warren and
Senator(s) Decaria, Job, Larson, Mockler and
Sessions

A BILL

for

1 AN ACT relating to abandoned children; providing a safe
2 haven for abandoned children; providing for the termination
3 of parental rights for an abandoned child; requiring
4 reports; making conforming amendments; and providing for an
5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9 **Section 1.** W.S. 14-11-101 through 14-11-105 are
10 created to read:

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12 **14-11-101. Purpose and intent.**

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14 (a) The purposes of this act are:

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1 (i) To provide for the care, safety and
2 protection of children in an environment that fosters
3 healthy social, emotional, intellectual and physical
4 development; and

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6 (ii) To ensure secure and safe custody and
7 promote the health and well-being of all children under the
8 state's care.

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10 **14-11-102. Definitions.**

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12 (a) As used in this act:

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14 (i) "Abuse" means as defined by W.S.
15 14-3-202(a)(ii);

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17 (ii) "Child protective agency" means as defined
18 by W.S. 14-3-202(a)(iv);

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20 (iii) "Fire station" means a fire station that
21 is open and operating twenty-four (24) hours a day, seven
22 (7) days a week, and that is continually staffed with full
23 time, paid firefighters who have emergency medical service
24 training;

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2 (iv) "Hospital" means a general acute hospital
3 that is:

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5 (A) Equipped with an emergency room;

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7 (B) Open twenty-four (24) hours a day,
8 seven (7) days a week; and

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10 (C) Employs full-time health care
11 professionals who have emergency medical services training.

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13 (v) "Neglect" means as defined by W.S.
14 14-3-202(a)(vii);

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16 (vi) "Newborn child" means a child who is thirty
17 (30) days of age or younger as determined within a
18 reasonable degree of medical certainty;

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20 (vii) "Notice" unless the context otherwise
21 requires means publication under W.S. 1-6-201 through
22 1-6-204 for a period of four (4) consecutive weeks;

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1 (viii) "Safe haven provider" means any of the
2 following:

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4 (A) A fire station;

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6 (B) A hospital;

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8 (C) A church or house of worship which
9 meets the requirements of rules and regulations promulgated
10 by the department of family services pursuant to W.S.
11 14-11-104; or

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13 (D) An entity designated by the department
14 of family services in the respective county as meeting the
15 requirements of W.S. 14-11-104.

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17 (ix) "This act" means W.S. 14-11-101 through
18 14-11-105.

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20 **14-11-103. Safe relinquishment of a newborn child.**

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22 (a) A parent or a parent's designee may safely
23 relinquish a newborn child to a safe haven provider in
24 accordance with the provisions of this act and retain

1 complete anonymity, so long as the child has not been
2 subject to actual or suspected abuse or neglect.

3

4 (b) Safe relinquishment of a newborn child who has
5 not otherwise been subject to suspected abuse or neglect
6 shall not, in and of itself, constitute abuse or neglect
7 and the child shall not be considered an abused or
8 neglected child, so long as the relinquishment is carried
9 out in substantial compliance with provisions of this act.

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11 (c) A safe haven provider shall accept a newborn
12 child who is relinquished pursuant to the provisions of
13 this act, and may presume that the person relinquishing is
14 the child's parent or parent's designee.

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16 (d) The parent or parent's designee may provide
17 information regarding the parent and newborn child's
18 medical histories, and identifying information regarding
19 the nonrelinquishing parent of the child, but may not
20 require that any information be given unless there is
21 actual or suspected abuse or neglect of the child, or the
22 person relinquishing expresses an intent for return of the
23 child.

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1 (e) A safe haven provider under this act may provide
2 any necessary emergency medical care to the child and shall
3 relinquish the child to the nearest hospital as soon as
4 possible.

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6 (f) Hospitals receiving a newborn child under this
7 act may provide any necessary medical care to the child and
8 shall notify the local child protective agency as soon as
9 possible, but no later than twenty-four (24) hours after
10 receiving the child.

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12 (g) The local child protective agency shall assume
13 care and custody of the child immediately upon notice from
14 the hospital.

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16 (h) Unless identifying information relating to the
17 newborn child has been provided:

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19 (i) The department of family services shall work
20 with law enforcement agencies in an effort to ensure that
21 the newborn child has not been identified as a missing
22 child;

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1 (ii) The department of family services shall
2 immediately place or contract for placement of the newborn
3 child in a potential adoptive home and, three (3) months
4 after the date of delivery to a safe haven provider, file a
5 petition for termination of parental rights in accordance
6 with W.S. 14-2-308 through 14-2-319;

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8 (iii) The department of family services shall
9 conduct a search of the putative father registry for
10 unmarried biological fathers which it maintains and if a
11 putative father is identified notice of termination of
12 parental rights proceedings shall be provided;

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14 (iv) If no person has affirmatively identified
15 himself or herself within three (3) months after the
16 newborn child is surrendered to the safe haven provider and
17 established paternity by scientific testing, a hearing on
18 the petition for termination of parental rights shall be
19 scheduled.

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21 (j) If the person relinquishing a newborn child is
22 the child's parent or the parent's designee, and there is
23 no actual or suspected abuse or neglect, safe
24 relinquishment of a newborn child in substantial compliance

1 with the provisions of this act is an affirmative defense
2 to any potential criminal liability for abandonment or
3 neglect relating to that relinquishment.

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5 **14-11-104. Authority of department of family services**
6 **to promulgate rules and regulations.**

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8 The department of family services may promulgate rules and
9 regulations necessary for the effective implementation of
10 this act. The rules and regulations shall specify
11 additional appropriate conditions for an entity to qualify
12 as a safe haven provider under this act.

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14 **14-11-105. Immunity from liability.**

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16 Any individual, official, institution or agency
17 participating in good faith in any act required or
18 permitted by W.S. 14-11-101 through 14-11-105 is immune
19 from any civil or criminal liability that might otherwise
20 result by reason of the action. For the purpose of any
21 civil or criminal proceeding, the good faith of any
22 individual, official, institution or agency participating
23 in any act permitted or required by W.S. 14-11-101 through
24 14-11-105 shall be presumed.

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Section 2. W.S. 14-2-309(a) by creating a new paragraph (vii) and 14-3-202(a)(ii)(intro) are amended to read:

14-2-309. Grounds for termination of parent-child relationship; clear and convincing evidence.

(a) The parent-child legal relationship may be terminated if any one (1) or more of the following facts is established by clear and convincing evidence:

(vii) The terms and conditions for the safe relinquishment of a newborn child have been complied with, pursuant to W.S. 14-11-101 through 14-11-105.

14-3-202. Definitions.

(a) As used in W.S. 14-3-201 through 14-3-215:

(ii) "Abuse" with respect to a disabled adult means as defined under W.S. 35-20-102(a)(ii). "Abuse" with respect to a child means inflicting or causing physical or mental injury, harm or imminent danger to the physical or

1 mental health or welfare of a child other than by
2 accidental means, including abandonment, unless the
3 abandonment occurs substantially in accordance with W.S.
4 14-11-101 through 14-11-105, excessive or unreasonable
5 corporal punishment, malnutrition or substantial risk
6 thereof by reason of intentional or unintentional neglect,
7 and the commission or allowing the commission of a sexual
8 offense against a child as defined by law:

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10 **Section 3.** Each local child protective agency shall
11 maintain and update on a monthly basis a report of the
12 number of children who have been abandoned pursuant to this
13 act and shall submit the information to the department of
14 family services. The department of family services shall
15 submit an annual report to the joint labor, health and
16 social services interim committee beginning July 1, 2003,
17 and annually thereafter, that compiles the monthly reports
18 required by this section.

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1 **Section 4.** This act is effective immediately upon
2 completion of all acts necessary for a bill to become law
3 as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

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(END)