

AN ACT

To enact sections 2151.3515, 2151.3516, 2151.3517, 2151.3518, 2151.3519, 2151.3520, 2151.3521, 2151.3522, 2151.3523, 2151.3524, 2151.3525, 2151.3526, 2151.3527, 2151.3528, 2151.3529, and 2151.3530 of the Revised Code to provide that a parent who deserts a child under 72 hours old in accordance with certain procedures does not commit any criminal offense in this state and may not be subject to criminal prosecution for deserting the child.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2151.3515, 2151.3516, 2151.3517, 2151.3518, 2151.3519, 2151.3520, 2151.3521, 2151.3522, 2151.3523, 2151.3524, 2151.3525, 2151.3526, 2151.3527, 2151.3528, 2151.3529, and 2151.3530 of the Revised Code be enacted to read as follows:

Sec. 2151.3515. As used in sections 2151.3515 to 2151.3530 of the Revised Code:

(A) "Deserted child" means a child whose parent has voluntarily delivered the child to an emergency medical service worker, peace officer, or hospital employee without expressing an intent to return for the child.

(B) "Emergency medical service organization," "emergency medical technician-basic," "emergency medical technician-intermediate," "first responder," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

(C) "Emergency medical service worker" means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic.

(D) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(E) "Hospital employee" means any of the following persons:

(1) A physician who has been granted privileges to practice at the hospital;

(2) A nurse, physician assistant, or nursing assistant employed by the hospital;

(3) An authorized person employed by the hospital who is acting under the direction of a physician described in division (E)(1) of this section.

(E) "Law enforcement agency" means an organization or entity made up of peace officers.

(G) "Nurse" means a person who is licensed under Chapter 4723. of the Revised Code to practice as a registered nurse or licensed practical nurse.

(H) "Nursing assistant" means a person designated by a hospital as a nurse aide or nursing assistant whose job is to aid nurses, physicians, and physician assistants in the performance of their duties.

(I) "Peace officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint township police district, marshal, deputy marshal, municipal police officer, or a state highway patrol trooper.

(J) "Physician" and "physician assistant" have the same meanings as in section 4730.01 of the Revised Code.

Sec. 2151.3516. The following persons, while acting in an official capacity, shall take possession of a child who is seventy-two hours old or younger If that child's parent has voluntarily delivered the child to that person without the parent expressing an intent to return for the child:

(A) A peace officer on behalf of the law enforcement agency that employs the officer;

(B) A hospital employee on behalf of the hospital that has granted the person privilege to practice at the hospital or that employs the person;

(C) An emergency medical service worker on behalf of the emergency medical service organization that employs the worker or for which the worker provides services.

Sec. 2151.3517. (A) On taking possession of a child pursuant to section 2151.3516 of the Revised Code, a law enforcement agency, hospital, or emergency medical service organization shall do all the following:

(1) perform any act necessary to protect the child's health or safety;

(2) Notify the public children services agency of the county in which the agency, hospital, or organization is located that the child has been taken into possession;

(3) If possible, make available to the parent who delivered the child forms developed under section 2151.3529 of the Revised Code that are designed to gather medical information concerning the child and the child's parents;

(4) If possible, make available to the parent who delivered the child written materials developed under section 2151.3529 of the Revised Code

that describe services available to assist parents and newborns;

(5) IF THE child has suffered a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, Attempt to identify and pursue the person who delivered the child.

(B) An emergency medical service worker who takes possession of a child shall, in addition to any act performed under division (A)(1) of this section, perform any medical service the worker is authorized to perform that is necessary to protect the physical health or safety of the child.

Sec. 2151.3518. On receipt of a notice given pursuant to section 2151.3517 of the Revised Code that an emergency medical service organization, a law enforcement agency, or hospital has taken possession of a child and in accordance with rules of the department of job and family services, a public children services agency shall do all of the following:

(A) Consider the child to be in need of public care and protective services;

(B) Accept and take emergency temporary custody of the child;

(C) Provide temporary emergency care for the child, without agreement or commitment;

(D) Make an investigation concerning the child;

(E) File a motion with the juvenile court of the county in which the agency is located requesting that the court grant temporary custody of the child to the agency or to a private child placing agency;

(F) Provide any care for the child that the public children services agency considers to be in the best interest of the child, including placing the child in shelter care;

(G) Provide any care and perform any duties that are required of public children services agencies under section 5153.16 of the Revised Code;

(H) Prepare and keep written records of the investigation of the child, of the care and treatment afforded the child, and any other records required by the department of job and family services.

Sec. 2151.3519. When a public children services agency files a motion pursuant to division (E) of section 2151.3518 of the Revised Code, the juvenile court shall hold an emergency hearing as soon as possible to determine whether the child is a deserted child. The court is required to give notice to the parents of the child only if the court has knowledge of the names of the parents. If the court determines at the initial hearing or at any other hearing that a child is a deserted child, the court shall adjudicate the child a deserted child and enter its findings in the record of the case.

Sec. 2151.3520. If a juvenile court adjudicates a child a deserted child,

the court shall commit the child to the temporary custody of a public children services agency or a private child placing agency. The court shall consider the order committing the child to the temporary custody of the agency to be an order of disposition issued under division (A)(2) of section 2151.353 of the Revised Code with respect to a child adjudicated a neglected child.

Sec. 2151.3521. A court that issues an order pursuant to section 2151.3520 of the Revised Code shall treat the child who is the subject of the order the same as a child adjudicated a neglected child when performing duties under Chapter 2151. of the Revised Code with respect to the child, except that there is a rebuttable presumption that it is not in the child's best interest to return the child to the natural parents.

Sec. 2151.3522. A public children services agency or private child placing agency that receives temporary custody of a child adjudicated a deserted child shall prepare case plans, conduct investigations, conduct periodic administrative reviews of case plans, and provide services for the deserted child as if the child were adjudicated a neglected child and shall follow the same procedures under this chapter in performing those functions as if the deserted child was a neglected child.

Sec. 2151.3523. (A) A parent does not commit a criminal offense under the laws of this state and shall not be subject to criminal prosecution in this state for the act of voluntarily delivering a child under section 2151.3516 of the Revised Code.

(B) A person who delivers or attempts to deliver a child who has suffered any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child is not immune from civil or criminal liability for abuse or neglect.

(C) A person or governmental entity that takes possession of a child pursuant to section 2151.3516 of the Revised Code or takes emergency temporary custody of and provides temporary emergency care for a child pursuant to section 2151.3518 of the Revised Code is immune from any civil liability that might otherwise be incurred or imposed as a result of these actions, unless the person or entity has acted in bad faith or with malicious purpose. the immunity provided by this Division does not apply if the person or governmental entity has immunity from civil liability under section 9.86, 2744.02, or 2744.03 of the Revised Code for the action in question.

(D) a person or governmental entity that takes possession of a child pursuant to section 2151.3516 of the Revised Code or takes emergency temporary custody of and provides temporary emergency care for a child

pursuant to section 2151.3518 of the Revised Code is immune from any criminal liability that might otherwise be incurred or imposed as a result of these actions, unless the person or entity has acted in bad faith or with malicious purpose.

(E) Divisions (C) and (D) of this section do not create a new cause of action or substantive legal right against a person or governmental entity, and do not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law, to which a person or governmental entity may be entitled under circumstances not covered by this section.

Sec. 2151.3524. (A) A parent who voluntarily delivers a child under section 2151.3516 of the Revised Code has the absolute right to remain anonymous. The anonymity of a parent who voluntarily delivers a child does not affect any duty imposed under sections 2151.3516 or 2151.3517 of the Revised Code. A parent who voluntarily delivers a child may leave the place at which the parent delivers the child at any time after the delivery of the child.

(B) NOTWITHSTANDING DIVISION (A) OF THIS SECTION, A parent who DELIVERS OR attempts to deliver a child who has suffered any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child DOES NOT HAVE THE RIGHT TO REMAIN ANONYMOUS AND MAY BE SUBJECT TO ARREST PURSUANT TO CHAPTER 2935. OF THE REVISED CODE.

Sec. 2151.3525. A parent who voluntarily delivers a child under section 2151.3516 of the Revised Code may complete all or any part of the medical information forms the parent receives under division (A)(3) of section 2151.3517 of the Revised Code. The parent may deliver the fully or partially completed forms at the same time as delivering the child or at a later time. The parent is not required to complete all or any part of the forms.

Sec. 2151.3526. A parent who voluntarily delivers a child under section 2151.3516 of the Revised Code may refuse to accept the materials made available under division (A)(4) of section 2151.3517 of the Revised Code.

Sec. 2151.3527. (A) No person described in section 2151.3516 of the Revised Code shall do the following with respect to a parent who voluntarily delivers a child under that section:

(1) Coerce or otherwise try to force the parent into revealing the identity of the child's parents;

(2) Pursue or follow the parent after the parent leaves the place at which the child was delivered;

(3) Coerce or otherwise try to force the parent not to desert the child;

(4) Coerce or otherwise try to force the parent to complete all or any part of the medical information forms received under division (A)(3) of section 2151.3517 of the Revised Code;

(5) Coerce or otherwise try to force the parent to accept the materials made available under division (A)(4) of section 2151.3517 of the Revised Code.

(B) divisions (a)(1) and (2) of this section do not apply to A person who DELIVERS OR attempts to deliver a child who has suffered any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child.

Sec. 2151.3528. If a child is adjudicated a deserted child and a person indicates to the court that the person is the parent of the child and that the person seeks to be reunited with the child, the court that adjudicated the child shall require the person, at the person's expense, to submit to a DNA test to verify that the person is a parent of the child.

Sec. 2151.3529. (A) The director of job and family services shall promulgate forms designed to gather pertinent medical information concerning a deserted child and the child's parents. The forms shall clearly and unambiguously state on each page that the information requested is to facilitate medical care for the child, that the forms may be fully or partially completed or left blank, that completing the forms or parts of the forms is completely voluntary, and that no adverse legal consequence will result from failure to complete any part of the forms.

(B) The director shall promulgate written materials to be given to the parents of a child delivered pursuant to section 2151.3516 of the Revised Code. The materials shall describe services available to assist parents and newborns and shall include information directly relevant to situations that might cause parents to desert a child and information on the procedures for a person to follow in order to reunite with a child the person delivered under section 2151.3516 of the Revised Code, including notice that the person will be required to submit to a DNA test, at that person's expense, to prove that the person is the parent of the child.

Sec. 2151.3530. The director of job and family services shall distribute the medical information forms and written materials promulgated under section 2151.3529 of the Revised Code to entities permitted to receive a deserted child, to public children services agencies, and to other public or private agencies that, in the discretion of the director, are best able to disseminate the forms and materials to the persons who are most in need of the forms and materials.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 660

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

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Secretary of State.

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