

1 HOUSE BILL 374

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Emily Kane

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9  
10 AN ACT

11 RELATING TO CHILDREN; AMENDING THE SAFE HAVEN FOR INFANTS ACT;  
12 DEFINING A SAFE HAVEN SITE.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 24-22-1.1 NMSA 1978 (being Laws 2005,  
16 Chapter 26, Section 2) is amended to read:

17 "24-22-1.1. PURPOSE.--The purpose of the Safe Haven for  
18 Infants Act is to promote the safety of infants and to immunize  
19 a parent from criminal prosecution for leaving an infant,  
20 ninety days of age or less, at a [~~hospital~~] safe haven site.

21 This act is not intended to abridge the rights or obligations  
22 created by the federal Indian Child Welfare Act of 1978 or the  
23 rights of parents."

24 SECTION 2. Section 24-22-2 NMSA 1978 (being Laws 2001,  
25 Chapter 31, Section 2 and Laws 2001, Chapter 132, Section 2, as  
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1 amended) is amended to read:

2 "24-22-2. DEFINITIONS.--As used in the Safe Haven for  
3 Infants Act:

4 A. "fire station" means a fire station that is  
5 certified by the fire marshal division of the public regulation  
6 commission;

7 [~~A.~~] B. "hospital" means an acute care general  
8 hospital or health care clinic licensed by the state;

9 [~~B.~~] C. "Indian child" means an Indian child as  
10 defined by the federal Indian Child Welfare Act of 1978;

11 [~~C.~~] D. "infant" means a child no more than ninety  
12 days old, as determined within a reasonable degree of medical  
13 certainty; [~~and~~]

14 E. "law enforcement agency" means a law enforcement  
15 agency of the state or a political subdivision of the state;

16 F. "safe haven site" means a hospital, law  
17 enforcement agency or fire station that has an authorized  
18 representative on-site at the time an infant is left at such a  
19 site; and

20 [~~D.~~] G. "staff" means an employee, contractor,  
21 agent or volunteer performing services as required and on  
22 behalf of the [~~hospital~~] safe haven site."

23 SECTION 3. Section 24-22-3 NMSA 1978 (being Laws 2001,  
24 Chapter 31, Section 3 and Laws 2001, Chapter 132, Section 3, as  
25 amended) is amended to read:

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1 "24-22-3. LEAVING AN INFANT.--

2 A. A person may leave an infant with the staff of a  
3 ~~[hospital]~~ safe haven site without being subject to criminal  
4 prosecution for abandonment or abuse if the infant was born  
5 within ninety days of being left at the ~~[hospital]~~ safe haven  
6 site, as determined within a reasonable degree of medical  
7 certainty, and if the infant is left in a condition that would  
8 not constitute abandonment or abuse of a child pursuant to  
9 Section 30-6-1 NMSA 1978.

10 B. A ~~[hospital]~~ safe haven site may ask the person  
11 leaving the infant for the name of the infant's biological  
12 father or biological mother, the infant's name and the infant's  
13 medical history, but the person leaving the infant is not  
14 required to provide that information to the ~~[hospital]~~ safe  
15 haven site.

16 C. The ~~[hospital]~~ safe haven site is deemed to have  
17 received consent for medical services provided to an infant  
18 left at a ~~[hospital]~~ safe haven site in accordance with the  
19 provisions of the Safe Haven for Infants Act or in accordance  
20 with procedures developed between the children, youth and  
21 families department and the ~~[hospital]~~ safe haven site."

22 SECTION 4. Section 24-22-4 NMSA 1978 (being Laws 2001,  
23 Chapter 31, Section 4 and Laws 2001, Chapter 132, Section 4, as  
24 amended) is amended to read:

25 "24-22-4. ~~[HOSPITAL]~~ SAFE HAVEN SITE PROCEDURES.--

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1           A. A ~~[hospital]~~ safe haven site shall accept an  
2 infant who is left at the ~~[hospital]~~ safe haven site in  
3 accordance with the provisions of the Safe Haven for Infants  
4 Act.

5           B. In conjunction with the children, youth and  
6 families department, a ~~[hospital]~~ safe haven site shall develop  
7 procedures for appropriate staff to accept and provide  
8 necessary medical services to an infant left at the ~~[hospital]~~  
9 safe haven site and to the person leaving the infant at the  
10 ~~[hospital]~~ safe haven site, if necessary.

11           C. Upon receiving an infant who is left at a  
12 ~~[hospital]~~ safe haven site in accordance with the provisions of  
13 the Safe Haven for Infants Act, the ~~[hospital]~~ safe haven site  
14 may provide the person leaving the infant with:

15                   (1) information about adoption services,  
16 including the availability of private adoption services;

17                   (2) brochures or telephone numbers for  
18 agencies that provide adoption services or counseling services;  
19 and

20                   (3) written information regarding whom to  
21 contact at the children, youth and families department if the  
22 parent decides to seek reunification with the infant.

23           D. A ~~[hospital]~~ safe haven site shall ask the  
24 person leaving the infant whether the infant has a parent who  
25 is either a member of an Indian tribe or is eligible for

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1 membership in an Indian tribe, but the person leaving the  
2 infant is not required to provide that information to the  
3 [~~hospital~~] safe haven site.

4 E. Immediately after receiving an infant in  
5 accordance with the provisions of the Safe Haven for Infants  
6 Act, a [~~hospital~~] safe haven site shall inform the children,  
7 youth and families department that the infant has been left at  
8 the [~~hospital~~] safe haven site. The [~~hospital~~] safe haven site  
9 shall provide the children, youth and families department with  
10 all available information regarding the child and the parents,  
11 including the identity of the child and the parents, the  
12 location of the parents and the child's medical records."

13 SECTION 5. Section 24-22-5 NMSA 1978 (being Laws 2001,  
14 Chapter 31, Section 5 and Laws 2001, Chapter 132, Section 5, as  
15 amended) is amended to read:

16 "24-22-5. RESPONSIBILITIES OF THE CHILDREN, YOUTH AND  
17 FAMILIES DEPARTMENT.--

18 A. The children, youth and families department  
19 shall be deemed to have emergency custody of an infant who has  
20 been left at a [~~hospital~~] safe haven site according to the  
21 provisions of the Safe Haven for Infants Act.

22 B. Upon receiving a report of an infant left at a  
23 [~~hospital~~] safe haven site pursuant to the provisions of the  
24 Safe Haven for Infants Act, the children, youth and families  
25 department shall immediately conduct an investigation, pursuant

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1 to the provisions of the Abuse and Neglect Act.

2 C. When an infant is taken into custody by the  
3 children, youth and families department, the department shall  
4 make reasonable efforts to determine whether the infant is an  
5 Indian child. If the infant is an Indian child:

6 (1) the child's tribe shall be notified as  
7 required by Section 32A-1-14 NMSA 1978 and the federal Indian  
8 Child Welfare Act of 1978; and

9 (2) pre-adoptive placement and adoptive  
10 placement of the Indian child shall be in accordance with the  
11 provisions of Section 32A-5-5 NMSA 1978 regarding Indian child  
12 placement preferences.

13 D. The children, youth and families department  
14 shall perform public outreach functions necessary to educate  
15 the public about the Safe Haven for Infants Act, including  
16 developing literature about that act and distributing it to  
17 [~~hospitals~~] safe haven sites.

18 E. An infant left at a [~~hospital~~] safe haven site  
19 in accordance with the provisions of the Safe Haven for Infants  
20 Act shall presumptively be deemed eligible and enrolled for  
21 medicaid benefits and services."

22 SECTION 6. Section 24-22-7 NMSA 1978 (being Laws 2001,  
23 Chapter 31, Section 7 and Laws 2001, Chapter 132, Section 7, as  
24 amended) is amended to read:

25 "24-22-7. PROCEDURE IF REUNIFICATION IS SOUGHT.--

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