



2023 ASSEMBLY BILL 369

July 27, 2023 - Introduced by Representatives SCHUTT, KITCHENS, DITTRICH, BEHNKE, BINSFELD, BODDEN, BRANDTJEN, GOEBEN, GREEN, GUSTAFSON, HURD, MAXEY, MURPHY, MYERS, NOVAK, O'CONNOR, OLDENBURG, ORTIZ-VELEZ, RETTINGER, ROZAR, SCHMIDT, SNYDER, SPIROS, STUBBS, SUMMERFIELD, WITKE, SCHRAA and MURSAU, cosponsored by Senators BALLWEG, JAMES, CABRAL-GUEVARA, MARKLEIN, TOMCZYK, QUINN and KNODL. Referred to Committee on Children and Families.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 48.195 (1); *to amend* 48.13 (2m), 48.195 (2)
2 (a), 48.195 (2) (b), 48.195 (2) (c), 48.195 (2) (d) (intro.), 48.195 (3) (a), 48.195 (4)
3 (a), 48.195 (4) (b), 48.195 (5), 48.195 (6), 48.355 (2d) (b) 5., 48.415 (1m), 48.43
4 (7) (b) and 48.485 (2); and *to create* 48.195 (1b), 48.195 (1m) (a) 2. and 48.195
5 (1r) of the statutes; **relating to:** newborn infant safety devices under the safe
6 haven law.

Analysis by the Legislative Reference Bureau

This bill authorizes the installation of newborn infant safety devices in hospitals, fire stations, and law enforcement agency buildings and allows a parent to relinquish a child under the age of 72 hours in such a device under the safe haven law.

Under current law, a child whom a law enforcement officer, emergency medical technician, or hospital staff member reasonably believes to be 72 hours old or younger (newborn infant) may be taken into custody under circumstances in which a parent of the newborn infant relinquishes custody of the newborn infant to the law enforcement officer, emergency medical technician, or hospital staff member and does not express an intent to return for the newborn infant (commonly referred to as the “safe haven law”). Also under current law, if a parent who wishes to relinquish custody of his or her child is unable to travel to a place where a law enforcement officer, emergency medical technician, or hospital staff member is located, the parent

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may dial “911” or the number for an emergency medical service provider and the person receiving the call must dispatch a law enforcement officer or emergency medical technician to meet the parent and take the child into custody. A law enforcement officer, emergency medical technician, or hospital staff member who takes a newborn infant into custody under the safe haven law must take any action necessary to protect the health and safety of the newborn infant and, within 24 hours after taking the newborn infant into custody, must deliver the newborn infant to the intake worker of the court assigned to exercise jurisdiction under the Children’s Code.

Under current law, a parent who relinquishes custody of a child under the safe haven law and any person who assists the parent in that relinquishment are immune from any civil or criminal liability for any good faith act or omission in connection with the relinquishment. In addition, any law enforcement officer, emergency medical technician, or hospital staff member who takes a child into custody under the safe haven law is immune from any civil liability to the child’s parents, or any criminal liability for any good faith act or omission occurring solely in connection with the act of receiving custody of the child from the child’s parents, but is not immune from any civil or criminal liability for any act or omission occurring in subsequently providing care for the child.

This bill provides that a newborn infant may also be taken into custody under the safe haven law if a parent leaves the newborn infant in a newborn infant safety device, which is a device that is installed in a supporting wall of a hospital, fire station, or law enforcement agency and that has an exterior point of access allowing an individual to place a newborn infant inside and an interior point of access allowing individuals inside the building to safely retrieve the newborn infant. Under the bill, a hospital, fire station, or law enforcement agency may install a newborn infant safety device if several criteria are met:

1. The hospital or law enforcement agency building is staffed 24 hours per day and the fire station is staffed 24 hours per day with an emergency medical technician.
2. The device is physically part of the hospital, fire station, or law enforcement agency building.
3. The device is temperature controlled and ventilated for the safety of newborns.
4. The device is equipped with a dual alarm system connected to the physical location of the device that automatically triggers an alarm inside the building when a newborn infant is placed in the device.
5. The device is equipped with a surveillance system that allows employees of the hospital, fire station, or law enforcement agency to monitor the inside of the device 24 hours per day.
6. The device is located such that the interior point of access is in an area that is conspicuous and visible to the employees of the hospital, fire station, or law enforcement agency.

Under the bill, a hospital, fire station, or law enforcement agency that uses a newborn infant safety device to accept surrendered newborn infants must use the surveillance system to monitor the inside of the device 24 hours per day, physically

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check the device at least twice daily, and test the device at least weekly to ensure that the alarm system is in working order.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.13 (2m) of the statutes is amended to read:

2 48.13 **(2m)** The child's parent has relinquished custody of the child under s.
3 48.195 (1) (1m).

4 **SECTION 2.** 48.195 (1) of the statutes is renumbered 48.195 (1m) (a) (intro.) and
5 amended to read:

6 48.195 **(1m)** (a) (intro.) In addition to being taken into custody under s. 48.19,
7 a child whom a law enforcement officer, emergency medical services practitioner, as
8 defined in s. 256.01 (5), or hospital staff member reasonably believes to be 72 hours
9 old or younger may be taken into custody under circumstances in which a parent of
10 the child relinquishes custody of the child to by any of the following methods and does
11 not express an intent to return for the child:

12 1. By delivering the child to the law enforcement officer, emergency medical
13 services practitioner, or hospital staff member and does not express an intent to
14 return for the child.

15 (b) If a parent who wishes to relinquish custody of his or her child under this
16 subsection is unable to travel to a sheriff's office, police station, fire station, hospital,
17 or other place where a law enforcement officer, emergency medical services
18 practitioner, or hospital staff member is located, the parent may dial the telephone
19 number "911" or, in an area in which the telephone number "911" is not available, the
20 number for an emergency medical service provider, and the person receiving the call

ASSEMBLY BILL 369**SECTION 2**

1 shall dispatch a law enforcement officer or emergency medical services practitioner
2 to meet the parent and take the child into custody.

3 (c) A law enforcement officer, emergency medical services practitioner, or
4 hospital staff member who takes a child into custody under this subsection shall take
5 any action necessary to protect the health and safety of the child, shall, within 24
6 hours after taking the child into custody, deliver the child to the intake worker under
7 s. 48.20, and shall, within 5 days after taking the child into custody, file a birth record
8 for the child under s. 69.14 (3).

9 **SECTION 3.** 48.195 (1b) of the statutes is created to read:

10 48.195 (1b) DEFINITIONS. In this section:

11 (a) “Emergency medical services practitioner” has the meaning given in s.
12 256.01 (5).

13 (b) “Newborn infant safety device” means a device that is installed in a
14 supporting wall of a hospital, fire station, or law enforcement agency and that has
15 an exterior point of access allowing an individual to place a newborn infant inside
16 and an interior point of access allowing individuals inside the building to safely
17 retrieve the newborn infant.

18 **SECTION 4.** 48.195 (1m) (a) 2. of the statutes is created to read:

19 48.195 (1m) (a) 2. By leaving the child in a newborn infant safety device
20 installed as provided under sub. (1r).

21 **SECTION 5.** 48.195 (1r) of the statutes is created to read:

22 48.195 (1r) NEWBORN INFANT SAFETY DEVICE. (a) A hospital, fire station, or law
23 enforcement agency may install a newborn infant safety device if all of the following
24 criteria are met:

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1 1. The hospital or law enforcement agency building is staffed 24 hours per day
2 and the fire station is staffed 24 hours per day with an emergency medical services
3 practitioner.

4 2. The device is physically part of the hospital, fire station, or law enforcement
5 agency building.

6 3. The device is temperature controlled and ventilated for the safety of
7 newborns.

8 4. The device is equipped with a dual alarm system connected to the physical
9 location of the device that automatically triggers an alarm inside the building when
10 a newborn infant is placed in the device.

11 5. The device is equipped with a surveillance system that allows employees of
12 the hospital, fire station, or law enforcement agency to monitor the inside of the
13 device 24 hours per day.

14 6. The device is located such that the interior point of access is in an area that
15 is conspicuous and visible to the employees of the hospital, fire station, or law
16 enforcement agency.

17 (b) A hospital, fire station, or law enforcement agency that uses a newborn
18 infant safety device to accept surrendered newborn infants shall use the surveillance
19 system under par. (a) 5. to monitor the inside of the device 24 hours per day,
20 physically check the device at least twice daily, and test the device at least weekly
21 to ensure that the alarm system is in working order.

22 **SECTION 6.** 48.195 (2) (a) of the statutes is amended to read:

23 48.195 (2) (a) Except as provided in this paragraph, a parent who relinquishes
24 custody of a child under sub. (1) (1m) and any person who assists the parent in that
25 relinquishment have the right to remain anonymous. The exercise of that right shall

ASSEMBLY BILL 369**SECTION 6**

1 not affect the manner in which a law enforcement officer, emergency medical services
2 practitioner, as defined in s. 256.01 (5), or hospital staff member performs his or her
3 duties under this section. No person may induce or coerce or attempt to induce or
4 coerce a parent or person assisting a parent who wishes to remain anonymous into
5 revealing his or her identity, unless the person has reasonable cause to suspect that
6 the child has been the victim of abuse or neglect or that the person assisting the
7 parent is coercing the parent into relinquishing custody of the child.

8 **SECTION 7.** 48.195 (2) (b) of the statutes is amended to read:

9 48.195 (2) (b) A parent who relinquishes custody of a child under sub. ~~(1)~~ (1m)
10 (a) 1. and any person who assists the parent in that relinquishment may leave the
11 presence of the law enforcement officer, emergency medical services practitioner, as
12 defined in s. 256.01 (5), or hospital staff member who took custody of the child at any
13 time, and no. A parent who relinquishes custody of a child under sub. (1m) (a) 2. and
14 any person who assists the parent in that relinquishment may leave the premises
15 of the hospital, fire station, or law enforcement agency at any time. No person may
16 follow or pursue the parent or person assisting the parent, unless the person has
17 reasonable cause to suspect that the child has been the victim of abuse or neglect or
18 that the person assisting the parent has coerced the parent into relinquishing
19 custody of the child.

20 **SECTION 8.** 48.195 (2) (c) of the statutes is amended to read:

21 48.195 (2) (c) No officer, employee, or agent of this state or of a political
22 subdivision of this state may attempt to locate or ascertain the identity of a parent
23 who relinquishes custody of a child under sub. ~~(1)~~ (1m) or any person who assists the
24 parent in that relinquishment, unless the officer, employee, or agent has reasonable
25 cause to suspect that the child has been the victim of abuse or neglect or that the

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1 person assisting the parent has coerced the parent into relinquishing custody of the
2 child.

3 **SECTION 9.** 48.195 (2) (d) (intro.) of the statutes is amended to read:

4 48.195 (2) (d) (intro.) Any person who obtains any information relating to the
5 relinquishment of a child under sub. (1) (1m) shall keep that information confidential
6 and may not disclose that information, except to the following persons:

7 **SECTION 10.** 48.195 (3) (a) of the statutes is amended to read:

8 48.195 (3) (a) Subject to par. (b), a law enforcement officer, emergency medical
9 services practitioner, ~~as defined in s. 256.01 (5)~~, or hospital staff member who takes
10 a child into custody under sub. (1) (1m) (a) 1. shall make available to the parent who
11 relinquishes custody of the child the maternal and child health toll-free telephone
12 number maintained by the department under 42 USC 705 (a) (5) (E).

13 **SECTION 11.** 48.195 (4) (a) of the statutes is amended to read:

14 48.195 (4) (a) Any parent who relinquishes custody of his or her child under
15 sub. (1) (1m) and any person who assists the parent in that relinquishment are
16 immune from any civil or criminal liability for any good faith act or omission in
17 connection with that relinquishment. The immunity granted under this paragraph
18 includes immunity for exercising the right to remain anonymous under sub. (2) (a),
19 the right to leave at any time under sub. (2) (b), and the right not to accept any
20 information under sub. (3) (b) and immunity from prosecution under s. 948.20 for
21 abandonment of a child or under s. 948.21 for neglecting a child.

22 **SECTION 12.** 48.195 (4) (b) of the statutes is amended to read:

23 48.195 (4) (b) Any law enforcement officer, emergency medical services
24 practitioner, ~~as defined in s. 256.01 (5)~~, or hospital staff member who takes a child
25 into custody under sub. (1) (1m) is immune from any civil liability to the child's

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1 parents, or any criminal liability for any good faith act or omission occurring solely
2 in connection with the act of receiving custody of the child from the child's parents
3 or from a newborn infant safety device, but is not immune from any civil or criminal
4 liability for any act or omission occurring in subsequently providing care for the
5 child.

6 **SECTION 13.** 48.195 (5) of the statutes is amended to read:

7 48.195 (5) **MEDICAL ASSISTANCE ELIGIBILITY.** A child who is taken into custody
8 under sub. (1) (1m) is presumed to be eligible for medical assistance under s. 49.46
9 or 49.47.

10 **SECTION 14.** 48.195 (6) of the statutes is amended to read:

11 48.195 (6) **RULES.** The department shall promulgate rules to implement this
12 section. In promulgating those rules, the department shall consider the different
13 circumstances under which a parent might relinquish custody of a child under sub.
14 (1) (1m). The rules shall include rules prescribing a means by which a parent who
15 relinquishes custody of his or her child under sub. (1) (1m) may, until the granting
16 of an order terminating parental rights, choose to be identified as the child's parent.

17 **SECTION 15.** 48.355 (2d) (b) 5. of the statutes is amended to read:

18 48.355 (2d) (b) 5. That the parent has been found under s. 48.13 (2m) to have
19 relinquished custody of the child under s. 48.195 (1) (1m) when the child was 72 hours
20 old or younger, as evidenced by a final order of a court of competent jurisdiction
21 making that finding.

22 **SECTION 16.** 48.415 (1m) of the statutes is amended to read:

23 48.415 (1m) **RELINQUISHMENT.** Relinquishment, which shall be established by
24 proving that a court of competent jurisdiction has found under s. 48.13 (2m) that the

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1 parent has relinquished custody of the child under s. 48.195 ~~(1)~~ (1m) when the child
2 was 72 hours old or younger.

3 **SECTION 17.** 48.43 (7) (b) of the statutes is amended to read:

4 48.43 **(7)** (b) If a permanent adoptive or subsidized guardianship placement is
5 not in progress 2 years after entry of the order, the department may petition the court
6 to transfer legal custody of the child to a county department, except that the
7 department may not petition the court to transfer to a county department legal
8 custody of a child who was initially taken into custody under s. 48.195 ~~(1)~~ (1m). The
9 court shall transfer the child's legal custody to the county department specified in the
10 petition. The department shall remain the child's guardian.

11 **SECTION 18.** 48.485 (2) of the statutes is amended to read:

12 48.485 **(2)** If a permanent adoptive or subsidized guardianship placement is
13 not in progress within 2 years after entry of the termination of parental rights order
14 by the tribal court, the department may petition the tribal court to transfer legal
15 custody or guardianship of the Indian child back to the Indian tribe, except that the
16 department may not petition the tribal court to transfer back to an Indian tribe legal
17 custody or guardianship of an Indian child who was initially taken into custody
18 under s. 48.195 ~~(1)~~ (1m).

19

(END)