

REFERENCE TITLE: safe havens; newborn infant age

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

# HB 2410

Introduced by  
Representative Espinoza

AN ACT

AMENDING SECTIONS 8-528 AND 13-3623.01, ARIZONA REVISED STATUTES; RELATING  
TO SAFE HAVENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-528, Arizona Revised Statutes, is amended to  
3 read:

4 8-528. Newborn infants left with safe haven providers;  
5 placement protocol; definitions

6 A. The placement of newborn infants who are left with safe haven  
7 providers pursuant to section 13-3623.01 shall follow the protocols  
8 prescribed in this section.

9 B. If a newborn infant is left with a private child welfare agency  
10 that is licensed pursuant to this article or with a private adoption  
11 agency that is licensed pursuant to section 8-126 and the agency has the  
12 ability and desire to take custody of the infant and to place the infant  
13 for adoption, the safe haven provider shall do the following:

14 1. Immediately transport the newborn infant or arrange for the  
15 newborn infant to be transported to a hospital for a physical examination.

16 2. Immediately call the department to inform it that a newborn  
17 infant has been left with the safe haven provider, of the location of the  
18 hospital where the agency transported the infant or arranged for the  
19 infant to be transported and that the agency will take custody of the  
20 infant after the hospital completes the physical examination.

21 3. Take custody of the **NEWBORN** infant from the hospital within  
22 twenty-four hours after the hospital completes the physical examination.

23 C. If the private child welfare agency or private adoption agency  
24 does not have the ability or desire to take custody of the **NEWBORN** infant  
25 and place the infant for adoption, the agency shall do the following:

26 1. Immediately transport the newborn infant or arrange for the  
27 newborn infant to be transported to a hospital for a physical examination.

28 2. Immediately call the department to inform it that a newborn  
29 infant has been left with the safe haven provider, of the location of the  
30 hospital where the agency transported the infant or arranged for the  
31 infant to be transported and that the agency will not take custody of the  
32 infant after the hospital completes the physical examination.

33 D. If a newborn infant is left with a church, the safe haven  
34 provider must do the following:

35 1. Immediately transport the **NEWBORN** infant or arrange for the  
36 newborn infant to be transported to a hospital for a physical examination.

37 2. If the church is affiliated with a private adoption agency,  
38 contact the private adoption agency and inform the agency that a newborn  
39 infant has been left with the safe haven provider.

40 3. Immediately call the department to inform it that ~~an~~ **A NEWBORN**  
41 infant has been left at the church, of the location of the hospital where  
42 the church transported the infant or arranged for the infant to be  
43 transported and whether a private adoption agency will take custody of the  
44 infant.

1 E. If the agency contacted pursuant to subsection D of this section  
2 has the ability and desire to take custody of the NEWBORN infant and place  
3 the infant for adoption, the agency must take custody of the infant within  
4 twenty-four hours after the hospital completes the physical examination.

5 F. If the church is not affiliated with a private adoption agency  
6 or the private adoption agency does not have the ability or desire to take  
7 custody of the NEWBORN infant and place the infant for adoption, the  
8 department shall contact the next private adoption agency on a rotating  
9 list of agencies maintained by the department until it contacts an agency  
10 that agrees to take custody of the infant. The adoption agency must take  
11 custody of the infant from the hospital within twenty-four hours after the  
12 hospital completes the physical examination.

13 G. If a newborn infant is left with a firefighter who is on duty,  
14 an emergency medical technician who is on duty or a staff member at a  
15 health care institution that is classified by the department of health  
16 services pursuant to section 36-405 as a general hospital or a rural  
17 general hospital, the safe haven provider shall do the following:

18 1. Immediately transport the newborn infant to a hospital for a  
19 physical examination.

20 2. Immediately contact the department of child safety to inform it  
21 that a newborn infant has been left at a fire station or health care  
22 institution and of the location of the hospital where the safe haven  
23 provider transported the infant.

24 H. Within eight hours after the department is contacted pursuant to  
25 subsection C or G of this section, the department shall contact the next  
26 private adoption agency on a rotating list maintained by the department  
27 until the department contacts an agency that agrees to take custody of the  
28 NEWBORN infant. The adoption agency must take custody of the infant from  
29 the hospital within twenty-four hours after the hospital completes the  
30 physical examination.

31 I. If an agency does not take custody of the newborn infant within  
32 twenty-four hours after the hospital completes the physical examination,  
33 the hospital shall contact the department, and the department shall  
34 contact the next private adoption agency on its rotating list until an  
35 agency agrees to take custody of the infant.

36 J. If no agency takes custody of the NEWBORN infant pursuant to  
37 this section within forty-eight hours after the hospital completes the  
38 physical examination, the department shall take custody of the infant.

39 K. Notwithstanding any other law, before a private adoption agency  
40 or the department takes custody of ~~an~~ A NEWBORN infant pursuant to this  
41 section, a health care provider, as defined in section 36-3201, may make  
42 health care treatment decisions for the infant. A health care provider  
43 who makes a good faith medical decision pursuant to this subsection is  
44 immune from liability.

1 L. The safe haven provider that takes custody of the NEWBORN infant  
2 shall act as the responsible adult and complete the Arizona health care  
3 cost containment system application process on behalf of the infant. If  
4 the child is determined ineligible for the Arizona health care cost  
5 containment system or if the Arizona health care cost containment system  
6 administration does not reimburse the hospital for the medical examination  
7 and treatment provided to the infant, the entity or individual that  
8 ultimately takes custody of the infant must compensate the hospital for  
9 the medical examination and treatment provided to the infant.

10 M. An agency that takes custody of the newborn infant must comply  
11 with all state and federal laws regarding adoption and placement of  
12 children.

13 N. The department shall inform an agency when it has rotated to the  
14 top of the contact list and inform it that the department will notify it  
15 the next time a newborn infant is left with a safe haven provider.

16 O. A private adoption agency may contact the department to be  
17 placed on the rotating list maintained by the department pursuant to this  
18 section if it:

- 19 1. Is a nonprofit agency.
- 20 2. Does not specialize in international adoptions.
- 21 3. Has a twenty-four hour emergency contact number.

22 P. The protocols prescribed in this section apply only to an infant  
23 who is ~~seventy-two hours~~ FIVE DAYS of age or younger and who is not  
24 abused. If an infant who is transported to a hospital is older than  
25 ~~seventy-two hours~~ FIVE DAYS or has been abused, the hospital shall contact  
26 the department, and the department shall take custody of the infant.

27 Q. For the purposes of this section:

28 1. "Church" has the same meaning prescribed in section 13-3623.01,  
29 subsection H, paragraph 2, subdivision (d), item (iii).

30 2. "Custody" means legal authority to act on behalf of a child  
31 including the following:

32 (a) The duty and authority to make decisions that affect the child,  
33 including medical decisions.

34 (b) The authority to file a petition for termination of parental  
35 rights.

36 Sec. 2. Section 13-3623.01, Arizona Revised Statutes, is amended to  
37 read:

38 13-3623.01. Safe haven for newborn infants; definitions

39 A. A person is not guilty of abuse of a child pursuant to section  
40 13-3623, subsection B solely for leaving an unharmed newborn infant with a  
41 safe haven provider.

42 B. A fire station and a health care institution that is classified  
43 by the department of health services pursuant to section 36-405 as a  
44 general hospital or a rural general hospital shall post a notice that it  
45 accepts a newborn infant pursuant to this section. The notice shall be

1 placed on the exterior of the building in a location that is noticeable to  
2 the public. The words "baby safe haven" shall be printed in bold-faced  
3 capital letters that are not less than two inches in height. The notice  
4 may include an identifying logo. A fire station or hospital that does not  
5 post a notice as prescribed by this subsection is not subject to civil  
6 liability. A notice that is valid before September 30, 2009 remains valid  
7 after September 30, 2009.

8 C. If a parent or agent of a parent voluntarily delivers the  
9 parent's newborn infant to a safe haven provider, the safe haven provider  
10 shall take custody of the newborn infant if both of the following are  
11 true:

12 1. The parent did not express an intent to return for the newborn  
13 infant.

14 2. The safe haven provider reasonably believes that the child is a  
15 newborn infant.

16 D. The safe haven provider shall comply with the requirements of  
17 section 8-528 and report the receipt of a newborn infant to ~~of~~ the  
18 department of child safety as soon as practicable after taking custody of  
19 the newborn infant. The department shall report the number of newborn  
20 infants delivered to safe haven providers pursuant to section 8-526.

21 E. A parent or agent of a parent who leaves a newborn infant with a  
22 safe haven provider may remain anonymous, and the safe haven provider  
23 shall not require the parent or agent to answer any questions. A safe  
24 haven provider shall offer written information about information and  
25 referral organizations.

26 F. A safe haven provider who receives a newborn infant pursuant to  
27 this section is not liable for any civil or other damages for any act or  
28 omission by the safe haven provider in maintaining custody of the newborn  
29 infant if the safe haven provider acts in good faith without gross  
30 negligence.

31 G. This section does not preclude the prosecution of the person for  
32 any offense based on any act not covered by this section.

33 H. For the purposes of this section:

34 1. "Newborn infant" means an infant who is ~~seventy-two hours~~ FIVE  
35 DAYS old or younger.

36 2. "Safe haven provider" means any of the following:

37 (a) A firefighter who is on duty.

38 (b) An emergency medical technician who is on duty.

39 (c) A health care institution that is classified by the department  
40 of health services pursuant to section 36-405 as a general hospital or a  
41 rural general hospital. The parent or agent must deliver the newborn  
42 infant to a medical staff member at the health care institution.

43 (d) A staff member or volunteer at any of the following that posts  
44 a public notice that it is willing to accept a newborn infant pursuant to  
45 this section:

- 1           (i) A private child welfare agency licensed pursuant to title 8,  
2 chapter 4, article 4.  
3           (ii) An adoption agency licensed pursuant to section 8-126.  
4           (iii) A church. For the purposes of this item, "church" means a  
5 building that is erected or converted for use as a church, where services  
6 are regularly convened, that is used primarily for religious worship and  
7 schooling and that a reasonable person would conclude is a church by  
8 reason of design, signs or architectural or other features.