

# ARKANSAS SENATE

## 94th General Assembly - Regular Session, 2023 Amendment Form

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### Subtitle of Senate Bill No. 195

TO CLARIFY WHEN PARENTS' RIGHTS NO LONGER ATTACH REGARDING SAFE HAVEN INFANTS  
AND TO AMEND DEFINITIONS UNDER THE LAWS REGARDING SAFE HAVEN.

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### Amendment No. 1 to Senate Bill 195

Amend Senate Bill No. 195 as originally introduced:

Add Representative J. Mayberry as a cosponsor of the bill

AND

Add Senator Irvin as a cosponsor of the bill

AND

Page 1, line 9, delete "SAFE HAVEN" and substitute "NEWBORN SURRENDERS"

AND

Page 1, line 11, delete "AMEND" and substitute "AMEND AND EXPAND"

AND

Page 1, delete SECTION 1 in its entirety, and substitute the following:

"SECTION 1. DO NOT CODIFY. Legislative findings and intent.

The General Assembly finds that:

(1) Acts 2001, No. 236, § 9-34-201 et seq., otherwise known as the "Safe Haven Act", allows a medical provider, such as an emergency department of a hospital, a law enforcement agency, or a fire department to take possession of a newborn child thirty (30) days old or younger without adverse legal consequences to the parent if the parent voluntarily leaves the child with the medical provider, law enforcement agency, or fire department;

(2) There is a heightened need to encourage safe, voluntary surrenders of newborns whose parents determine they cannot care for them, even when the letter of the law is not followed;

(3) The more places that newborns can be safely relinquished for adoption without the fear of adverse legal outcomes to the



birth parents, the better;

(4) There is a need to clarify that if a parent or child's identity is inadvertently released to the Department of Human Services, the same protections from liability shall be afforded to the parents when a surrender is made under this section;

(5) Currently, the Safe Haven Act does not address parental rights and recently, several recent cases have revealed issues resulting from ambiguous statutory language and no clear procedure existing to ensure due process protections; and

(6) There is a need to clarify when and how parental rights are terminated when a surrender is made under this section in an effort to expedite permanency for surrendered newborns while also ensuring the parents' constitutional rights are protected.

SECTION 2. Arkansas Code § 9-34-201(3), concerning the definition of "medical provider", is amended to read as follows:

(3) "Medical provider" means any ~~emergency~~ medically staffed department of a hospital licensed under § 20-9-214."

AND

Page 1, delete lines 34 through 36, and substitute the following:

"(3)(A) If the identity of a parent or child is released or made known to the Department of Human Services in violation of subsection (b)(2) of this section, the case shall proceed as a dependency-neglect action as defined under § 9-27-303, but with the same protections from liability as if an anonymous surrender was made under this section."

AND

Page 2, delete line 1

AND

Page 2, line 2, delete "safe place" and substitute "location defined in § 9-34-201"

AND

Page 2, line 4, delete "maltreatment" and substitute "maltreatment or abandonment"

AND

Page 2, line 6, delete "365" and substitute "341"

AND

Page 2, delete lines 7 through 11, and substitute the following:

"(ii) The department shall not subsequently use a resulting termination of parental rights against a parent who surrendered his or her child under this section."

AND

Page 2, line 24, delete "under § 9-27-365." and substitute "under § 9-27-341."

AND

Page 3, delete lines 3 through 9, and substitute the following:

"(C) If the identity of a parent or child is released or made known to the Department of Human Services in violation of § 9-34-202(b)(2), the case shall proceed as a dependency-neglect action as defined under § 9-27-303, but with the same protections from liability as if an anonymous surrender was made under this section."

AND

Delete SECTION 4 in its entirety.

AND

Appropriately renumber the sections of the bill.

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator K. Hammer

LHR/LHR - 02-21-2023 14:12:27

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Secretary