

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H1/10/01

A Bill

HOUSE BILL 1023

5 *By: Representatives Bledsoe, Minton*
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For An Act To Be Entitled

9 AN ACT TO ESTABLISH AN AFFIRMATIVE DEFENSE FOR
10 ENDANGERING THE WELFARE OF A MINOR WHEN AN INFANT HAS
11 BEEN VOLUNTARILY DELIVERED TO A PROVIDER OF EMERGENCY
12 MEDICAL SERVICES; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO ESTABLISH AN AFFIRMATIVE DEFENSE FOR
15 ENDANGERING THE WELFARE OF A MINOR WHEN
16 AN INFANT HAS BEEN VOLUNTARILY DELIVERED
17 TO A PROVIDER OF EMERGENCY MEDICAL
18 SERVICES.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code is amended to add the following new chapter:

25 CHAPTER 34. VOLUNTARY PLACEMENT OF A CHILD.

26 Subchapter 2. Voluntary delivery of child.

27 9-34-201. Delivery to provider of emergency medical services.

28 (a)(1) Any emergency department of a hospital licensed under Arkansas
29 Code 20-9-214 shall, without a court order, take possession of a child who is
30 thirty (30) days old or younger if the child is voluntarily delivered to the
31 emergency department by the child's parent and the parent expresses an intent
32 to leave the infant and not return.

33 (2) The parent shall have the absolute right to remain anonymous
34 and to leave at any time, and shall not be pursued or followed.

35 (3) A physician shall consider these actions as implied consent
36 for treatment.

1 (b)(1) The emergency department which takes possession of a child under
2 this chapter shall perform any act necessary to protect the physical health
3 and safety of the child.

4 (2) An emergency department of a licensed hospital in this state
5 shall incur no civil or criminal liability for any good faith acts or
6 omissions performed pursuant to this section.

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8 9-34-202. Care of the child.

9 (a) No later than the close of the first business day after the date on
10 which the emergency department took possession of an abandoned child, the
11 emergency department shall notify the Division of Children and Family Services
12 of the Department of Human Services that the emergency department has taken
13 possession of the child.

14 (b) The division shall assume the care, control, and custody of the
15 child immediately upon receipt of notice from the emergency department.

16 (c)(1) The division, after assuming the care, custody and control of a
17 child from an emergency department shall not be required to attempt to reunify
18 the child with the child's parents.

19 (2) The division shall not be required to search for relatives of
20 the child as a placement or permanency option, or to implement other placement
21 requirements that give preference to relatives if the division does not have
22 information as to the identity of the child, the child's mother or the child's
23 father.

24 (3) The division shall place the child with potential adoptive
25 parents as soon as possible.

26 (4) The division shall reimburse the licensed hospital for the
27 costs of the child's care while the hospital has custody of the child.

28 SECTION 3. Arkansas Code 5-27-203, concerning endangering the welfare
29 of a minor, is amended to add the following new subsection:

30 (c)(1) It shall be an affirmative defense to prosecution under this
31 subchapter that the parent voluntarily delivered the child to and left the
32 child at, or voluntarily arranged for another person to deliver the child to
33 and leave the child at the emergency department of a licensed hospital in this
34 state as provided in Arkansas Code 9-34-201.

35 (2) Nothing in this subsection shall be construed to create a
36 defense to any prosecution arising from any conduct other than the act of

1 delivering the child as described above, and this subsection specifically
2 shall not constitute a defense to any prosecution arising from an act of abuse
3 or neglect committed prior to the delivery of the child to an emergency
4 department of a licensed hospital in this state as provided in Arkansas Code
5 9-34-201.

6 */s/ Bledsoe*

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