

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1098

5 By: Representatives J. Mayberry, Barker, Bentley, K. Brown, Burkes, Cavanaugh, Crawford, Duke, C.  
6 Fite, Haak, D. Hodges, Lundstrum, McAlindon, Vaught  
7 By: Senators Irvin, B. Davis, J. English  
8

## For An Act To Be Entitled

9  
10 AN ACT TO AMEND THE SAFE HAVEN ACT; TO CLARIFY THAT A  
11 PARENT MAY LEAVE A NEWBORN CHILD WITH MEDICAL  
12 PROVIDER STAFF FOLLOWING DELIVERY OF THE CHILD UNDER  
13 THE SAFE HAVEN ACT; TO CLARIFY THAT A VOLUNTEER FIRE  
14 DEPARTMENT MAY OPERATE A NEWBORN SAFETY DEVICE UNDER  
15 CERTAIN CONDITIONS UNDER THE SAFE HAVEN ACT; AND FOR  
16 OTHER PURPOSES.  
17

## Subtitle

18  
19  
20 TO CLARIFY THAT A VOLUNTEER FIRE  
21 DEPARTMENT MAY OPERATE A NEWBORN SAFETY  
22 DEVICE UNDER CERTAIN CONDITIONS UNDER THE  
23 SAFE HAVEN ACT.  
24

25  
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code § 5-27-205(c), concerning the affirmative  
29 defense to the offense of endangering the welfare of a minor in the first  
30 degree, is amended to read as follows:

31 (c)(1) It is an affirmative defense to a prosecution under this  
32 section that a parent voluntarily delivered a child to and left the child  
33 with or in, or voluntarily arranged for another person to deliver a child to  
34 and leave the child with or in, a medical provider, law enforcement agency,  
35 ~~or~~ fire department, or a newborn safety device as provided in § 9-34-201 et  
36 seq.



1           (2)(A) Subdivision (c)(1) of this section does not create a  
 2 defense to any prosecution arising from any conduct other than the act of  
 3 delivering a child as described in subdivision (c)(1) of this section.

4           (B) Subdivision (c)(1) of this section specifically does  
 5 not constitute a defense to any prosecution arising from an act of abuse or  
 6 neglect committed before the delivery of a child to a medical provider, law  
 7 enforcement agency, ~~or~~ fire department, or a newborn safety device as  
 8 provided in § 9-34-201 et seq.

9  
 10           SECTION 2. Arkansas Code § 9-34-201(1), concerning the definition of  
 11 "fire department" as it relates to the voluntary delivery of a child to a  
 12 medical provider, law enforcement agency, or fire department, is amended to  
 13 read as follows:

14           (1) "Fire department" means any organization that ~~is~~ staffed  
 15 ~~twenty-four (24) hours a day and established~~

16           (A) Is established for the prevention or extinguishment of  
 17 fires, including, ~~but not limited to,~~ without limitation:

18           (i) A fire departments department organized under a  
 19 municipal or county ~~ordinances,~~ ordinance;

20           (ii) An improvement districts, district;

21           (iii) A membership fee-based private fire  
 22 ~~departments,~~ department; and

23           (iv) A volunteer fire departments department; and

24           (B)(i) Except as provided in subdivision (1)(B)(ii) of  
 25 this section, is staffed twenty-four (24) hours per day by a medical services  
 26 provider.

27           (ii) "Fire department" includes an organization  
 28 under subdivision (1)(A) of this section that has a dual alarm system that  
 29 will dispatch the nearest first responder affiliated with the fire department  
 30 to retrieve a child voluntarily delivered to the fire department under this  
 31 chapter in the event that all first responders affiliated with the fire  
 32 department are dispatched for a separate emergency;

33  
 34           SECTION 3. Arkansas Code § 9-34-202 is amended to read as follows:

35           9-34-202. Delivery to ~~a~~ medical provider, law enforcement agency, ~~or~~  
 36 fire department, or in newborn safety device.

1 (a) Any medical provider, law enforcement agency, or fire department  
 2 shall take possession of a child who is thirty (30) days old or younger  
 3 without a court order if the parent of the child, without expressing an  
 4 intent to return for the child, leaves the child:

5 (1) With or voluntarily delivers the child to the medical  
 6 provider, law enforcement agency, or fire department, including without  
 7 limitation when:

8 (A) A parent leaves a newborn child with a medical  
 9 provider staff member after delivery of the newborn child; or

10 (2) In a newborn safety device that is:

11 (A) Voluntarily installed by the medical provider, law  
 12 enforcement agency, or fire department;

13 (B) Physically located on a structured wall of or inside a  
 14 hospital, law enforcement agency, or fire department ~~that is staffed twenty-~~  
 15 ~~four (24) hours a day by a medical services provider;~~ and

16 (C) Located in an area that is conspicuous and visible to  
 17 the employees of the hospital, law enforcement agency, or fire department.

18 (b)(1) A medical provider, law enforcement agency, or fire department  
 19 that takes possession of a child under subsection (a) of this section shall  
 20 perform any act necessary to protect the physical health and safety of the  
 21 child.

22 (2) A medical provider, law enforcement agency, or fire  
 23 department shall:

24 (A) Keep the identity of a parent who relinquishes a child  
 25 under this section confidential; and

26 (B) Not release or otherwise make the identity of the  
 27 parent available except to a:

28 (i) Law enforcement agency investigating abuse or  
 29 neglect of the child that was committed before the child was delivered to the  
 30 medical provider or law enforcement agency; or

31 (ii) Prosecuting attorney pursuing charges against a  
 32 parent for abuse or neglect of the child that was committed before the child  
 33 was delivered to the medical provider, law enforcement agency, or fire  
 34 department.

35 (c) A medical provider, law enforcement agency, or fire department  
 36 shall:

1           (1) Not be held criminally or civilly liable for any good faith  
 2 acts or omissions performed under this section; and

3           (2) Have an affirmative defense against any civil or criminal  
 4 claim arising out of any act or omission performed under this section.

5           (d)(1) A medical provider, law enforcement agency, or fire department  
 6 other than a volunteer fire department that voluntarily installs a newborn  
 7 safety device shall:

8           ~~(1)~~(A) Be responsible for the cost of the installation; and

9           ~~(2)~~(B) Install an adequate dual alarm system connected to the  
 10 physical location of the newborn safety device that is:

11           ~~(A)~~(i) Tested at least one (1) time per week to ensure the  
 12 alarm system is in working order; and

13           ~~(B)~~(ii) Visually checked at least two (2) times per day to  
 14 ensure the alarm system is in working order.

15           (2) A volunteer fire department may install a newborn safety  
 16 device if:

17           (A) The volunteer fire department complies with  
 18 subdivision (d)(1) of this section;

19           (B) The first responders at the volunteer fire department  
 20 are able to respond to the placement of an infant in the newborn safety  
 21 device within the shorter of the following:

22           (i) The response time established by the county in  
 23 which the volunteer fire department is located; or

24           (ii) A time frame not to exceed four (4) minutes;  
 25 and

26           (C) The newborn safety device is:

27           (i) Located within one (1) mile of a medical  
 28 provider or law enforcement agency; and

29           (ii) Equipped with:

30           (a) An alert system that, when the newborn  
 31 safety device is opened, automatically connects to the 911 system and  
 32 transmits a request for immediate dispatch of an emergency medical services  
 33 provider to the location of the newborn safety device; and

34           (b) A video surveillance system that allows  
 35 members of the volunteer fire department to monitor the inside of the newborn  
 36 safety device twenty-four (24) hours per day and that:

