1	State of Arkansas	As Engrossed: \$2/22/23	
2	94th General Assembly	A Bill	
3	Regular Session, 2023		SENATE BILL 195
4			
5	By: Senators K. Hammer, I	rvin	
6	By: Representatives C. Fite	e, J. Mayberry	
7			
8		For An Act To Be Entitled	
9	AN ACT T	O AMEND AND UPDATE LAWS REGARDING NEWBOR	2N
10	SURRENDE	RS; TO CLARIFY WHEN PARENTS' RIGHTS NO L	ONGER
11	ATTACH R	EGARDING SAFE HAVEN INFANTS; TO AMEND AN	ID .
12	EXPAND D	EFINITIONS UNDER THE LAWS REGARDING SAFE	
13	HAVEN; A	ND FOR OTHER PURPOSES.	
14			
15			
16		Subtitle	
17	ТО	CLARIFY WHEN PARENTS' RIGHTS NO LONGER	
18	ATI	CACH REGARDING SAFE HAVEN INFANTS AND	
19	ТО	AMEND DEFINITIONS UNDER THE LAWS	
20	REG	GARDING SAFE HAVEN.	
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22			
23	BE IT ENACTED BY THE	GENERAL ASSEMBLY OF THE STATE OF ARKANS	AS:
24			
25	SECTION 1. DO	NOT CODIFY. Legislative findings and i	ntent.
26	<u>The Gene</u>	ral Assembly finds that:	
27	<u>(1</u>	) Acts 2001, No. 236, § 9-34-201 et seq	., otherwise
28	<u>known as the "Safe H</u>	aven Act", allows a medical provider, su	ich as an
29	<u>emergency department</u>	of a hospital, a law enforcement agency	, or a fire
30	<u>department to take p</u>	ossession of a newborn child thirty (30)	days old or
31	younger without adve	rse legal consequences to the parent if	the parent
32	<u>voluntarily leaves t</u>	he child with the medical provider, law	<u>enforcement</u>
33	<u>agency, or fire depa</u>	rtment;	
34	<u>(2</u>	) There is a heightened need to encoura	ge safe,
35	<u>voluntary</u> surrenders	of newborns whose parents determine the	y cannot care for
36	them, even when the	letter of the law is not followed;	



2       relinquished for adoption without the fear of adverse legal outcomes to the         3       birth parents, the better;         4       (4) There is a need to clarify that if a parent or child's         5       identity is inadvertently released to the Department of Human Services, the         6       same protections from liability shall be afforded to the parents when a         8       (5) Currently, the Safe Haven Act does not address         9       parental rights and recently, several recent cases have revealed issues         10       resulting from ambiguous statutory language and no clear procedure existing         11       to ensure due process protections; and         12       (6) There is a need to clarify when and how parental         13       rights are terminated when a surrender is made under this section in an         14       effort to expedite permanency for surrendered newborns while also ensuring         15       the parents' constitutional rights are protected.         16       SECTION 2. Arkansas Code § 9-34-201(3), concerning the definition of         17       medical provider", is amended to read as follows:         19       (3) "Medical provider" means any emergency medically staffed         10       department of a hospital licensed under § 20-9-214.         12       SECTION 3. Arkansas Code § 9-34-202(b), concerning the protocol	1	(3) The more places that newborns can be safely
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27 known to the Department of Human Services in violation of subsection (b)(2) 28 of this section, the case shall proceed as a dependency-neglect action as 29 defined under § 9-27-303, but with the same protections from liability as if 30 an anonymous surrender was made under this section. 31 31 (B)(i) If the child is relinquished at a location defined 32 in § 9-34-201, the parent shall not be held criminally liable for the 33 relinquishment or have a true finding of maltreatment or abandonment entered 34 against the parent if the parent's identity is known and the Department of 35 Human Services proceeds under § 9-27-341.	25	amended to add an additional subdivision to read as follows:
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. (B) (i) If the child is relinquished at a location defined in § 9-34-201, the parent shall not be held criminally liable for the relinquishment or have a true finding of maltreatment or abandonment entered against the parent if the parent's identity is known and the Department of Human Services proceeds under § 9-27-341.	26	(3)(A) If the identity of a parent or child is released or made
29 defined under § 9-27-303, but with the same protections from liability as if 30 an anonymous surrender was made under this section. 31 (B)(i) If the child is relinquished at a location defined 32 in § 9-34-201, the parent shall not be held criminally liable for the 33 relinquishment or have a true finding of maltreatment or abandonment entered 34 against the parent if the parent's identity is known and the Department of 35 Human Services proceeds under § 9-27-341.	27	known to the Department of Human Services in violation of subsection (b)(2)
30 <u>an anonymous surrender was made under this section.</u> 31 (B)(i) If the child is relinquished at a location defined 32 <u>in § 9-34-201</u> , the parent shall not be held criminally liable for the 33 relinquishment or have a true finding of maltreatment or abandonment entered 34 against the parent if the parent's identity is known and the Department of 35 Human Services proceeds under § 9-27-341.	28	of this section, the case shall proceed as a dependency-neglect action as
31 (B)(i) If the child is relinquished at a location defined 32 in § 9-34-201, the parent shall not be held criminally liable for the 33 relinquishment or have a true finding of maltreatment or abandonment entered 34 against the parent if the parent's identity is known and the Department of 35 Human Services proceeds under § 9-27-341.	29	defined under § 9-27-303, but with the same protections from liability as if
32 <u>in § 9-34-201</u> , the parent shall not be held criminally liable for the 33 relinquishment or have a true finding of maltreatment or abandonment entered 34 against the parent if the parent's identity is known and the Department of 35 <u>Human Services proceeds under § 9-27-341.</u>	30	an anonymous surrender was made under this section.
33 relinquishment or have a true finding of maltreatment or abandonment entered 34 against the parent if the parent's identity is known and the Department of 35 Human Services proceeds under § 9-27-341.	31	(B)(i) If the child is relinquished at a location defined
34 against the parent if the parent's identity is known and the Department of 35 Human Services proceeds under § 9-27-341.	32	in § 9-34-201, the parent shall not be held criminally liable for the
35 <u>Human Services proceeds under § 9-27-341.</u>	33	relinquishment or have a true finding of maltreatment or abandonment entered
	34	against the parent if the parent's identity is known and the Department of
36 <u>(ii) The department shall not subsequently use a</u>	35	Human Services proceeds under § 9-27-341.
	36	(ii) The department shall not subsequently use a

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02-22-2023 10:11:47 LHR057

As Engrossed: S2/22/23

SB195

1	resulting termination of parental rights against a parent who surrendered his
2	or her child under this section.
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4	SECTION 4. Arkansas Code § 9-34-203 is amended to read as follows:
5	9-34-203. Care of the child and permanency plan.
6	(a) Upon delivery of the child to a medical provider, law enforcement
7	agency, or fire department, the law enforcement officer, an appropriate
8	employee of the fire department, or an appropriate employee of the hospital
9	shall take the child into protective custody for seventy-two (72) hours under
10	the Child Maltreatment Act, § 12-18-101 et seq.
11	(b)(1) The law enforcement officer, employee of the fire department,
12	or employee of the hospital shall immediately notify the Division of Children
13	and Family Services, which shall initiate a dependency-neglect petition under
14	the Arkansas Juvenile Code of 1989, § 9-27-301 et seq. <u>, and shall proceed</u>
15	<u>under § 9-27-341.</u>
16	(2)(A) Within fourteen (14) days of filing a dependency-neglect
17	petition, the Department of Human Services shall publish a notification by
18	warning order to be published weekly for two (2) consecutive weeks in a
19	newspaper having general circulation in the county where the action is filed.
20	(B) The notification shall contain:
21	(i) The caption of the pleadings in the dependency-
22	<u>neglect case;</u>
23	(ii) The location where the child was delivered;
24	(iii) The date the child was delivered;
25	(iv) Notice that a dependency-neglect proceeding has
26	been filed, and that any parent claiming rights to the child must file a
27	responsive pleading or motion and appear before the court hearing the case to
28	defend the parent's claim within thirty (30) days from the date of first
29	publication; and
30	(C) If the identity of a parent or child is released
31	or made known to the Department of Human Services in violation of § 9-34-
32	202(b)(2), the case shall proceed as a dependency-neglect action as defined
33	under § 9-27-303, but with the same protections from liability as if an
34	anonymous surrender was made under this section.
35	(D) If no responsive pleadings are filed by the parent
36	within thirty (30) days from the date of first publication and there are

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02-22-2023 10:11:47 LHR057

1	prospective adoptive parents seeking to adopt the child, the Department of
2	Human Services may proceed with the filing of an adoption petition without
3	further notice.
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5	/s/K. Hammer
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