

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

As Engrossed: S2/22/23 S3/7/23

# A Bill

SENATE BILL 195

5 By: Senators K. Hammer, *Irvin*  
6 By: Representatives C. Fite, *J. Mayberry*  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND AND UPDATE LAWS REGARDING *NEWBORN*  
10 *SURRENDERS*; TO CLARIFY WHEN PARENTS' RIGHTS NO LONGER  
11 ATTACH REGARDING SAFE HAVEN INFANTS; TO *AMEND AND*  
12 *EXPAND* DEFINITIONS UNDER THE LAWS REGARDING SAFE  
13 HAVEN; AND FOR OTHER PURPOSES.  
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## Subtitle

17 TO CLARIFY WHEN PARENTS' RIGHTS NO LONGER  
18 ATTACH REGARDING SAFE HAVEN INFANTS AND  
19 TO AMEND DEFINITIONS UNDER THE LAWS  
20 REGARDING SAFE HAVEN.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 *SECTION 1. DO NOT CODIFY. Legislative findings and intent.*

26 *The General Assembly finds that:*

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

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



1                   (3) The more places that newborns can be safely  
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  
7 surrender is made under this section;

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.

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

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

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22           SECTION 3. Arkansas Code § 9-34-202(b), concerning the protocol  
23 followed when a medical provider, law enforcement agency, or fire department  
24 that takes possession of a child in accordance with the Safe Haven Act, is  
25 amended to add an additional subdivision to read as follows:

26                   (3)(A) If the identity of a parent or child is released or made  
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                   (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.

36                   (ii) The department shall not subsequently use a

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., and shall proceed  
15 under § 9-27-341.

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 in a newspaper having general circulation in the county where  
19 the proceeding was filed one (1) time a week for four (4) weeks.

20 (B) The notification shall contain:

21 (i) The caption of the pleadings in the dependency-  
22 neglect case;

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 last  
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 last publication and there are

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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