WEST VIRGINIA CODE: §49-4-201

§49-4-201. Accepting possession of certain relinquished children.

(a) A hospital or health care facility operating in this state, or a fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that has been designated a safe-surrender site under §49-4-206 of this code, shall, without a court order, take possession of a child if the child is voluntarily delivered to the hospital, health care facility, fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment by the child's parent within 30 days of the child's birth, and the parent did not express an intent to return for the child.

(b) A hospital, health care facility, fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that takes possession of a child under this article shall perform any act necessary to protect the physical health or safety of the child. In accepting possession of the child, the hospital, health care facility, fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment may not require the person to identify himself or herself and shall otherwise respect the person's desire to remain anonymous.

(c) Hospitals, health care facilities, fire departments, emergency medical service facilities, police departments, 911 call center, and sheriff's detachments designated as safe-surrender sites under §49-4-206 of this code may install and operate newborn safety devices as defined in this section.

(d) "Newborn safety device" means a device:

(1) Designed to permit a person to anonymously place a child under 30 days of age in the device with the intent to leave the child, and for a licensed emergency medical services provider to remove the child from the device and take custody of him or her;

(2) Equipped with an adequate dual alarm system connected to the physical location where the device is physically installed. The dual alarm system shall:

(A) Be tested at least one time per week to ensure the alarm system is in working order;

(B) Be visually checked at least two times per day to ensure the alarm system is in working order;

(C) Notify a centralized location in the facility within 30 seconds of a child being placed in the device; and

(D) Trigger a 911 call if staff at the facility do not respond within 15 minutes after a child is placed in the device.

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(3) Be approved by and physically located, with outside access, at a participating hospital or medical facility, or a fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment that has been designated a safe-surrender site under §49-4-206 of this code that:

(A) Is licensed or otherwise legally operating in this state; and

(B) Is staffed continuously on a 24-hour basis every day by a licensed emergency medical services provider; and

(4) Is located in an area that is conspicuous and visible to a hospital, a medical facility, or a fire department, emergency medical service facility, police department, 911 call center, or sheriff's detachment.

(e) A person who relinquishes a child in a newborn safety device may remain anonymous and shall not be pursued, and the relinquishment of a child pursuant to the provisions of this section shall not, in and of itself, be considered child abuse and neglect as that term is defined in §49-1-201 of this code.

(f) Any emergency medical services provider who physically retrieves a child from a newborn safety device shall immediately arrange for the child to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(g) By placing a child in a newborn safety device, the person:

(1) Waives the right to notification required by subsequent court proceedings; and

(2) Waives legal standing to make a claim of action against any person who accepts physical custody of the child.

(h) An emergency medical services provider with the duty granted in this article whose actions are taken in good faith is immune from criminal or civil liability, unless his or her actions were the result of gross negligence or willful misconduct. The grant of immunity in this section extends to all employees and administrators of the emergency medical services provider.

(i) The provisions of subsection (e) of this section shall not apply when indicators of child physical abuse or child neglect are present.

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