

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

House Bill 3559

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2023 MAR 28 P 4: 46

FILED

BY DELEGATES WESTFALL, FLUHARTY, HILLENBRAND,

STEELE, WARD, RIDENOUR, WARNER, MARTIN, KUMP,

MARPLE AND KIMBLE

[Passed March 11, 2023; in effect ninety days from passage.]

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[Passed March 11, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §49-4-201 of the Code of West Virginia, 1931, as amended,
2 relating to newborn safety devices; authorizing the use of newborn safety devices;
3 describing the installation and location of a newborn safety device; granting anonymity to
4 the person placing a child in a newborn safety device; outlining the monitoring of a
5 newborn safety device; requiring the transportation of a child found in a newborn safety
6 device to a hospital or medical facility; waiving rights of notification and standing by the
7 person placing a child in a newborn safety device; granting immunity to the emergency
8 service medical provider who removes the child from the newborn safety device; and
9 removing the anonymity provision if child abuse or neglect are evident.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. COURT ACTIONS.

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

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

6 (b) A hospital, health care facility, or fire department that takes possession of a child under
7 this article shall perform any act necessary to protect the physical health or safety of the child. In
8 accepting possession of the child, the hospital, health care facility, or fire department may not
9 require the person to identify himself or herself and shall otherwise respect the person's desire to
10 remain anonymous.

11 (c) Hospitals, health care facilities, and fire departments designated as safe-surrender
12 sites under §49-4-206, of this code may install and operate newborn safety devices as defined in
13 this section.

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

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

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

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

21 and

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

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

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

28 (3) Be approved by and physically located, with outside access, at a participating hospital
29 or medical facility, or a fire department that has been designated a safe-surrender site under §49-
30 4-206 of this code, that:

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

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

34 (4) Is located in an area that is conspicuous and visible to a hospital, a medical facility, or
35 a fire department.

36 (d) A person who relinquishes a child in a newborn safety device may remain anonymous
37 and shall not be pursued, and the relinquishment of a child pursuant to the provisions of this
38 section shall not, in and of itself, be considered child abuse and neglect as that term is defined in
39 §49-1-201 of this code.

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

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

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

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

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

51 (h) The provisions of subsection (d) of this section shall not apply when indicators of child
52 physical abuse or child neglect are present.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harmon

Clerk of the House of Delegates

Julie Brinn

Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

Ben Hunter
Speaker of the House of Delegates

Cy Ross
President of the Senate

2023 MAR 28 P 4:46
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

FILED

The within is *Approved* this the *28th*
Day of *March*, 2023.

James Perdue
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2023

Time 2:52 pm