

CHAPTER 233

NEWBORN INFANT CUSTODY RELEASE PROCEDURES
(NEWBORN SAFE HAVEN ACT)

Referred to in §232.78, 232.95, 232.96A, 232.102, 232.104, 232.111, 232.116

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233.1 Newborn safe haven Act — definitions.

1. **This chapter** may be cited as the “*Newborn Safe Haven Act*”.
2. For the purposes of **this chapter**, unless the context otherwise requires:
 - a. “*Adoption service provider*” means a state-licensed private agency which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code and which represents itself as placing children permanently or temporarily in private family homes, receiving children for placement in private family homes, and actually engaging in placement of children in private family homes for adoption.
 - b. “*Certified adoption investigator*” means the same as defined in [section 600A.2](#).
 - c. “*Department*” means the department of health and human services.
 - d. “*Emergency medical care provider location*” means the physical business location of an emergency medical care provider.
 - e. “*Fire department*” means a paid or volunteer fire protection service provided by a benefited fire district under [chapter 357B](#) or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township, or governmental agency.
 - f. “*Fire station*” means the physical business location of a fire department.
 - g. “*First responder*” means an emergency medical care provider as defined in [section 147A.1](#), a registered nurse staffing an authorized service program under [section 147A.12](#), a physician assistant staffing an authorized service program under [section 147A.13](#), a fire fighter, or a peace officer as defined in [section 801.4](#).
 - h. “*Institutional health facility*” means a hospital as defined in [section 135B.1](#), a facility providing medical or health services that is open twenty-four hours per day, seven days per week, and including a hospital emergency room or a health care facility as defined in [section 135C.1](#).
 - i. “*Newborn infant*” means a child who is, or who appears to be, ninety days of age or younger.
 - j. “*Newborn safety device*” means a padded and climate-controlled receptacle that meets one of the following requirements:
 - (1) If the receptacle is located at a hospital, the receptacle is conspicuous and visible to hospital staff.
 - (2) If the receptacle is located at a fire station or an emergency medical care provider location:
 - (a) The fire station or emergency medical care provider location is staffed by a first responder twenty-four hours per day, seven days per week, notwithstanding the time staff is dispatched for an emergency.
 - (b) The receptacle is located in an area that is conspicuous and visible to staff, or the receptacle is located in an area that is not visible to staff but is equipped with a motion sensor and a dual alarm system. The dual alarm system shall be programmed to sound first when the receptacle is opened, immediately placing a telephone call to a 911 service and dispatching an emergency medical care provider or a fire fighter to the location of the receptacle, and to

sound a second time, immediately placing a telephone call to a 911 service after movement is detected inside the receptacle.

[2001 Acts, ch 67, §1, 13](#); [2002 Acts, ch 1119, §33](#); [2018 Acts, ch 1050, §1, 2](#); [2022 Acts, ch 1115, §1](#); [2023 Acts, ch 46, §6](#); [2023 Acts, ch 136, §1](#)

Referred to in [§232.2, 232.78](#)

See Code editor's note on simple harmonization at the beginning of this Code volume
Section amended

233.1A Required training and certification in cardiopulmonary resuscitation and first aid — adoption service provider employees.

An adoption service provider shall require and verify that all employees of the adoption service provider responding to the relinquishment of physical custody of a newborn infant in accordance with [section 233.2](#) are trained and maintain certification in cardiopulmonary resuscitation and first aid for infants and adults.

[2023 Acts, ch 46, §7](#)

NEW section

233.2 Newborn infant custody release procedures.

1. *a.* A parent of a newborn infant may voluntarily release custody of the newborn infant as follows:

(1) By relinquishing physical custody of the newborn infant, without expressing an intent to again assume physical custody, at an institutional health facility or a fire station, to an adoption service provider, or by authorizing another person to relinquish physical custody on the parent's behalf. If physical custody of the newborn infant is not relinquished directly to an individual on duty at an institutional health facility or a fire station, or to an adoption service provider, the parent may take other actions to be reasonably sure that the individual on duty or the adoption service provider is aware that the newborn infant has been left at the institutional health facility, the fire station, or the location of the adoption service provider. The actions may include but are not limited to making telephone contact with the institutional health facility, the fire station, or the adoption service provider, or a 911 service.

(2) By relinquishing physical custody of the newborn infant to medical staff at a hospital or other facility following delivery of the newborn infant in the hospital or other facility when the parent notifies the medical staff that the parent is voluntarily relinquishing physical custody of the newborn infant without expressing an intent to again assume physical custody.

(3) By relinquishing physical custody of the newborn infant at a hospital, a fire station, or an emergency medical care provider location, through a newborn safety device, without expressing an intent to again assume physical custody.

b. In lieu of the procedure described in paragraph “*a*”, a parent of a newborn infant may make telephone contact with a 911 service and relinquish physical custody of the newborn infant, without expressing an intent to again assume physical custody, to a first responder who responds to the 911 telephone call.

c. For the purposes of [this chapter](#) and for any judicial proceedings associated with the newborn infant, a rebuttable presumption arises that the person who relinquishes physical custody in accordance with [this section](#) is the newborn infant's parent or has relinquished physical custody with the parent's authorization.

2. *a.* Unless the parent or other person relinquishing physical custody of a newborn infant clearly expresses an intent to return to again assume physical custody of the newborn infant, the individual on duty or the medical staff at the institutional health facility, the emergency medical care provider location, or the fire station at which physical custody of the newborn infant was relinquished, the adoption service provider to whom physical custody of the newborn infant was relinquished, or the first responder to whom physical custody of the newborn infant was relinquished, pursuant to [subsection 1](#) shall take physical custody of the newborn infant. The individual on duty or the medical staff, the adoption service provider, or the first responder who takes physical custody of the newborn infant may request the parent or other person to provide the name of the parent or parents and information on the medical history of the newborn infant and the newborn infant's parent or parents. However, the parent or other person is not required to provide the names or medical history

information to comply with [this section](#). The individual on duty or the medical staff, the adoption service provider, or the first responder who takes physical custody of the newborn infant may perform reasonable acts necessary to protect the physical health or safety of the newborn infant. The individual on duty or the medical staff, the adoption service provider, and the first responder to whom physical custody of the newborn infant was relinquished, and the institutional health facility, the emergency medical care provider location, and the fire station at which physical custody of the newborn infant was relinquished are immune from criminal or civil liability for any acts or omissions made in good faith to comply with [this section](#).

b. If the physical custody of a newborn infant is relinquished at an emergency medical care provider location or a fire station, to an adoption service provider, or to a first responder, the individual on duty at the emergency medical care provider location or the fire station, the adoption service provider, or the first responder who responded to the 911 telephone call shall transport the newborn infant to the nearest institutional health facility. The individual on duty at the emergency medical care provider location or the fire station, the adoption service provider, or the first responder who took physical custody of the newborn infant shall provide any parental identification or medical history information to the institutional health facility.

c. If the physical custody of the newborn infant is relinquished at an institutional health facility, the state shall reimburse the institutional health facility for the institutional health facility's actual expenses in providing care to the newborn infant and in performing acts necessary to protect the physical health or safety of the newborn infant. The reimbursement shall be paid from moneys appropriated for this purpose to the department.

d. If the name of the parent is unknown to the institutional health facility, the individual on duty at the institutional health facility or other person designated by the institutional health facility at which physical custody of the newborn infant was relinquished shall submit the certificate of birth report as required pursuant to [section 144.14](#). If the name of the parent is disclosed to the institutional health facility, the facility shall submit the certificate of birth report as required pursuant to [section 144.13](#). The department shall not file the certificate of birth with the county of birth and shall otherwise maintain the confidentiality of the birth certificate in accordance with [section 144.43](#).

3. a. As soon as possible after the individual on duty or the medical staff, the adoption service provider, or the first responder assumes physical custody of a newborn infant released under [subsection 1](#), and, if applicable, the individual on duty at the emergency medical care provider location or the fire station, the adoption service provider, or the first responder transports the newborn infant to the nearest institutional health facility under [subsection 2](#), paragraph "b", the individual on duty or the medical staff shall notify either the department or an adoption service provider and the first responder shall notify the department. The department or the adoption service provider shall take the actions necessary to assume the care, control, and custody of the newborn infant as follows:

(1) If physical custody of the newborn infant was not initially relinquished to an adoption service provider, the department shall immediately notify the juvenile court and the county attorney of the department's action and the circumstances surrounding the action and request an ex parte order from the juvenile court ordering, in accordance with the requirements of [section 232.78](#), [subsection 9](#), the department to take custody of the newborn infant. Upon receiving the order, the department shall take custody of the newborn infant. After the department takes custody of the newborn infant, notwithstanding any provision to the contrary relating to priority placement of the child under [section 232.78](#), the department shall, if feasible, place the newborn infant in a prospective adoptive home. The department shall maintain a list of prospective adoptive homes that have completed placement investigations and have been preapproved by the department or a certified adoption investigator.

(2) If physical custody of the newborn infant was initially relinquished to an adoption service provider, the adoption service provider shall immediately notify the juvenile court and the county attorney of the adoption service provider's action and the circumstances surrounding the action and request an ex parte order from the juvenile court ordering, in accordance with the requirements of [section 232.78](#), [subsection 9](#), the adoption service

provider to take custody of the newborn infant. Upon receiving the order, the adoption service provider shall take custody of the newborn infant.

b. Within twenty-four hours of the department or the adoption service provider taking custody of the newborn infant, the department or the adoption service provider shall notify the juvenile court and the county attorney in writing of the department's or adoption service provider's action and the circumstances surrounding the action.

c. Within twenty-four hours of the adoption service provider taking custody of the newborn infant, the adoption service provider shall notify the department in writing that the adoption service provider has taken custody of the newborn infant and will comply with the requirements of [chapter 233](#).

4. a. Upon being notified in writing by the department or the adoption service provider under [subsection 3](#), the county attorney shall file a petition alleging the newborn infant to be a child in need of assistance in accordance with [section 232.87](#) and a petition for termination of parental rights with respect to the newborn infant in accordance with [section 232.111, subsection 2](#), paragraph "a". A hearing on a child in need of assistance petition filed pursuant to [this subsection](#) shall be held at the earliest practicable time. A hearing on a termination of parental rights petition filed pursuant to [this subsection](#) shall be held no later than thirty days after the day the physical custody of the newborn child was relinquished in accordance with [subsection 1](#) unless the juvenile court continues the hearing beyond the thirty days for good cause shown.

b. Notice of a petition filed pursuant to [this subsection](#) by either the department or the adoption service provider shall be provided to any known parent and others in accordance with the provisions of [chapter 232](#) and shall be served upon any putative father registered with the state registrar of vital statistics pursuant to [section 144.12A](#). In addition, prior to holding a termination of parental rights hearing with respect to the newborn infant, notice by publication shall be provided as described in [section 600A.6, subsection 5](#).

5. Reasonable efforts, as defined in [section 232.102](#), that are made in regard to the newborn infant shall be limited to the efforts made in a timely manner to finalize a permanency plan for the newborn infant.

6. The individual on duty or the medical staff at an institutional health facility, emergency medical care provider location, or fire station, the adoption service provider, or the first responder who assumes physical custody of a newborn infant upon the release of the newborn infant under [subsection 1](#) shall be provided notice of any hearing held concerning the newborn infant at the same time notice is provided to other parties to the hearing and the individual on duty or the medical staff, the adoption service provider, or the first responder may provide testimony at the hearing.

[2001 Acts, ch 67, §2, 13; 2005 Acts, ch 89, §34; 2018 Acts, ch 1050, §3; 2019 Acts, ch 59, §71; 2023 Acts, ch 19, §654, 655; 2023 Acts, ch 112, §70](#)

Referred to in [§232.78, 232.95, 232.102, 232.104, 233.1A, 233.3, 233.4, 233.6, 726.3, 726.6](#)

See Code editor's note at the beginning of this Code volume

Section amended

233.3 Immunity.

Any person authorized by the parent to assist with release of custody in accordance with [section 233.2](#) by relinquishing physical custody of the newborn infant or to otherwise act on the parent's behalf is immune from criminal prosecution for abandonment or neglect of the newborn infant under [section 726.3](#) or [726.6](#) and civil liability for any reasonable acts or omissions made in good faith in assisting with the release.

[2001 Acts, ch 67, §3, 13](#)

233.4 Rights of parents.

Either parent of a newborn infant whose custody was released in accordance with [section 233.2](#) may intervene in the child in need of assistance or termination of parental rights proceedings held regarding the newborn infant and request that the juvenile court grant custody of the newborn infant to the parent. The requester must show by clear and convincing evidence including but not limited to by the use of DNA profiling as defined in [section 81.1](#) that the requester is the parent of the newborn infant. If the court determines

that the requester is the parent of the newborn infant and that granting custody of the newborn infant to the parent is in the newborn infant's best interest, the court shall issue an order granting custody of the newborn infant to the parent. In addition to such order, the court may order services for the newborn infant and the parent as are in the best interest of the newborn infant.

2001 Acts, ch 67, §4, 13; 2023 Acts, ch 136, §3

Referred to in §233.6

Section amended

233.5 Confidentiality protections.

1. *a.* In addition to any other privacy protection established in law, a record that is developed, acquired, or held in connection with an individual's good faith effort to voluntarily release a newborn infant in accordance with [this chapter](#) and any identifying information concerning the individual shall be kept confidential. Such record shall not be inspected or the contents disclosed except as provided in [this section](#).

b. Any transcripts or recording of a 911 service telephone call that is made for the purpose of an individual's good faith effort to voluntarily release custody of a newborn infant in accordance with [this chapter](#) and any identifying information concerning the individual shall be kept confidential. Such transcripts or recording of a 911 service telephone call shall not be inspected or the contents disclosed except as provided in this section.

2. A record described in [subsection 1](#) may be inspected and the contents disclosed without court order to the following:

- a.* The court and professional court staff, including juvenile court officers.
- b.* The newborn infant and the newborn infant's counsel.
- c.* The newborn infant's parent, guardian, custodian, and those persons' counsel.
- d.* The newborn infant's court appointed special advocate and guardian ad litem.
- e.* The county attorney and the county attorney's assistants.
- f.* An agency, adoption service provider, association, facility, or institution which has custody of the newborn infant, or is legally responsible for the care, treatment, or supervision of the newborn infant.
- g.* The newborn infant's foster parent or an individual providing a prospective adoptive home or preadoptive care to the newborn infant.

3. Pursuant to court order a record described in [subsection 1](#) may be inspected by and the contents may be disclosed to any of the following:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

4. Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from such a record or discloses identifying information concerning such individual, except as provided by [this section](#), commits a serious misdemeanor.

2001 Acts, ch 67, §5, 13; 2018 Acts, ch 1050, §4; 2023 Acts, ch 46, §9

Subsection 2 amended

233.6 Educational and public information.

The department and the department of justice shall develop and distribute the following:

1. An information card or other publication for distribution by an institutional health facility, an emergency medical care provider location, a fire station, an adoption service provider, or a first responder to a parent who releases custody of a newborn infant in accordance with [this chapter](#). The publication shall inform the parent of a parent's rights under [section 233.4](#), explain the request for medical history information under [section 233.2, subsection 2](#), and provide other information deemed pertinent by the departments.

2. Educational materials, public information announcements, and other resources to develop awareness of the availability of the newborn safe haven Act and the involvement of adoption service providers among adolescents, young parents, and others who might avail themselves of [this chapter](#).

3. Signage that may be used to identify the institutional health facilities, emergency medical care provider locations, fire stations, and adoption service provider locations at which physical custody of a newborn infant may be relinquished in accordance with [this chapter](#).

[2001 Acts, ch 67, §6, 13; 2002 Acts, ch 1119, §34; 2019 Acts, ch 59, §72; 2023 Acts, ch 112, §71](#)

Section amended