

offered as a result of the proposed rule, that fact shall be included in the notice of intended action of the rule.

Sec. 2. NEW SECTION. 23A.2A COMPETITION WITH PRIVATE INDUSTRY — NOTATION IN ACTS.

When a bill or joint resolution is requested, the legislative service bureau shall make an initial determination of whether the bill or joint resolution may cause a service or product to be offered for sale to the public by a state agency or political subdivision that competes with private enterprise. If such a service or product may be offered as a result of the bill or resolution, that fact shall be included in the explanation of the bill or joint resolution.

Approved April 23, 2001

CHAPTER 67

CUSTODY OF NEWBORN INFANTS — RELEASE AT INSTITUTIONAL HEALTH CARE FACILITIES — PARENTAL RIGHTS

S.F. 355

AN ACT providing for the release of custody and termination of parental rights for certain newborn infants whose parent or person authorized to act on the parent's behalf relinquishes physical custody at certain health facilities and providing certain immunity from prosecution and civil liability for such parent or person, establishing confidentiality protections and a penalty, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 232B.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. "Institutional health facility" means a hospital as defined in section 135B.1, including a facility providing medical or health services that is open twenty-four hours per day, seven days per week and is a hospital emergency room, or a health care facility as defined in section 135C.1.
 - b. "Newborn infant" means a child who is, or who appears to be, fourteen days of age or younger.

Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT CUSTODY RELEASE PROCEDURES.

1. A parent of a newborn infant may voluntarily release custody of the newborn infant by relinquishing physical custody of the newborn infant, without expressing an intent to again assume physical custody, at an institutional health facility 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 the institutional health facility, the parent may take other actions to be reasonably sure that an individual on duty is aware that the newborn infant has been left at the institutional health facility. The actions may include but are not limited to making telephone contact with the institutional health facility or a 911 service. 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 at an institutional health facility 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, an individual on duty at the facility at which physical custody of the newborn infant was relinquished pursuant to subsection 1 shall take physical custody of the newborn infant. The individual on duty 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 may perform reasonable acts necessary to protect the physical health or safety of the newborn infant. The individual on duty and the institutional health facility in which the individual was on duty 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 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 of human services.

c. The individual on duty 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.

3. As soon as possible after the individual on duty assumes physical custody of a newborn infant released under subsection 1, the individual shall notify the department of human services and the department shall take the actions necessary to assume the care, control, and custody of the newborn infant. 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, the department to take custody of the newborn infant. Upon receiving the order, the department shall take custody of the newborn infant. Within twenty-four hours of taking custody of the newborn infant, the department shall notify the juvenile court and the county attorney in writing of the department's action and the circumstances surrounding the action.

4. a. Upon being notified in writing by the department 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 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. An individual on duty at an institutional health facility who assumes 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 may provide testimony at the hearing.

Sec. 3. NEW SECTION. 232B.3 IMMUNITY.

Any person authorized by the parent to assist with release of custody in accordance with section 232B.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.

Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.

Either parent of a newborn infant whose custody was released in accordance with section 232B.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 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.

Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY PROTECTIONS.

1. 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.

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, 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 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.

Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND PUBLIC INFORMATION.

The department of human services, in consultation with the Iowa department of public

health 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 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 232B.4, explain the request for medical history information under section 232B.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, among adolescents, young parents, and others who might avail themselves of the Act.

3. Signage that may be used to identify the institutional health facilities at which physical custody of a newborn infant may be relinquished in accordance with this chapter.

Sec. 7. Section 232.2, subsection 6, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. Who is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 8. Section 232.111, subsection 2, paragraph a, subparagraph (3), Code 2001, is amended to read as follows:

(3) The child is less than twelve months of age and has been judicially determined to meet the definition of abandonment of a child or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 9. Section 232.116, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. bb. The court finds that there is clear and convincing evidence that the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 10. Section 232.117, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If a termination of parental rights order is issued on the grounds that the child is a newborn infant whose parent has voluntarily released custody of the child under section 232.116, subsection 1, paragraph "bb", the court shall retain jurisdiction to change a guardian or custodian and to allow a parent whose rights have been terminated to request vacation or appeal of the termination order which request must be made within thirty days of issuance of the granting of the termination order. The period for request for vacation or appeal by a parent whose rights have been terminated shall not be waived or extended and a vacation or appeal shall not be granted for a request made after the expiration of this period. The court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish the period of thirty days, which shall not be waived or extended, in which a parent whose parental rights have been terminated may request a vacation or appeal of such a termination order.

Sec. 11. Section 726.3, Code 2001, is amended to read as follows:

726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

A person who is the father, mother, or some other person having custody of a child, or of any other person who by reason of mental or physical disability is not able to care for the person's self, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect such person's self or who deserts or abandons such person, knowing or having reason to believe that the person will be exposed to such hazard or danger, commits a class "C" felony. However, a parent or person authorized by the parent who has, in accordance with section 232B.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of this section involving abandonment of that newborn infant.

Sec. 12. Section 726.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A parent or person authorized by the parent who has, in accordance with section 232B.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of subsection 1, paragraph "f", relating to abandonment.

Sec. 13. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 2001

CHAPTER 68

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — ADMINISTRATION AND INVESTMENTS

S.F. 497

AN ACT relating to the governance of the Iowa public employees' retirement system and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12.8, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The treasurer of state, with the approval of the investment board of the Iowa public employees' retirement system, may conduct a program of lending securities in the Iowa public employees' retirement system portfolio. When securities are loaned as provided by this paragraph, the treasurer shall act in the manner provided for investment of moneys in the Iowa public employees' retirement fund under section ~~97B.7~~ 97B.7A. The treasurer of state shall report at least annually to the investment board of the Iowa public employees' retirement system on the program and shall provide additional information on the program upon the request of the investment board or the employees of the Iowa public employees' retirement system division of the department of personnel.

Sec. 2. Section 12B.10, subsection 4, paragraph f, Code 2001, is amended to read as follows:

f. Investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A, except that investment in common stocks is not permitted.

Sec. 3. Section 12C.5, Code 2001, is amended to read as follows:

12C.5 REFUSAL OF DEPOSITS — PROCEDURE.

If the approved depositories will not accept the deposits under the conditions prescribed or authorized in this chapter, the funds may be deposited, on the same or better terms as were offered to the depositories, in one or more approved depositories conveniently located within the state.

The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A except that investment in common stocks shall not be permitted.

Sec. 4. Section 12C.10, Code 2001, is amended to read as follows: