

## CHAPTER 46

### NEWBORN SAFE HAVEN ACT — PLACEMENT OF CUSTODY OF NEWBORN INFANTS

H.F. 474

**AN ACT** relating to placement of custody of a newborn infant under the newborn safe haven Act.

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

Section 1. [Section 232.2](#), Code 2023, is amended by adding the following new subsection:  
NEW SUBSECTION. 40A. “*Newborn infant*” means the same as defined in [section 233.1](#).

Sec. 2. [Section 232.78](#), Code 2023, is amended by adding the following new subsection:  
NEW SUBSECTION. 9. a. Notwithstanding any provision to the contrary including priority in placement of a child under [subsection 8](#), if an ex parte order is requested from the juvenile court under [this section](#) pursuant to [section 233.2](#) for transfer of custody of a newborn infant, one of the following shall be applicable:

(1) If physical custody of the newborn infant was not initially relinquished under [section 233.2](#) to an adoption service provider, the department shall request that custody be transferred to the department.

(2) If physical custody of the newborn infant was initially relinquished under [section 233.2](#) to an adoption service provider, the adoption service provider shall request that custody be transferred to the adoption service provider.

b. Upon receiving the order, the department or the adoption service provider shall take custody of the newborn infant and proceed in accordance with [chapter 233](#).

c. For the purposes of [this subsection](#), “*adoption service provider*” means the same as defined in [section 233.1](#).

Sec. 3. [Section 232.95](#), Code 2023, is amended by adding the following new subsection:  
NEW SUBSECTION. 2A. Notwithstanding any provision to the contrary including placement of custody of a child pursuant to [subsection 2](#), if the hearing under [this section](#) is the result of a request for an ex parte order from the court pursuant to [section 232.78](#) for a newborn infant for whom physical custody was relinquished pursuant to [section 233.2](#), the court shall place custody of the child as provided in [section 232.78](#), [subsection 9](#), and proceed in accordance with [chapter 233](#).

Sec. 4. [Section 232.102](#), Code 2023, is amended by adding the following new subsection:  
NEW SUBSECTION. 11. Notwithstanding any provision to the contrary, transfer of legal custody and placement of a newborn infant for whom physical custody was relinquished pursuant to [section 233.2](#) shall be determined in accordance with [chapter 233](#).

Sec. 5. [Section 232.104](#), Code 2023, is amended by adding the following new subsection:  
NEW SUBSECTION. 10. Notwithstanding any provision to the contrary, legal custody and placement of a newborn infant for whom physical custody was relinquished pursuant to [section 233.2](#) shall be determined in accordance with [chapter 233](#).

Sec. 6. [Section 233.1](#), Code 2023, is amended to read as follows:  
**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.

~~a.~~ d. “First responder” means an emergency medical care provider, 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](#).

~~b.~~ e. “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](#).

~~c.~~ f. “Newborn infant” means a child who is, or who appears to be, ninety days of age or younger.

Sec. 7. NEW SECTION. 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.

Sec. 8. [Section 233.2](#), Code 2023, is amended to read as follows:

**233.2 Newborn infant custody release procedures.**

1. a. 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 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 the institutional health facility or to an adoption service provider, the parent may take other actions to be reasonably sure that an individual on duty or the adoption service provider is aware that the newborn infant has been left at the institutional health facility 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 adoption service provider, or a 911 service.

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 at an institutional health facility, to an adoption service provider, or to a first responder 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, the adoption service provider to whom physical custody of the newborn infant was relinquished, or a 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, the adoption service provider, or the first responder 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, the adoption service provider, or the first responder 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, the adoption service provider, and the first responder 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 to a first responder or to an adoption service provider, the first responder or the adoption service provider shall transport the newborn infant to the nearest institutional health facility. The first responder or the adoption service provider 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 of human services.

d. If the name of the parent is unknown to the institutional health facility, 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](#). 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 of public health 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, the adoption service provider, or the first responder assumes physical custody of a newborn infant released under [subsection 1](#), and, if applicable, 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 or on duty shall notify either the department or an adoption service provider and the first responder shall notify the department of human services and the department or the adoption service provider shall take the actions necessary to assume the care, control, and custody of the newborn infant. The 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. An individual on duty at an institutional health facility, an adoption service provider, or a first responder 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, the adoption service provider, or the first responder may provide testimony at the hearing.<sup>1</sup>

Sec. 9. [Section 233.5, subsection 2](#), Code 2023, is amended to read as follows:

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.

Sec. 10. [Section 233.6](#), Code 2023, is amended to read as follows:

**233.6 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, 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](#).

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<sup>1</sup> See chapter 112, §75 herein

3. Signage that may be used to identify the institutional health facilities and adoption service providers at which physical custody of a newborn infant may be relinquished in accordance with [this chapter](#).<sup>2</sup>

Approved April 28, 2023

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<sup>2</sup> See chapter 112, §76 herein