

Legislative Analysis



JUVENILE CODE: SURRENDERED NEWBORNS

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House Bill 5097

Sponsor: Rep. Amanda Price

Committee: Families, Children, and Seniors

Complete to 9-7-11

A SUMMARY OF HOUSE BILL 5097 AS INTRODUCED 10-18-11

House Bill 5097 would delete a provision from the Juvenile Code that deals with the termination of parental rights of a child if a parent voluntarily surrendered the child to an emergency service provider under the Safe Delivery of Newborns Law and neither parent petitioned the court to regain custody within 28 days. Those instances would instead be covered under the Safe Delivery of Newborns Act.

Under the Safe Delivery of Newborns Law, a court must terminate parental rights if it finds by a preponderance of the evidence that the surrendering parent has knowingly released his or her rights to the child, that reasonable efforts were made to locate the non-surrendering parent, and a custody action has not been filed. If a custody action is filed, under that act, the court must determine custody of the newborn based on the newborn's best interest based on factors delineated in the act.

(The Safe Delivery of Newborns Law was amended in 2010 to address this issue, but the bill that would have deleted the conflicting provisions in the Juvenile Code was vetoed on unrelated technical grounds.)

The Juvenile Code says the family court may terminate the parental rights to a child who remains in foster care or in the custody of a guardian or limited guardian, if the court makes findings by clear and convincing evidence that certain circumstances exist. These circumstances include the surrender of a child under the Safe Delivery of Newborns Law in cases where a parent did not subsequently seek to regain custody within 28 days. As noted, House Bill 5097 would delete this provision from the Juvenile Code. A court would continue to have authority under the Juvenile Code to terminate parental rights if other grounds for termination under the Code existed.

MCL 712A.19b

BACKGROUND INFORMATION:

The Safe Delivery of Newborns Law, enacted in 2000, allows the parents of newborns to give up their babies without the risk of being charged with abandonment. Under the law, within 72 hours after a child is born, the parent may surrender the baby to an emergency service provider, such as a hospital employee or police officer, who must take the newborn into temporary custody. Either parent has 28 days to file a custody petition with the family

court. If a petition is filed, the court must determine custody based on the newborn's best interests, and may grant custody to the parent, terminate the petitioner's parental rights, or dismiss the petition. The law also provides for the termination of parental rights if the parent surrendering a child does not file for custody. Once parental rights are terminated, the newborn is available for adoption.

FISCAL IMPACT:

House Bill 5097 would likely have a negligible fiscal impact on state and local governments. The number of newborns surrendered through the Safe Delivery of Newborns Law is quite small. A Safe Delivery fact sheet from DHS shows that since the program became effective on January 1, 2001, 10 infants are surrendered to emergency service providers annually, on average.

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