**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3145**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Limehouse, Anthony, Horne, Allison, Long and Brady

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Introduced in the House on January 11, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Abandoned babies

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/7/2010 House Prefiled

12/7/2010 House Referred to Committee on **Judiciary**

1/11/2011 House Introduced and read first time ([House Journal‑page 61](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 62](file:///h:\hj%20archive\2011\01-11-11.docx))

1/12/2011 House Member(s) request name added as sponsor: Long, Brady

**VERSIONS OF THIS BILL**

[12/7/2010](file:///p:\pprever\2011-12\3145_20101207.docx)

**A** **BILL**

TO AMEND SECTION 63‑7‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SAFE HAVENS FOR ABANDONED BABIES, SO AS TO EXPAND THE PURVIEW OF THE STATUTE TO APPLY TO A CHILD UNDER THE AGE OF THREE YEARS OLD AND TO EXPAND THE DEFINITION OF THE TERM “SAFE HAVEN” TO INCLUDE A STAFFED LOCAL OR STATE OFFICE OF THE DEPARTMENT OF SOCIAL SERVICES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63-7-40 of the 1976 Code is amended is to read:

“Section 63‑7‑40. (A) A safe haven in this State ~~must~~, without a court order, must take temporary physical custody of ~~an infant~~ a child who is voluntarily left with the safe haven by a person who does not express an intent to return for the ~~infant~~ child and the circumstances give rise to a reasonable belief that the person does not intend to return for the ~~infant~~ child. If the safe haven is a hospital or hospital outpatient facility, the hospital or hospital facility shall perform any act necessary to protect the physical health or safety of the ~~infant~~ child; any other safe haven ~~shall~~, as soon as possible, but no later than six hours after receiving ~~an infant~~ a child, shall transport the ~~infant~~ child to a hospital or hospital outpatient facility. The person leaving the ~~infant~~ child is not required to disclose his or her identity; however, the person must leave the ~~infant~~ child in the physical custody of a staff member or employee of the safe haven.

(B)(1) The safe haven must offer the person leaving the ~~infant~~ child information concerning the legal effect of leaving the ~~infant~~ child with the safe haven.

(2) The safe haven must ask the person leaving the ~~infant~~ child to identify any parent of the ~~infant~~ child other than the person leaving the ~~infant~~ child with the safe haven. The safe haven also must attempt to obtain from the person information concerning the ~~infant’s~~ child’s background and medical history as specified on a form provided by the Department of Social Services. This information includes, but is not limited to, information concerning the use of a controlled substance by the ~~infant’s~~ child’s mother, provided that information regarding the use of a controlled substance by the ~~infant’s~~ child’s mother is not admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The safe haven shall give the person a copy of the form and a prepaid envelope for mailing the form to the Department of Social Services if the person does not wish to provide the information to the safe haven. These materials must be provided to safe havens by the department.

(3) Any identifying information disclosed by the person leaving the ~~infant~~ child must be kept confidential by the safe haven and disclosed to no one other than the department. However, if a court determines that the immunity provisions of subsection (H) do not apply, the safe haven may disclose the information as permitted by confidentiality protections applicable to records of the safe haven, if the safe haven has ~~such~~ confidentiality protections for records. The department shall maintain confidentiality of this information in accordance with Section 63‑7‑1990.

(C) Not later than the close of the first business day after the date on which a hospital or hospital outpatient facility takes possession of ~~an infant~~ a child pursuant to subsection (A), the hospital or hospital outpatient facility shall notify the department that it has taken temporary physical custody of the ~~infant~~ child. The department has legal custody of the ~~infant~~ child immediately upon receipt of the notice. The department shall assume physical control of the ~~infant~~ child as soon as practicable upon receipt of the notice, but no later than twenty‑four hours after receiving notice that the ~~infant~~ child is ready for discharge from the hospital or hospital outpatient facility. Assumption of custody by the department pursuant to this subsection does not constitute emergency protective custody, and the provisions of Subarticle 3 ~~of~~, Article 3 do not apply. The department is not required to initiate a child protective services investigation solely because ~~an~~ ~~infant~~ a child comes into its custody ~~under~~ pursuant to this subsection.

(D) Immediately after receiving notice from a hospital or hospital outpatient facility pursuant to subsection (C), the department shall contact the South Carolina Law Enforcement Division for assistance in assuring that the ~~infant~~ child is not a missing ~~infant~~ child. The South Carolina Law Enforcement Division shall treat the request as ongoing for a period of thirty days and shall contact the department if a missing ~~infant~~ child report is received that might relate to the ~~infant~~ child.

(E)(1) Within forty‑eight hours after taking legal custody of the ~~infant~~ child, the department shall publish notice, in a newspaper of general circulation in the area where the safe haven that initially took the ~~infant~~ child is located, and send a news release to broadcast and print media in the area. The notice and the news release must state the circumstances under which the ~~infant~~ child was left at the safe haven, a description of the ~~infant~~ child, and the date, time, and place of the permanency planning hearing provided for in subsection (E)(2). The notice and the news release must also state that any person wishing to assert parental rights in regard to the ~~infant~~ child must do so at the hearing. If the person leaving the ~~infant~~ child identified anyone as being a parent of the ~~infant~~ child, the notice must be sent by certified mail to the last known address of the person identified as a parent at least two weeks prior to the hearing.

(2) Within forty‑eight hours after obtaining legal custody of the ~~infant~~ child, the department shall file a petition alleging that the ~~infant~~ child has been abandoned, that the court should dispense with reasonable efforts to preserve or reunify the family, that continuation of keeping the ~~infant~~ child in the home of the parent or parents would be contrary to the welfare of the ~~infant~~ child, and that termination of parental rights is in the best interest of the ~~infant~~ child. A hearing on the petition must be held no earlier than thirty and no later than sixty days after the department takes legal custody of the ~~infant~~ child. This hearing is the permanency planning hearing for the ~~infant~~ child. If the court approves the permanent plan of termination of parental rights, the order must also provide that a petition for termination of parental rights on the grounds of abandonment must be filed within ten days after receipt of the order by the department.

(F) The act of leaving ~~an infant~~ a child with a safe haven pursuant to this section is conclusive evidence that the ~~infant~~ child has been abused or neglected for purposes of Department of Social Services’ jurisdiction and for evidentiary purposes in any judicial proceeding in which abuse or neglect of ~~an infant~~ a child is an issue. It is also conclusive evidence that the requirements for termination of parental rights have been satisfied as to any parent who left the ~~infant~~ child or acted in concert with the person leaving the ~~infant~~ child.

(G) A person who leaves ~~an infant~~ a child at a safe haven or directs another person to do so must not be prosecuted for any criminal offense on account of such action if:

(1) the person is a parent of the ~~infant~~ child or is acting at the direction of a parent;

(2) the person leaves the ~~infant~~ child in the physical custody of a staff member or an employee of the safe haven; and

(3) the ~~infant~~ child is not more than ~~thirty days~~ three years old or the ~~infant~~ child is reasonably determined by the hospital or hospital outpatient facility to be not more than ~~thirty days~~ three years old.

This subsection does not apply to prosecution for the infliction of any harm upon the ~~infant~~ child other than the harm inherent in abandonment.

(H) A safe haven and its agents, and any health care professionals practicing within a hospital or hospital outpatient facility, are immune from civil or criminal liability for any action authorized by this section, so long as the safe haven, or health care professional, complies with all provisions of this section.

(I) The department, either alone or in collaboration with any other public entity, shall take appropriate measures to achieve public awareness of the provisions of this section.

(J) For purposes of this section:

(1) ‘~~infant~~ child’ means a person not more than ~~thirty days~~ three years old; and

(2) ‘safe haven’ means a hospital or hospital outpatient facility, a law enforcement agency, a fire station, an emergency medical services station, a local or state office of the Department of Social Services during staffed hours, or any staffed house of worship during hours when the facility is staffed.

(K) Annually the department shall submit a report to the General Assembly containing data on ~~infants~~ children who come into the custody of the department pursuant to this section. The data must include, but are not limited to, the date, time, and place where the ~~infant~~ child was left, the hospital to which the ~~infant~~ child was taken, the health of the ~~infant~~ child at the time of being admitted to the hospital, disposition and placement of the ~~infant~~ child, and, if available, circumstances surrounding the ~~infant~~ child being left at the safe haven. No data in the report may contain identifying information.”

SECTION 2. This act takes effect upon approval by the Governor.

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