
ENGROSSED SUBSTITUTE SENATE BILL 5236

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Long, Thibaudeau, Costa, McAuliffe, Eide, Stevens, Fairley, Prentice, Franklin, Fraser, Carlson, Spanel, Regala, Hargrove, Oke and Patterson)

READ FIRST TIME 02/26/01.

1 AN ACT Relating to the safety of newborn children; amending RCW
2 9A.42.060, 9A.42.070, 9A.42.080, 26.20.030, and 26.20.035; adding a new
3 section to chapter 13.34 RCW; creating new sections; prescribing
4 penalties; providing an expiration date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature intends to increase the
7 likelihood that pregnant women will obtain adequate prenatal care and
8 will provide their newborns with adequate health care during the first
9 few days of their lives. The legislature recognizes that prenatal and
10 postdelivery health care for newborns and their mothers is especially
11 critical to their survival and well-being. The legislature intends
12 that reasonable steps should be taken to remove any barriers to such
13 care, particularly for those parents who may otherwise encounter
14 emotional and/or psychological barriers to obtaining such care by
15 reducing impediments to obtaining prenatal and postdelivery care to
16 newborns while encouraging pregnant women to act responsibly regarding
17 the health of their newborns. The legislature does not intend to
18 encourage the abandonment of newborn children nor to change existing
19 law relating to notification to parents under chapter 13.34 RCW, but

1 rather to assure that abandonment does not occur and that all newborns
2 have an opportunity for adequate health care and a stable home life.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 (1) For purposes of this section:

6 (a) "Appropriate location" means the emergency department of a
7 hospital licensed under chapter 70.41 RCW during the hours the hospital
8 is in operation.

9 (b) "Newborn" means a live human being who is less than seventy-two
10 hours old.

11 (c) "Qualified person" means any person that the parent
12 transferring the newborn reasonably believes is a bona fide employee,
13 volunteer, or medical staff member of the hospital and who represents
14 to the parent transferring the newborn that he or she can and will
15 summon appropriate resources to meet the newborn's immediate needs.

16 (2) A parent of a newborn who transfers the newborn to a qualified
17 person at an appropriate location is not subject to criminal liability
18 under RCW 9A.42.060, 9A.42.070, 9A.42.080, 26.20.030, or 26.20.035.

19 (3)(a) The qualified person and the hospital shall not require the
20 parent transferring the newborn to provide any identifying information
21 in order to transfer the newborn.

22 (b) The qualified person and the hospital shall attempt to protect
23 the anonymity of the parent who transfers the newborn, while providing
24 an opportunity for the parent to anonymously give the hospital such
25 information as the parent knows about the family medical history of the
26 parents and the newborn. The qualified person and the hospital shall
27 provide referral information about adoption options, counseling,
28 appropriate medical and emotional aftercare services, domestic
29 violence, and legal rights to the parent seeking to transfer the
30 newborn.

31 (c) If a parent of a newborn transfers the newborn to a qualified
32 person at an appropriate location pursuant to this section, the
33 hospital shall cause child protective services to be notified within
34 twenty-four hours after receipt of such a newborn. Child protective
35 services shall assume custody of the newborn within twenty-four hours
36 after receipt of notification and shall arrange for discharge of the
37 newborn from the hospital.

1 (d) A hospital, its employees, volunteers, and medical staff are
2 immune from any criminal or civil liability for accepting or receiving
3 a newborn under this section.

4 **Sec. 3.** RCW 9A.42.060 and 1996 c 302 s 2 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, a person
7 is guilty of the crime of abandonment of a dependent person in the
8 first degree if:

9 (a) The person is the parent of a child, a person entrusted with
10 the physical custody of a child or other dependent person, or a person
11 employed to provide to the child or other dependent person any of the
12 basic necessities of life;

13 (b) The person recklessly abandons the child or other dependent
14 person; and

15 (c) As a result of being abandoned, the child or other dependent
16 person suffers great bodily harm.

17 (2) A parent of a newborn who transfers the newborn to a qualified
18 person at an appropriate location pursuant to section 2 of this act is
19 not subject to criminal liability under this section.

20 (3) Abandonment of a dependent person in the first degree is a
21 class B felony.

22 **Sec. 4.** RCW 9A.42.070 and 1996 c 302 s 3 are each amended to read
23 as follows:

24 (1) Except as provided in subsection (2) of this section, a person
25 is guilty of the crime of abandonment of a dependent person in the
26 second degree if:

27 (a) The person is the parent of a child, a person entrusted with
28 the physical custody of a child or other dependent person, or a person
29 employed to provide to the child or other dependent person any of the
30 basic necessities of life; and

31 (b) The person recklessly abandons the child or other dependent
32 person; and:

33 (i) As a result of being abandoned, the child or other dependent
34 person suffers substantial bodily harm; or

35 (ii) Abandoning the child or other dependent person creates an
36 imminent and substantial risk that the child or other dependent person
37 will die or suffer great bodily harm.

1 (2) A parent of a newborn who transfers the newborn to a qualified
2 person at an appropriate location pursuant to section 2 of this act is
3 not subject to criminal liability under this section.

4 (3) Abandonment of a dependent person in the second degree is a
5 class C felony.

6 **Sec. 5.** RCW 9A.42.080 and 1996 c 302 s 4 are each amended to read
7 as follows:

8 (1) Except as provided in subsection (2) of this section, a person
9 is guilty of the crime of abandonment of a dependent person in the
10 third degree if:

11 (a) The person is the parent of a child, a person entrusted with
12 the physical custody of a child or other dependent person, or a person
13 employed to provide to the child or dependent person any of the basic
14 necessities of life; and

15 (b) The person recklessly abandons the child or other dependent
16 person; and:

17 (i) As a result of being abandoned, the child or other dependent
18 person suffers bodily harm; or

19 (ii) Abandoning the child or other dependent person creates an
20 imminent and substantial risk that the child or other person will
21 suffer substantial bodily harm.

22 (2) A parent of a newborn who transfers the newborn to a qualified
23 person at an appropriate location pursuant to section 2 of this act is
24 not subject to criminal liability under this section.

25 (3) Abandonment of a dependent person in the third degree is a
26 gross misdemeanor.

27 **Sec. 6.** RCW 26.20.030 and 1984 c 260 s 26 are each amended to read
28 as follows:

29 (1) Except as provided in subsection (2) of this section, any
30 person who has a child dependent upon him or her for care, education or
31 support and deserts such child in any manner whatever with intent to
32 abandon it is guilty of the crime of family abandonment.

33 (2) A parent of a newborn who transfers the newborn to a qualified
34 person at an appropriate location pursuant to section 2 of this act is
35 not subject to criminal liability under this section.

36 (3) The crime of family abandonment is a class C felony under
37 chapter 9A.20 RCW.

1 **Sec. 7.** RCW 26.20.035 and 1984 c 260 s 27 are each amended to read
2 as follows:

3 (1) Except as provided in subsection (2) of this section, any
4 person who is able to provide support, or has the ability to earn the
5 means to provide support, and who:

6 (a) Willfully omits to provide necessary food, clothing, shelter,
7 or medical attendance to a child dependent upon him or her; or

8 (b) Willfully omits to provide necessary food, clothing, shelter,
9 or medical attendance to his or her spouse,
10 is guilty of the crime of family nonsupport.

11 (2) A parent of a newborn who transfers the newborn to a qualified
12 person at an appropriate location pursuant to section 2 of this act is
13 not subject to criminal liability under this section.

14 (3) The crime of family nonsupport is a gross misdemeanor under
15 chapter 9A.20 RCW.

16 NEW SECTION. **Sec. 8.** (1) The secretary of the department of
17 social and health services shall convene a task force to recommend
18 methods of implementing this act, including how private or public
19 funding may be obtained to support a program of public education
20 regarding the provisions of this act. The task force shall consider
21 all reasonable methods of educating Washington residents about the need
22 for prenatal and postdelivery health care for a newborn whose parents
23 may otherwise not seek such care and place their newborn at risk as a
24 result. The task force shall also consider, and make recommendations
25 regarding: (a) Ways to meet the medical and emotional needs of the
26 mother and to improve the promotion of adoption as an alternative to
27 placing a newborn in situations that create a serious risk to his or
28 her health; and (b) methods of providing access to (i) the medical
29 history of the parents of a newborn who is transferred to a hospital
30 pursuant to section 2 of this act; and (ii) the medical history of the
31 newborn, consistent with the protection of the anonymity of the parents
32 of the newborn. The task force shall develop model forms of policies
33 and procedures for hospitals to use in receiving newborns under section
34 2 of this act.

35 (2) In addition to the secretary, or the secretary's designee, the
36 task force shall include but not be limited to representation from the
37 following: (a) Licensed physicians; (b) public and private agencies
38 which provide adoption services; (c) private attorneys handling

1 adoptions; (d) the licensed nursing community; (e) hospitals; (f)
2 prosecuting attorneys; (g) foster parents; (h) the department of
3 health; (i) the attorney general; (j) advocacy groups concerned with
4 the availability of adoption records; (k) risk managers; and (l) the
5 public. At least three members of the task force shall be public
6 members. The task force may seek input from other experts as needed.

7 (3) Members of the task force shall serve without compensation.

8 (4) The task force shall submit its report and recommendations to
9 the governor and legislature not later than December 1, 2002.

10 (5) This section expires January 1, 2004.

11 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are
12 necessary for the immediate preservation of the public peace, health,
13 or safety, or support of the state government and its existing public
14 institutions, and take effect immediately.

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