
SENATE BILL 5236

State of Washington**57th Legislature****2001 Regular Session**

By Senators Kohl-Welles, Long, Thibaudeau, Costa, McAuliffe, Eide, Stevens, Fairley, Prentice, Franklin, Fraser, Carlson, Spanel, Regala, Hargrove, Oke and Patterson

Read first time 01/16/2001. Referred to Committee on Human Services & Corrections.

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; creating new
3 sections; prescribing penalties; making an appropriation; providing an
4 effective date; and providing an expiration date.

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 his or her life. The legislature recognizes that prenatal
10 and postdelivery health care for newborns is especially critical to
11 their survival and well-being. The legislature intends that reasonable
12 steps should be taken to remove any barriers to such care, particularly
13 for those parents who may otherwise encounter emotional and/or
14 psychological barriers to obtaining such care by reducing impediments
15 to obtaining prenatal and postdelivery care to newborns while
16 encouraging pregnant women to act responsibly regarding the health of
17 their newborns. The legislature does not intend to encourage the
18 abandonment of newborn children nor to change existing law relating to
19 notification to parents under chapter 13.34 RCW, but rather to assure

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

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

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

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

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

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

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

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

22 (b) For the purposes of this subsection:

23 (i) "Appropriate location" means a location designated by a
24 hospital licensed under chapter 70.41 RCW during the hours the hospital
25 is in operation. Every hospital must designate an appropriate location
26 within the hospital where a qualified person is located who is
27 reasonably likely to protect the anonymity of the parent who transfers
28 the newborn, while providing an opportunity for the parent who
29 transfers the newborn to anonymously give the hospital such information
30 as the parent knows about the family medical history of the parents and
31 the newborn.

32 (ii) "Newborn" means a live human being who is less than seventy-
33 two hours old.

34 (iii) "Qualified person" means a physician licensed under chapter
35 18.71 RCW, osteopathic physician and surgeon licensed under chapter
36 18.57 RCW, nurse or nurse practitioner licensed under chapter 18.79
37 RCW, midwife licensed under chapter 18.50 RCW, emergency medical
38 technician authorized under chapter 18.73 RCW, or physician's trained

1 emergency medical service intermediate life support technician and
2 paramedic certified under chapter 18.71 RCW.

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

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

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

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

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

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

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

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

24 (ii) The qualified person and the hospital may not require the
25 parent transferring the newborn to provide any identifying information
26 in order to transfer the newborn.

27 (b) For the purposes of this subsection:

28 (i) "Appropriate location" means a location designated by a
29 hospital licensed under chapter 70.41 RCW during the hours the hospital
30 is in operation. Every hospital must designate an appropriate location
31 within the hospital where a qualified person is located who is
32 reasonably likely to protect the anonymity of the parent who transfers
33 the newborn, while providing an opportunity for the parent who
34 transfers the newborn to anonymously give the hospital such information
35 as the parent knows about the family medical history of the parents and
36 the newborn.

37 (ii) "Newborn" means a live human being who is less than seventy-
38 two hours old.

1 (iii) "Qualified person" means a physician licensed under chapter
2 18.71 RCW, osteopathic physician and surgeon licensed under chapter
3 18.57 RCW, nurse or nurse practitioner licensed under chapter 18.79
4 RCW, midwife licensed under chapter 18.50 RCW, emergency medical
5 technician authorized under chapter 18.73 RCW, or physician's trained
6 emergency medical service intermediate life support technician and
7 paramedic certified under chapter 18.71 RCW.

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

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

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

15 (a) The person is the parent of a child, a person entrusted with
16 the physical custody of a child or other dependent person, or a person
17 employed to provide to the child or dependent person any of the basic
18 necessities of life; and

19 (b) The person recklessly abandons the child or other dependent
20 person; and:

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

23 (ii) Abandoning the child or other dependent person creates an
24 imminent and substantial risk that the child or other person will
25 suffer substantial bodily harm.

26 (2)(a)(i) A parent of a newborn who transfers the newborn to a
27 qualified person at an appropriate location is not subject to criminal
28 liability under this section.

29 (ii) The qualified person and the hospital may not require the
30 parent transferring the newborn to provide any identifying information
31 in order to transfer the newborn.

32 (b) For the purposes of this subsection:

33 (i) "Appropriate location" means a location designated by a
34 hospital licensed under chapter 70.41 RCW during the hours the hospital
35 is in operation. Every hospital must designate an appropriate location
36 within the hospital where a qualified person is located who is
37 reasonably likely to protect the anonymity of the parent who transfers
38 the newborn, while providing an opportunity for the parent who

1 transfers the newborn to anonymously give the hospital such information
2 as the parent knows about the family medical history of the parents and
3 the newborn.

4 (ii) "Newborn" means a live human being who is less than seventy-
5 two hours old.

6 (iii) "Qualified person" means a physician licensed under chapter
7 18.71 RCW, osteopathic physician and surgeon licensed under chapter
8 18.57 RCW, nurse or nurse practitioner licensed under chapter 18.79
9 RCW, midwife licensed under chapter 18.50 RCW, emergency medical
10 technician authorized under chapter 18.73 RCW, or physician's trained
11 emergency medical service intermediate life support technician and
12 paramedic certified under chapter 18.71 RCW.

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

15 **Sec. 5.** RCW 26.20.030 and 1984 c 260 s 26 are each amended to read
16 as follows:

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

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

24 (ii) The qualified person and the hospital may not require the
25 parent transferring the newborn to provide any identifying information
26 in order to transfer the newborn.

27 (b) For the purposes of this subsection:

28 (i) "Appropriate location" means a location designated by a
29 hospital licensed under chapter 70.41 RCW during the hours the hospital
30 is in operation. Every hospital must designate an appropriate location
31 within the hospital where a qualified person is located who is
32 reasonably likely to protect the anonymity of the parent who transfers
33 the newborn, while providing an opportunity for the parent who
34 transfers the newborn to anonymously give the hospital such information
35 as the parent knows about the family medical history of the parents and
36 the newborn.

37 (ii) "Newborn" means a live human being who is less than seventy-
38 two hours old.

1 (iii) "Qualified person" means a physician licensed under chapter
2 18.71 RCW, osteopathic physician and surgeon licensed under chapter
3 18.57 RCW, nurse or nurse practitioner licensed under chapter 18.79
4 RCW, midwife licensed under chapter 18.50 RCW, emergency medical
5 technician authorized under chapter 18.73 RCW, or physician's trained
6 emergency medical service intermediate life support technician and
7 paramedic certified under chapter 18.71 RCW.

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

10 **Sec. 6.** RCW 26.20.035 and 1984 c 260 s 27 are each amended to read
11 as follows:

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

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

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

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

23 (ii) The qualified person and the hospital may not require the
24 parent transferring the newborn to provide any identifying information
25 in order to transfer the newborn.

26 (b) For the purposes of this subsection:

27 (i) "Appropriate location" means a location designated by a
28 hospital licensed under chapter 70.41 RCW during the hours the hospital
29 is in operation. Every hospital must designate an appropriate location
30 within the hospital where a qualified person is located who is
31 reasonably likely to protect the anonymity of the parent who transfers
32 the newborn, while providing an opportunity for the parent who
33 transfers the newborn to anonymously give the hospital such information
34 as the parent knows about the family medical history of the parents and
35 the newborn.

36 (ii) "Newborn" means a live human being who is less than seventy-
37 two hours old.

1 (iii) "Qualified person" means a physician licensed under chapter
2 18.71 RCW, osteopathic physician and surgeon licensed under chapter
3 18.57 RCW, nurse or nurse practitioner licensed under chapter 18.79
4 RCW, midwife licensed under chapter 18.50 RCW, emergency medical
5 technician authorized under chapter 18.73 RCW, or physician's trained
6 emergency medical service intermediate life support technician and
7 paramedic certified under chapter 18.71 RCW.

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

10 NEW SECTION. Sec. 7. (1) The secretary of the department of
11 social and health services shall convene a fifteen-member task force to
12 recommend methods of implementing this act, including a program of
13 public education regarding the provisions of this act. The task force
14 shall consider all reasonable methods of educating Washington residents
15 about the need for prenatal and postdelivery health care for a newborn
16 whose parents may otherwise not seek such care and place their newborn
17 at risk as a result. The task force shall also consider, and make
18 recommendations regarding, ways to improve the promotion of adoption as
19 an alternative to placing a newborn in situations that create a serious
20 risk to his or her health and methods of providing access to the
21 medical history of the parents of a newborn who is transferred to a
22 hospital pursuant to RCW 9A.42.060(2), 9A.42.070(2), 9A.42.080(2),
23 26.20.030(2), and 26.20.035(2), as well as to the medical history of
24 the newborn, consistent with the protection of the anonymity of the
25 parents of the newborn.

26 (2) In addition to the secretary, or the secretary's designee, the
27 task force shall include representation from the following: (a)
28 Licensed physicians; (b) public and private agencies which provide
29 adoption services; (c) the licensed nursing community; (d) hospitals;
30 (e) prosecuting attorneys; (f) foster parents; (g) the department of
31 health; (h) the attorney general; (i) advocacy groups concerned with
32 the availability of adoption records; and (j) the public. At least
33 three members of the task force shall be public members.

34 (3) Members of the task force shall serve without compensation but
35 shall be reimbursed for expenses pursuant to RCW 43.03.050 and
36 43.03.060.

37 (4) The task force shall submit its report and recommendations to
38 the governor and legislature not later than December 1, 2001.

1 (5) This section expires January 1, 2002.

2 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act take effect
3 July 1, 2002.

4 NEW SECTION. **Sec. 9.** The sum of two hundred thousand dollars, or
5 as much thereof as may be necessary, is appropriated for the biennium
6 ending June 30, 2003, to the department of social and health services
7 for the purposes of this act. No expenditures may be made to implement
8 the recommendations of the task force prior to March 1, 2002.

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