



2025 South Dakota Legislature
House Bill 1044
ENROLLED

AN ACT

ENTITLED An Act to authorize the use of a newborn safety device for the voluntary surrender of a newborn and to make clarifying changes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 25-5A-27 be AMENDED:

25-5A-27. An emergency services provider or licensed child placement agency must accept physical custody of a newborn if:

- (1) The newborn is voluntarily surrendered by the newborn's parent:
 - (a) To an agent of the provider or agency; or
 - (b) In a newborn safety device, as provided in section 2 of this Act; and
- (2) The parent does not express an intent to return for the newborn.

Any provider or agency that accepts physical custody of a newborn pursuant to this section shall perform any act necessary to protect the physical health and safety of the newborn.

Section 2. That a NEW SECTION be added to chapter 25-5A:

An emergency services provider or a licensed child placement agency may install and maintain a newborn safety device on its premises, if the premises are staffed twenty-four hours per day, seven days per week. The newborn safety device must:

- (1) Be in a conspicuous location on the provider's or agency's premises;
- (2) Have a climate-controlled and padded receptacle that is appropriately sized for a newborn;
- (3) Have an exterior door that automatically locks upon placement of a newborn inside; and
- (4) Be equipped with an alarm system that notifies the provider's or agency's staff and a 911 service when:
 - (a) The exterior door of the device is opened; and

(b) Movement is detected within the device.

A provider or agency that installs a newborn safety device shall test the alarm system weekly.

Section 3. That § 25-5A-28 be AMENDED:

25-5A-28. It is not a crime for a parent to surrender a newborn to an emergency services provider or a licensed child placement agency, as provided in § 25-5A-27, if the newborn has not been harmed prior to being surrendered.

Section 4. That § 25-5A-29 be AMENDED:

25-5A-29. Fourteen days after a parent surrenders a newborn to an emergency services provider or a licensed child placement agency, as provided in § 25-5A-27:

- (1) The parent's rights with respect to the newborn are terminated; and
- (2) The legal and physical custody of the newborn is assumed:
 - (a) By the state; or
 - (b) By the licensed child placement agency, if the newborn was surrendered to an agency.

Section 5. That § 25-5A-30 be AMENDED:

25-5A-30. Any emergency services provider or licensed child placement agency that accepts physical custody of a newborn pursuant to § 25-5A-27 may ask the newborn's parent for information relating to the newborn's medical history and the names of the parents. The parent is not required to provide any information.

Section 6. That § 25-5A-31 be AMENDED:

25-5A-31. Any emergency services provider or licensed child placement agency that accepts physical custody of a newborn pursuant to § 25-5A-27 is immune from civil, criminal, and administrative liability for any act of commission or omission in connection with the acceptance of that custody or the provision of care for the newborn while the newborn is in the provider's or agency's custody.

Nothing in this section grants any relief for injury caused by a willful, wanton, or reckless act of commission or omission.

Section 7. That § 25-5A-32 be AMENDED:

25-5A-32. If an emergency services provider or a licensed child placement agency accepts physical custody of a newborn, pursuant to § 25-5A-27, the provider or agency must immediately notify the Department of Social Services.

Except as otherwise provided in this section, the department must assume the care, custody, and control of the newborn immediately upon receipt of the notice. If a licensed child placement agency has accepted physical custody, the agency may assume the care, custody, and control of the newborn.

The department or licensed child placement agency may not attempt to identify, contact, or investigate the parent who surrendered the newborn, unless it appears the newborn has been harmed.

Section 8. That § 25-5A-33 be AMENDED:

25-5A-33. If one parent surrenders the newborn to an emergency services provider or a licensed child placement agency, as provided in § 25-5A-27, the non-surrendering parent may file an action for custody of the newborn. The non-surrendering parent shall file the action within thirty days after the provider or agency accepts physical custody of the newborn from the surrendering parent. In the action, the non-surrendering parent must prove by a preponderance of the evidence that:

- (1) The non-surrendering parent is the parent of the newborn; and
- (2) The non-surrendering parent did not consent to the surrender of the newborn to the provider or agency.

Section 9. That § 25-5A-34 be AMENDED:

25-5A-34. For the purposes of §§ 25-5A-27 to 25-5A-35, inclusive, the following terms mean:

- (1) "Emergency services provider":
 - (a) An ambulance service licensed in accordance with chapter 34-11;
 - (b) A fire department;
 - (c) A health care facility licensed in accordance with chapter 34-12; or
 - (d) A law enforcement agency; and
- (2) "Newborn," a child who appears to be sixty days of age or younger.

Section 10. That § 25-5A-35 be AMENDED:

25-5A-35. Sixty days after the emergency services provider or licensed child placement agency accepts physical custody of the newborn, a hearing must be held in circuit court to terminate parental rights.

An Act to authorize the use of a newborn safety device for the voluntary surrender of a newborn and to make clarifying changes.

I certify that the attached Act originated in
the:
House as Bill No. 1044

Received at this Executive Office
this ____ day of _____,
2025 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2025

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2025
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1044
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State