

No. 2017-68

AN ACT

HB 1139

Amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in offenses against the family, further providing for newborn protection; in child protective services, further providing for taking child into protective custody; and, in newborn protection, further providing for definitions and for health care providers accepting newborns, providing for emergency services providers accepting newborns and for incubators for newborns and further providing for reporting acceptance of newborns, for immunity and for duties of department.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4306 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 4306. Newborn protection.

(a) General rule.—A parent of a newborn shall not be criminally liable for any violation of this title solely for leaving a newborn in the care of a hospital [or], a police officer at a police station pursuant to 23 Pa.C.S. Ch. 65 (relating to newborn protection) [**providing that**] *or an emergency services provider on the grounds of an entity employing the emergency services provider or otherwise providing access to the emergency services provider pursuant to 23 Pa.C.S. Ch. 65* if the following criteria are met:

(1) The parent expresses, either orally or through conduct, the intent to have the hospital [or], police officer *or emergency services provider* accept the newborn pursuant to 23 Pa.C.S. Ch. 65.

(2) The newborn is not a victim of child abuse or criminal conduct.

(a.1) Incubator.—A parent of a newborn shall not be criminally liable for any violation of this title solely for leaving a newborn in an incubator if the newborn is not a victim of child abuse or criminal conduct and the incubator is located:

(1) at a hospital;

(2) at a police station pursuant to 23 Pa.C.S. Ch. 65; or

(3) on the grounds of an entity employing the emergency services provider or otherwise providing access to the emergency services provider pursuant to 23 Pa.C.S. Ch. 65.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Child abuse." As defined in 23 Pa.C.S. § 6303(b.1) (relating to definitions).

"*Emergency services provider.*" *An emergency medical responder, emergency medical technician, advanced emergency medical technician or a paramedic as defined in 35 Pa.C.S. § 8103 (relating to definitions).*

"Newborn." As defined in 23 Pa.C.S. § 6502 (relating to definitions).

"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

Section 2. Section 6315(a) of Title 23 is amended by adding a paragraph to read:

§ 6315. Taking child into protective custody.

(a) General rule.—A child may be taken into protective custody:

* * *

(6) By an emergency services provider on the grounds of an entity that employs or otherwise provides access to the emergency services provider under Chapter 65.

* * *

Section 3. Section 6502 of Title 23 is amended by adding a definition to read:

§ 6502. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Emergency services provider." An emergency medical responder, emergency medical technician, advanced emergency medical technician or a paramedic as defined in 35 Pa.C.S. § 8103 (relating to definitions).

* * *

Section 4. Section 6504(b) of Title 23 is amended to read:
§ 6504. Health care providers accepting newborns.

* * *

(b) Accepting newborns.—When a health care provider accepts a newborn pursuant to this chapter, a parent [or], police officer *or emergency services provider* may provide a health care provider with information about the newborn's medical history and any identifying information.

Section 5. Title 23 is amended by adding sections to read:

§ 6504.2. *Emergency services providers accepting newborns.*

(a) Duties.—In accepting a newborn under this chapter, an emergency services provider shall:

(1) take the newborn into protective custody as specified under section 6315(a)(6) (relating to taking child into protective custody); and

(2) ensure the newborn is transported to a hospital and placed into the care of a health care provider as specified under section 6504 (relating to health care providers accepting newborns).

(b) Medical history.—When an emergency services provider accepts a newborn under this chapter, a parent may provide the emergency services

provider with information about the newborn's medical history and identifying information.

(c) Temporary signage.—An entity employing an emergency services provider accepting newborns under this chapter shall ensure its grounds or the grounds of an entity otherwise providing access to an emergency services provider clearly indicate, for a minimum of 18 months, that emergency services providers may accept newborns under section 6315(a) and 18 Pa.C.S. § 4306 (relating to newborn protection).

§ 6504.3. Incubators for newborns.

(a) Provision optional.—A hospital, police station or other entity employing or otherwise providing access to an emergency services provider may provide an incubator for the care of a newborn accepted under this chapter.

(b) Regulations.—The Department of Health shall promulgate regulations for providing an incubator under subsection (a). The regulations shall include all of the following:

- (1) Sanitation standards for an incubator.*
- (2) Procedures to provide emergency care for an infant placed in an incubator.*
- (3) Manufacturing and manufacturer standards for an incubator.*
- (4) Design and function requirements for an incubator which shall include all of the following:*

(i) Installation of an incubator at a hospital, police station or other entity which employs or otherwise provides access to an emergency services provider.

(ii) Allowance of an infant to be placed in the incubator anonymously by the parent.

(iii) Locking an incubator after the parent places the infant in the incubator to prevent third parties from having access to the infant.

(iv) Providing a controlled environment to protect and care for the infant.

(v) Providing notice to the personnel of a hospital, police station or other entity which employs or otherwise provides access to an emergency services provider within 30 seconds of the infant being placed by the parent in the incubator.

(vi) Triggering a 911 call if the personnel of a hospital, police station or other entity which employs or otherwise provides access to an emergency services provider¹ does not respond within a reasonable amount of time under subparagraph (v).

(5) Operating policy, supervision and maintenance requirements for an incubator, including that only an emergency services provider at an entity that employs or otherwise provides access to the emergency services provider, a health care provider at a hospital or police officer at a police station may take an infant into protective custody in accordance with Chapter 63 (relating to child protective services).

(6) Qualifications to install an incubator.

¹"to emergency services provider" in enrolled bill.

(7) *Procedures and forms for the free registration with the Department of Health of installers qualified to install incubators in accordance with this chapter.*

(8) *Procedures for the free registration with the Department of Health of an incubator installed in accordance with this chapter.*

(9) *The creation and installation of signs near an incubator to provide information to parents about how to use the incubators.*

(10) *Any other provisions deemed necessary by the Department of Health to ensure the safety of an infant and the safe use of an incubator by a parent.*

(c) *Notice.—The Department of Health shall publish notice in the Pennsylvania Bulletin of the promulgation of final regulations regarding incubators under subsection (b).*

Section 6. Sections 6505, 6507 and 6509 of Title 23 are amended to read:
§ 6505. Reporting acceptance of newborns.

A health care provider at a hospital shall in all cases notify the county agency and the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists immediately by telephone regarding a newborn accepted by a hospital under this chapter. A written report shall be submitted to the county agency and local municipal police department or the Pennsylvania State Police within 48 hours after the oral report. This section applies in the case of a hospital accepting a newborn pursuant to [section] *sections 6504.1(a)(2) (relating to police officers accepting newborns) and 6504.2(a)(2) (relating to emergency services providers accepting newborns)*. For purposes of this section, the term "health care provider" shall include administrative, managerial and security personnel employed by a hospital.

§ 6507. Immunity.

Except for a violation of section 6506 (relating to failure to report acceptance of newborns), no *emergency services provider, entity that employs or otherwise provides access to an emergency services provider*, hospital, health care provider at a hospital or police department, police officer or administrative or managerial personnel of a police department shall be subject to civil liability or criminal penalty solely by reason of complying with the provisions of this chapter.

§ 6509. Duties of department.

The department shall provide educational materials for use by *emergency services providers, entities which employ or otherwise provide access to emergency services providers*, hospitals, health care providers, employees at hospitals and police officers regarding this chapter, section 6315(a)(3) (relating to taking child into protective custody) and other applicable provisions of Chapter 63 (relating to child protective services) that relate to newborn protection. The department shall promulgate such regulations as may be necessary to implement this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection. The department shall also provide *emergency services providers, entities which employ or otherwise provide access to emergency services providers*, health care providers, hospitals, the Pennsylvania State Police and police departments with an informational pamphlet regarding this chapter, section

6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection which may be distributed to the public. In addition, the department shall comply with the provisions regarding infant abandonment in sections 6365 (relating to services for prevention, investigation and treatment of child abuse) and 6383 (relating to education and training). A report shall be made annually to the General Assembly on the number and disposition of newborns accepted in accordance with this chapter, section 6315(a)(3) and (5) and other applicable provisions of Chapter 63 that relate to newborn protection.

Section 7. This act shall take effect as follows:

- (1) The following shall take effect immediately:
 - (i) This section.
 - (ii) The amendment or addition of 23 Pa.C.S. §§ 6504.3(b) and (c) and 6509.
- (2) The addition of 18 Pa.C.S. § 4306(a.1) and 23 Pa.C.S. § 6504.3(a) shall take effect 120 days after the publication in the Pennsylvania Bulletin of the promulgation of final regulations under 23 Pa.C.S. § 6504.3(c).
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 22nd day of December, A.D. 2017

TOM WOLF