~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 25, 2016

**H. 4413**

Introduced by Reps. H.A. Crawford, Norrell, M.S. McLeod, Henegan, V.S. Moss and Hicks

S. Printed 2/25/16--H.

Read the first time January 12, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4413) to amend Section 63‑7‑40, Code of Laws of South Carolina, 1976, relating to locations at which a person may leave an infant under certain circumstances without, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language and inserting:

/ SECTION 1. Section 63‑7‑40(B), (G), and (J) of the 1976 Code is amended to read:

“(B)(1) A facility, agency, or other location designated as a safe haven pursuant to subsection (J)(2) must post a notice prepared by the department on its premises that is prominently displayed for view by the public, stating that the facility, agency, or other location is a safe haven at which a person may leave an infant.

(2) The safe haven must offer the person leaving the infant information concerning the legal effect of leaving the infant with the safe haven.

~~(2)~~(3) The safe haven must ask the person leaving the infant to identify any parent of the infant other than the person leaving the infant with the safe haven. The safe haven also must attempt to obtain from the person information concerning the infant’s background and medical history as specified on a form provided by the ~~Department of Social Services~~ department. This information ~~includes~~ must include, but is not limited to, information concerning the use of a controlled substance by the infant’s mother, provided that information regarding the use of a controlled substance by the infant’s mother is not admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The safe haven ~~shall~~ must give the person a copy of the form and a prepaid envelope for mailing the form to the ~~Department of Social Services~~ department if the person does not wish to provide the information to the safe haven. ~~These~~ The department must provide these materials ~~must be provided~~ to safe havens ~~by the department~~.

~~(3)~~(4) ~~Any identifying~~ Identifying information disclosed by the person leaving the infant 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~~ must maintain confidentiality of this information in accordance with Section 63‑7‑1990.

(G) A person who leaves an infant 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 or is acting at the direction of a parent;

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

(3) the infant is not more than ~~thirty~~ one hundred eighty days old or the infant is reasonably determined by the hospital or hospital outpatient facility to be not more than ~~thirty~~ one hundred eighty days old.

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

(J) For purposes of this section:

(1) ‘infant’ means a person not more than ~~thirty~~ one hundred eighty days old; and

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

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

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY for Committee.

**A** **BILL**

TO AMEND SECTION 63‑7‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LOCATIONS AT WHICH A PERSON MAY LEAVE AN INFANT UNDER CERTAIN CIRCUMSTANCES WITHOUT CRIMINAL PENALTY, SO AS TO REQUIRE SAFE HAVENS TO POST A NOTICE STATING THAT THE LOCATION IS A SAFE HAVEN, TO REQUIRE THE DEPARTMENT OF SOCIAL SERVICES TO PREPARE THE NOTICE FOR USE BY SAFE HAVENS, TO ALLOW THE PLACEMENT OF AN INFANT NOT MORE THAN ONE YEAR OLD AT A SAFE HAVEN, AND TO CHANGE THE DEFINITION OF “INFANT”.

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

SECTION 1. Section 63‑7‑40(B), (G), and (J) of the 1976 Code is amended to read:

“(B)(1) A facility, agency, or other location designated as a safe haven pursuant to subsection (J)(2) shall post a notice prepared by the department on its premises that is prominently displayed for view by the public, stating that the facility, agency, or other location is a safe haven at which a person may leave an infant.

(2) The safe haven ~~must~~ shall offer the person leaving the infant information concerning the legal effect of leaving the infant with the safe haven.

~~(2)~~(3) The safe haven ~~must~~ shall ask the person leaving the infant to identify any parent of the infant other than the person leaving the infant with the safe haven. The safe haven also ~~must~~ shall attempt to obtain from the person information concerning the infant’s background and medical history as specified on a form provided by the ~~Department of Social Services~~ department. This information ~~includes~~ must include, but is not limited to, information concerning the use of a controlled substance by the infant’s mother, provided that information regarding the use of a controlled substance by the infant’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~~ department if the person does not wish to provide the information to the safe haven. ~~These~~ The department shall provide these materials ~~must be provided~~ to safe havens ~~by the department~~.

~~(3)~~(4) ~~Any identifying~~ Identifying information disclosed by the person leaving the infant 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.

(G) A person who leaves an infant 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 or is acting at the direction of a parent;

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

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

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

(J) For purposes of this section:

(1) ‘infant’ means a person not more than ~~thirty days~~ one year old; and

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

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

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