

# House Bill 169

*AN ACT TO REQUIRE AN EMERGENCY MEDICAL SERVICES PROVIDER TO TAKE POSSESSION OF CERTAIN ABANDONED CHILDREN; TO REQUIRE THE EMERGENCY MEDICAL SERVICES PROVIDER TO NOTIFY THE DEPARTMENT OF HUMAN SERVICES THAT THE PROVIDER HAS TAKEN POSSESSION OF THE CHILD; TO PROVIDE FOR AN AFFIRMATIVE DEFENSE TO THE CRIME OF ABANDONMENT OF A CHILD; TO PROVIDE FOR THE PAYMENT OF CERTAIN MEDICAL EXPENSES; AND TO PROVIDE FOR IMMUNITY OF LIABILITY; AND FOR RELATED PURPOSES.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) An emergency medical services provider, without a court order, shall take possession of a child who is seventy-two (72) hours old or younger if the child is voluntarily delivered to the provider by the child's parent and the parent did not express an intent to return for the child.

(2) An emergency medical services provider who takes possession of a child under this section shall perform any act necessary to protect the physical health or safety of the child.

SECTION 2. (1) No later than the close of the first business day after the date on which an emergency medical services provider takes possession of a child pursuant to Section 1 of this act, the provider shall notify the Department of Human Services that the provider has taken possession of the child.

(2) The department shall assume the care, control and custody of the child immediately on receipt of notice pursuant to subsection (1). The department shall be responsible for all medical and other costs associated with the child and shall reimburse the hospital for any costs incurred prior to the child being placed in the care of the department.

SECTION 3. It shall be an absolute affirmative defense to prosecution under Sections 97-5-1, 97-5-3 and 97-5-9 if the parent voluntarily delivers the child unharmed to an emergency medical services provider pursuant to Section 1 of this act.

SECTION 4. For the purposes of this act, an emergency medical services provider shall mean a licensed hospital, as defined in Section 41-9-3, which operates an emergency department or an adoption agency duly licensed by the Department of Human Services. An emergency medical services provider does not include the offices, clinics, surgeries or treatment facilities of private physicians or dentists. No individual licensed healthcare provider, including physicians, dentists, nurses, physician assistants or other health professionals shall be deemed to be an emergency medical services provider under this act unless such individual voluntarily assumes responsibility for the custody of the child.

SECTION 5. A person or entity taking possession of a child under the provisions of this act shall be immune from liability for any civil action arising out of any act or omission

resulting from taking possession of the child unless the act or omission was the result of the person's or entity's gross negligence or willful misconduct.

SECTION 6. This act shall take effect and be in force from and after July 1, 2001.

Passed State Senate  
March 5, 2001

Passed House of Representatives  
February 5, 2001

APPROVED BY THE GOVERNOR

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GOVERNOR