

ARKANSAS REGISTER

Transmittal Sheet

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Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Children & Family Services

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Statutory Authority for Promulgating Rules Arkansas Code §§ 6-18-233, 9-28-103, 9-28-402, 9-28-405, 20-76-201, and 25-10-129

Rule Title: Birth Parents Relinquishing Infants for Adoption Under the Safe Haven Act

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published 12/01/2023

☐ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment 12/30/2023

☒ Other 03/01/2024
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council 02/16/2024

Adopted by State Agency 03/01/2024

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Toni Roy toni.roy@dhs.arkansas.gov

February 16, 2024

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Tiffany Wright
Signature

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Phone Number

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Director, Division of Children & Family Services

Title

February 16, 2024

Date

POLICY VIII-F: BIRTH PARENTS RELINQUISHING INFANTS FOR ADOPTION UNDER THE SAFE HAVEN ACT

03/2024

Any medical provider, law enforcement agency, or fire department will take possession of a child who is thirty (30) days old or younger, without a court order, if the parents of the child, without expressing an intent to return for the child, leave the child:

- A. with or voluntarily deliver the child to a medical provider (including when a parent leaves a newborn child with a medical provider staff member after delivery of the newborn child), law enforcement agency, fire department; or
- B. in a newborn safety device as described in Arkansas Code § 9-34-202.

A medical provider, law enforcement agency, or fire department that takes possession of a child under the Safe Haven Act will perform any act necessary to protect the physical health and safety of the child.

A medical provider, law enforcement agency, or fire department will keep the identity of a parent who relinquishes a child under Safe Haven provisions confidential and will not release or otherwise make the identity of the parent available, except to a:

- A. law enforcement agency investigating abuse or neglect of the child that was committed before the child was relinquished; or
- B. prosecuting attorney pursuing charges against a parent for abuse or neglect of the child that was committed before the child was relinquished.

If the identity of a parent or child is released or made known to the Department of Human Services in violation of § A.C.A. 9-34-202 (b)(2), the case shall proceed as a dependency-neglect action, but with the same protections from liability as if an anonymous Safe Haven surrender was made. As such, the parent shall not be held criminally liable for the relinquishment or have a true finding of maltreatment or abandonment entered against the parent if that parent's identity is known and the Department of Human Services proceeds under § A.C.A. 9-27-341. Rather, a "true but exempt" selection will be made, as applicable, in the Division's approved information management system.

Further, the Department shall not subsequently use a resulting termination of parental rights against a parent who surrendered his or her child as allowed under the Voluntary Placement of a Child chapter in Arkansas law.

Upon delivery of the child (to a medical provider, law enforcement agency, or fire department), an appropriate employee (of the medical provider, law enforcement agency, or fire department) will take the child into protective custody for seventy-two (72) hours under the Child Maltreatment Act. The person taking the child into protective custody will immediately notify DCFS.

DCFS will contact the Office of Chief Counsel (OCC) to request a petition be filed with the court for an order of emergency custody. DCFS will also utilize the Arkansas Attorney General's Missing Children Services Program along with any other national and state resources to determine whether the child is a missing child before placing the infant in an appropriate legal risk adoptive placement.