



Rep. Robyn Gabel

Filed: 4/7/2011

09700HB1665ham002

LRB097 08321 RPM 53962 a

1 AMENDMENT TO HOUSE BILL 1665

2 AMENDMENT NO. _____. Amend House Bill 1665 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Home
5 Birth Safe Transport Act.

6 Section 5. Purpose. The General Assembly finds that due to
7 an extreme shortage of licensed home birth providers, a
8 significant percentage of Illinois home birth families engage
9 the services of unregulated, underground, community midwives
10 to attend their planned home births. It further finds that some
11 families and community midwives may hesitate to transport to
12 the hospital in an emergency for fear of being reported to
13 Child Protective Services, the Department of Professional and
14 Financial Regulation, or local law enforcement agents. It
15 further finds that the recent Publication #476 of the American
16 College of Obstetricians and Gynecologists emphasizes the

1 importance of providing home birth families with "an integrated
2 and regulated health system" which ensures "a plan for safe and
3 quick transportation to a nearby hospital in the event of an
4 emergency". It is hereby declared that fear of legal
5 repercussions may negatively affect the health, safety, and
6 welfare of hundreds of Illinois mothers annually who choose to
7 give birth at home as well as the health, safety, and welfare
8 of their infants. The purpose of this Act is to allow community
9 midwives to transport mother, baby, or both to a hospital in an
10 emergency situation and to professionally communicate medical
11 information to the emergency transport team and receiving
12 hospital personnel without fear of legal repercussions,
13 thereby removing all hesitations to transport in a situation
14 where the health and welfare of mother or baby requires it.
15 This Act shall be liberally construed to best carry out these
16 purposes

17 Section 10. Definitions. As used in this Act:

18 "Community midwife" means any midwife serving the home
19 birth community in Illinois who is not licensed as an Advanced
20 Practice Nurse under the Nurse Practice Act.

21 "Department" means the Department of Public Health.

22 "Emergency" means a medical condition of recent onset and
23 severity that would lead a prudent layperson, possessing an
24 average knowledge of medicine and health, to believe that
25 urgent or unscheduled medical care is required.

1 "Emergency medical facility" means a freestanding
2 emergency center or trauma center, as defined in the Emergency
3 Medical Services (EMS) Systems Act.

4 "Emergency Medical Services (EMS) System" means an
5 organization of hospitals, vehicle service providers, and
6 personnel approved by the Department in a specific geographic
7 area, which coordinates and provides pre-hospital and
8 inter-hospital emergency care and non-emergency medical
9 transports at a BLS, ILS, or ALS level or any combination of
10 these pursuant to a System program plan submitted to and
11 approved by the Department, and pursuant to the EMS Region Plan
12 adopted for the EMS Region in which the System is located.

13 "Patient" means the mother or unborn or newborn infant
14 receiving or planning to receive home birth services from a
15 community midwife.

16 "Medical professional" includes licensed physicians,
17 nurses, advance practice nurses, nursing and physician
18 assistants, and any medical technician or medical specialist,
19 EMS transport team member or any other individual who has
20 medical or related training.

21 "Hospital" has the meaning ascribed to that term in the
22 Hospital Licensing Act.

23 "Transport" means the act of bringing a patient to a
24 hospital or emergency medical facility or calling for Emergency
25 Medical Services to bring the patient to the facility.

26 "Transport" includes the professional communication of

1 pertinent medical information to the receiving facility
2 personnel

3 Section 15. Immunity for parents.

4 (a) The act of carrying out or attempting to carry out a
5 home birth with a community midwife does not, by itself,
6 constitute a basis for a finding of abuse or neglect of a new
7 born or unborn infant nor a violation of Section 12-21.6 of the
8 Criminal Code of 1961.

9 (b) Neither a child protective investigation nor a criminal
10 investigation may be initiated solely because of a planned home
11 birth or because of the engagement of an unlicensed community
12 midwife.

13 Section 20. Immunity for transporting community midwife.
14 Provided that the community midwife provides medical
15 information regarding the mother or infant or both to the
16 recipient emergency medical personnel, the act of a community
17 midwife transporting a mother or infant or both to a hospital,
18 fire station, or emergency medical facility in accordance with
19 this Act does not, by itself, constitute a basis for a finding
20 of abuse or neglect of the patient, nor practicing medicine or
21 nursing or advance practice nursing without a license, pursuant
22 to the laws of this State, nor does it, by itself, constitute a
23 violation of Section 12-21.6 of the Criminal Code of 1961.

1 Section 25. Immunity of facility and personnel. An EMS
2 transport team, a hospital, fire station, or emergency medical
3 facility, and any personnel of a hospital, fire station, or
4 emergency medical facility, are immune from criminal or civil
5 liability for acting in good faith in accordance with this Act.

6 Section 30. Anonymity of transporting community midwife.
7 The transporting community midwife has the right to remain
8 anonymous and to leave the hospital, fire station, or emergency
9 medical facility at any time and not be pursued or followed.

10 Section 35. Use of information.

11 (a) No medical professional or fire department personnel
12 may communicate identifying information gathered during or
13 after an emergency home birth transport about the transporting
14 community midwife or parents of the infant to law enforcement
15 agents or the Department of Financial and Professional
16 Regulation, Department of Children and Family Services, or any
17 other department or agency solely for the fact of the parents
18 and community midwife attempting or carrying out a home birth.

19 (b) Under no circumstances may an agent or employee of the
20 Department of Financial and Professional Regulation or the
21 Department of Children and Family Services or any other
22 department or agency accept or use any evidence submitted to
23 them about home birth families or unlicensed home birth
24 community midwives related to an emergency home birth transport

1 for the purpose of investigation or prosecution of parents or
2 community midwife if there is no other complaint than the fact
3 of a home birth or attempted home birth with a community
4 midwife.

5 Section 900. The Medical Practice Act of 1987 is amended by
6 changing Section 4 as follows:

7 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

8 (Section scheduled to be repealed on November 30, 2011)

9 Sec. 4. Exemptions.

10 (a) This Act does not apply to the following:

11 (1) persons lawfully carrying on their particular
12 profession or business under any valid existing regulatory
13 Act of this State;

14 (2) persons rendering gratuitous services in cases of
15 emergency;

16 (3) persons treating human ailments by prayer or
17 spiritual means as an exercise or enjoyment of religious
18 freedom; ~~or~~

19 (4) persons practicing the specified occupations set
20 forth in in subsection (a) of, and pursuant to a licensing
21 exemption granted in subsection (b) or (d) of, Section
22 2105-350 of the Department of Professional Regulation Law
23 of the Civil Administrative Code of Illinois, but only for
24 so long as the 2016 Olympic and Paralympic Games

1 Professional Licensure Exemption Law is operable; or ~~or~~

2 (5) community midwives engaged in the transport and
3 transfer of care of home birth mothers or infants in a case
4 of emergency.

5 (b) (Blank).

6 (Source: P.A. 96-7, eff. 4-3-09.)

7 Section 910. The Nurse Practice Act is amended by changing
8 Section 50-15 as follows:

9 (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

10 (Section scheduled to be repealed on January 1, 2018)

11 Sec. 50-15. Policy; application of Act.

12 (a) For the protection of life and the promotion of health,
13 and the prevention of illness and communicable diseases, any
14 person practicing or offering to practice advanced,
15 professional, or practical nursing in Illinois shall submit
16 evidence that he or she is qualified to practice, and shall be
17 licensed as provided under this Act. No person shall practice
18 or offer to practice advanced, professional, or practical
19 nursing in Illinois or use any title, sign, card or device to
20 indicate that such a person is practicing professional or
21 practical nursing unless such person has been licensed under
22 the provisions of this Act.

23 (b) This Act does not prohibit the following:

24 (1) The practice of nursing in Federal employment in

1 the discharge of the employee's duties by a person who is
2 employed by the United States government or any bureau,
3 division or agency thereof and is a legally qualified and
4 licensed nurse of another state or territory and not in
5 conflict with Sections 50-50, 55-10, 60-10, and 70-5 of
6 this Act.

7 (2) Nursing that is included in the program of study by
8 students enrolled in programs of nursing or in current
9 nurse practice update courses approved by the Department.

10 (3) The furnishing of nursing assistance in an
11 emergency.

12 (4) The practice of nursing by a nurse who holds an
13 active license in another state when providing services to
14 patients in Illinois during a bonafide emergency or in
15 immediate preparation for or during interstate transit.

16 (5) The incidental care of the sick by members of the
17 family, domestic servants or housekeepers, or care of the
18 sick where treatment is by prayer or spiritual means.

19 (6) Persons from being employed as unlicensed
20 assistive personnel in private homes, long term care
21 facilities, nurseries, hospitals or other institutions.

22 (7) The practice of practical nursing by one who is a
23 licensed practical nurse under the laws of another U.S.
24 jurisdiction and has applied in writing to the Department,
25 in form and substance satisfactory to the Department, for a
26 license as a licensed practical nurse and who is qualified

1 to receive such license under this Act, until (i) the
2 expiration of 6 months after the filing of such written
3 application, (ii) the withdrawal of such application, or
4 (iii) the denial of such application by the Department.

5 (8) The practice of advanced practice nursing by one
6 who is an advanced practice nurse under the laws of another
7 state, territory of the United States, or country and has
8 applied in writing to the Department, in form and substance
9 satisfactory to the Department, for a license as an
10 advanced practice nurse and who is qualified to receive
11 such license under this Act, until (i) the expiration of 6
12 months after the filing of such written application, (ii)
13 the withdrawal of such application, or (iii) the denial of
14 such application by the Department.

15 (9) The practice of professional nursing by one who is
16 a registered professional nurse under the laws of another
17 state, territory of the United States or country and has
18 applied in writing to the Department, in form and substance
19 satisfactory to the Department, for a license as a
20 registered professional nurse and who is qualified to
21 receive such license under Section 55-10, until (1) the
22 expiration of 6 months after the filing of such written
23 application, (2) the withdrawal of such application, or (3)
24 the denial of such application by the Department.

25 (10) The practice of professional nursing that is
26 included in a program of study by one who is a registered

1 professional nurse under the laws of another state or
2 territory of the United States or foreign country,
3 territory or province and who is enrolled in a graduate
4 nursing education program or a program for the completion
5 of a baccalaureate nursing degree in this State, which
6 includes clinical supervision by faculty as determined by
7 the educational institution offering the program and the
8 health care organization where the practice of nursing
9 occurs.

10 (10.5) Community midwives engaged in the transport and
11 transfer of care of home birth mothers or infants in a case
12 of emergency.

13 (11) Any person licensed in this State under any other
14 Act from engaging in the practice for which she or he is
15 licensed.

16 (12) Delegation to authorized direct care staff
17 trained under Section 15.4 of the Mental Health and
18 Developmental Disabilities Administrative Act consistent
19 with the policies of the Department.

20 (13) The practice, services, or activities of persons
21 practicing the specified occupations set forth in
22 subsection (a) of, and pursuant to a licensing exemption
23 granted in subsection (b) or (d) of, Section 2105-350 of
24 the Department of Professional Regulation Law of the Civil
25 Administrative Code of Illinois, but only for so long as
26 the 2016 Olympic and Paralympic Games Professional

1 Licensure Exemption Law is operable.

2 (14) County correctional personnel from delivering
3 prepackaged medication for self-administration to an
4 individual detainee in a correctional facility.

5 Nothing in this Act shall be construed to limit the
6 delegation of tasks or duties by a physician, dentist, or
7 podiatrist to a licensed practical nurse, a registered
8 professional nurse, or other persons.

9 (Source: P.A. 95-639, eff. 10-5-07; 95-876, eff. 8-21-08; 96-7,
10 eff. 4-3-09; 96-516, eff. 8-14-09; 96-1000, eff. 7-2-10.)

11 Section 915. The Juvenile Court Act of 1987 is amended by
12 changing Section 2-3 as follows:

13 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

14 Sec. 2-3. Neglected or abused minor.

15 (1) Those who are neglected include:

16 (a) any minor under 18 years of age who is not
17 receiving the proper or necessary support, education as
18 required by law, or medical or other remedial care
19 recognized under State law as necessary for a minor's
20 well-being, or other care necessary for his or her
21 well-being, including adequate food, clothing and shelter,
22 or who is abandoned by his or her parent or parents or
23 other person or persons responsible for the minor's
24 welfare, except that a minor shall not be considered

1 neglected for the sole reason that the minor's parent or
2 parents or other person or persons responsible for the
3 minor's welfare have left the minor in the care of an adult
4 relative for any period of time, who the parent or parents
5 or other person responsible for the minor's welfare know is
6 both a mentally capable adult relative and physically
7 capable adult relative, as defined by this Act; or

8 (b) any minor under 18 years of age whose environment
9 is injurious to his or her welfare; or

10 (c) any newborn infant whose blood, urine, or meconium
11 contains any amount of a controlled substance as defined in
12 subsection (f) of Section 102 of the Illinois Controlled
13 Substances Act, as now or hereafter amended, or a
14 metabolite of a controlled substance, with the exception of
15 controlled substances or metabolites of such substances,
16 the presence of which in the newborn infant is the result
17 of medical treatment administered to the mother or the
18 newborn infant; or

19 (d) any minor under the age of 14 years whose parent or
20 other person responsible for the minor's welfare leaves the
21 minor without supervision for an unreasonable period of
22 time without regard for the mental or physical health,
23 safety, or welfare of that minor; or

24 (e) any minor who has been provided with interim crisis
25 intervention services under Section 3-5 of this Act and
26 whose parent, guardian, or custodian refuses to permit the

1 minor to return home unless the minor is an immediate
2 physical danger to himself, herself, or others living in
3 the home.

4 Whether the minor was left without regard for the mental or
5 physical health, safety, or welfare of that minor or the period
6 of time was unreasonable shall be determined by considering the
7 following factors, including but not limited to:

8 (1) the age of the minor;

9 (2) the number of minors left at the location;

10 (3) special needs of the minor, including whether the
11 minor is physically or mentally handicapped, or otherwise
12 in need of ongoing prescribed medical treatment such as
13 periodic doses of insulin or other medications;

14 (4) the duration of time in which the minor was left
15 without supervision;

16 (5) the condition and location of the place where the
17 minor was left without supervision;

18 (6) the time of day or night when the minor was left
19 without supervision;

20 (7) the weather conditions, including whether the
21 minor was left in a location with adequate protection from
22 the natural elements such as adequate heat or light;

23 (8) the location of the parent or guardian at the time
24 the minor was left without supervision, the physical
25 distance the minor was from the parent or guardian at the
26 time the minor was without supervision;

1 (9) whether the minor's movement was restricted, or the
2 minor was otherwise locked within a room or other
3 structure;

4 (10) whether the minor was given a phone number of a
5 person or location to call in the event of an emergency and
6 whether the minor was capable of making an emergency call;

7 (11) whether there was food and other provision left
8 for the minor;

9 (12) whether any of the conduct is attributable to
10 economic hardship or illness and the parent, guardian or
11 other person having physical custody or control of the
12 child made a good faith effort to provide for the health
13 and safety of the minor;

14 (13) the age and physical and mental capabilities of
15 the person or persons who provided supervision for the
16 minor;

17 (14) whether the minor was left under the supervision
18 of another person;

19 (15) any other factor that would endanger the health
20 and safety of that particular minor.

21 A minor shall not be considered neglected for the sole
22 reason that the minor has been relinquished in accordance with
23 the Abandoned Newborn Infant Protection Act.

24 A minor shall not be considered neglected for the sole
25 reason that the minor is a patient in the care of a community
26 midwife who is engaged in the transport and transfer of care of

1 the minor to a hospital, fire station, or emergency medical
2 facility in an emergency situation occurring during the course
3 of a home birth, in accordance with the Home Birth Safe
4 Transport Act.

5 (2) Those who are abused include any minor under 18 years
6 of age whose parent or immediate family member, or any person
7 responsible for the minor's welfare, or any person who is in
8 the same family or household as the minor, or any individual
9 residing in the same home as the minor, or a paramour of the
10 minor's parent:

11 (i) inflicts, causes to be inflicted, or allows to be
12 inflicted upon such minor physical injury, by other than
13 accidental means, which causes death, disfigurement,
14 impairment of physical or emotional health, or loss or
15 impairment of any bodily function;

16 (ii) creates a substantial risk of physical injury to
17 such minor by other than accidental means which would be
18 likely to cause death, disfigurement, impairment of
19 emotional health, or loss or impairment of any bodily
20 function;

21 (iii) commits or allows to be committed any sex offense
22 against such minor, as such sex offenses are defined in the
23 Criminal Code of 1961, as amended, or in the Wrongs to
24 Children Act, and extending those definitions of sex
25 offenses to include minors under 18 years of age;

26 (iv) commits or allows to be committed an act or acts

1 of torture upon such minor;

2 (v) inflicts excessive corporal punishment;

3 (vi) commits or allows to be committed the offense of
4 involuntary servitude, involuntary sexual servitude of a
5 minor, or trafficking in persons for forced labor or
6 services defined in Section 10-9 of the Criminal Code of
7 1961, upon such minor; or

8 (vii) allows, encourages or requires a minor to commit
9 any act of prostitution, as defined in the Criminal Code of
10 1961, and extending those definitions to include minors
11 under 18 years of age.

12 A minor shall not be considered abused for the sole reason
13 that the minor has been relinquished in accordance with the
14 Abandoned Newborn Infant Protection Act.

15 A minor shall not be considered abused for the sole reason
16 that the minor is a patient in the care of a community midwife
17 who is engaged in the transport and transfer of care of the
18 minor to a hospital, fire station, or emergency medical
19 facility in an emergency situation occurring during the course
20 of a home birth, in accordance with the Home Birth Safe
21 Transport Act.

22 (3) This Section does not apply to a minor who would be
23 included herein solely for the purpose of qualifying for
24 financial assistance for himself, his parents, guardian or
25 custodian.

26 (Source: P.A. 95-443, eff. 1-1-08; 96-168, eff. 8-10-09;

1 96-1464, eff. 8-20-10.)

2 Section 920. The Criminal Code of 1961 is amended by
3 changing Section 12-21.6 as follows:

4 (720 ILCS 5/12-21.6)

5 Sec. 12-21.6. Endangering the life or health of a child.

6 (a) It is unlawful for any person to willfully cause or
7 permit the life or health of a child under the age of 18 to be
8 endangered or to willfully cause or permit a child to be placed
9 in circumstances that endanger the child's life or health,
10 except that it is not unlawful for a person to relinquish a
11 child in accordance with the Abandoned Newborn Infant
12 Protection Act or for a community midwife to transport or
13 transfer the care of the newborn infant of a home birth mother
14 to an emergency medical center, fire station, or hospital
15 during a medical emergency in accordance with the Home Birth
16 Safe Transport Act.

17 (b) There is a rebuttable presumption that a person
18 committed the offense if he or she left a child 6 years of age
19 or younger unattended in a motor vehicle for more than 10
20 minutes.

21 (c) "Unattended" means either: (i) not accompanied by a
22 person 14 years of age or older; or (ii) if accompanied by a
23 person 14 years of age or older, out of sight of that person.

24 (d) A violation of this Section is a Class A misdemeanor. A

1 second or subsequent violation of this Section is a Class 3
2 felony. A violation of this Section that is a proximate cause
3 of the death of the child is a Class 3 felony for which a
4 person, if sentenced to a term of imprisonment, shall be
5 sentenced to a term of not less than 2 years and not more than
6 10 years.

7 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
8 92-515, eff. 6-1-02; 92-651, eff. 7-11-02.)".