



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB3957

Introduced 12/9/2003, by Elizabeth Coulson

SYNOPSIS AS INTRODUCED:

325 ILCS 2/10
325 ILCS 2/15
325 ILCS 2/20
325 ILCS 2/25
325 ILCS 2/27
325 ILCS 2/30
325 ILCS 2/35
325 ILCS 2/40
325 ILCS 2/50
325 ILCS 2/55
325 ILCS 2/65

Amends the Abandoned Newborn Infant Protection Act. Provides for relinquishment of a newborn infant to a police station (in addition to a hospital, fire station, or emergency medical facility). Provides that "police station" means a municipal police station or a county sheriff's office. Provides that a police station to which a newborn infant is relinquished must arrange for the transportation of the infant to the nearest hospital as soon as transportation can be arranged. Effective immediately.

LRB093 14318 DRJ 40168 b

1 AN ACT in relation to children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Abandoned Newborn Infant Protection Act is
5 amended by changing Sections 10, 15, 20, 25, 27, 30, 35, 40,
6 50, 55, and 65 as follows:

7 (325 ILCS 2/10)

8 (Section scheduled to be repealed on July 1, 2007)

9 Sec. 10. Definitions. In this Act:

10 "Abandon" has the same meaning as in the Abused and
11 Neglected Child Reporting Act.

12 "Abused child" has the same meaning as in the Abused and
13 Neglected Child Reporting Act.

14 "Child-placing agency" means a licensed public or private
15 agency that receives a child for the purpose of placing or
16 arranging for the placement of the child in a foster family
17 home or other facility for child care, apart from the custody
18 of the child's parents.

19 "Department" or "DCFS" means the Illinois Department of
20 Children and Family Services.

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

24 "Emergency medical professional" includes licensed
25 physicians, and any emergency medical technician-basic,
26 emergency medical technician-intermediate, emergency medical
27 technician-paramedic, trauma nurse specialist, and
28 pre-hospital RN, as defined in the Emergency Medical Services
29 (EMS) Systems Act.

30 "Fire station" means a fire station within the State that
31 is staffed with at least one full-time emergency medical
32 professional.

1 "Hospital" has the same meaning as in the Hospital
2 Licensing Act.

3 "Legal custody" means the relationship created by a court
4 order in the best interest of a newborn infant that imposes on
5 the infant's custodian the responsibility of physical
6 possession of the infant, the duty to protect, train, and
7 discipline the infant, and the duty to provide the infant with
8 food, shelter, education, and medical care, except as these are
9 limited by parental rights and responsibilities.

10 "Neglected child" has the same meaning as in the Abused and
11 Neglected Child Reporting Act.

12 "Newborn infant" means a child who a licensed physician
13 reasonably believes is 72 hours old or less at the time the
14 child is initially relinquished to a hospital, police station,
15 fire station, or emergency medical facility, and who is not an
16 abused or a neglected child.

17 "Police station" means a municipal police station or a
18 county sheriff's office.

19 "Relinquish" means to bring a newborn infant, who a
20 licensed physician reasonably believes is 72 hours old or less,
21 to a hospital, police station, fire station, or emergency
22 medical facility and to leave the infant with personnel of the
23 facility, if the person leaving the infant does not express an
24 intent to return for the infant or states that he or she will
25 not return for the infant. In the case of a mother who gives
26 birth to an infant in a hospital, the mother's act of leaving
27 that newborn infant at the hospital (i) without expressing an
28 intent to return for the infant or (ii) stating that she will
29 not return for the infant is not a "relinquishment" under this
30 Act.

31 "Temporary protective custody" means the temporary
32 placement of a newborn infant within a hospital or other
33 medical facility out of the custody of the infant's parent.

34 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

1 (Section scheduled to be repealed on July 1, 2007)

2 Sec. 15. Presumptions.

3 (a) There is a presumption that by relinquishing a newborn
4 infant in accordance with this Act, the infant's parent
5 consents to the termination of his or her parental rights with
6 respect to the infant.

7 (b) There is a presumption that a person relinquishing a
8 newborn infant in accordance with this Act:

9 (1) is the newborn infant's biological parent; and

10 (2) either without expressing an intent to return for
11 the infant or expressing an intent not to return for the
12 infant, did intend to relinquish the infant to the
13 hospital, police station, fire station, or emergency
14 medical facility to treat, care for, and provide for the
15 infant in accordance with this Act.

16 (c) A parent of a relinquished newborn infant may rebut the
17 presumption set forth in either subsection (a) or subsection
18 (b) pursuant to Section 55, at any time before the termination
19 of the parent's parental rights.

20 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

21 (325 ILCS 2/20)

22 (Section scheduled to be repealed on July 1, 2007)

23 Sec. 20. Procedures with respect to relinquished newborn
24 infants.

25 (a) Hospitals. Every hospital must accept and provide all
26 necessary emergency services and care to a relinquished newborn
27 infant, in accordance with this Act. The hospital shall examine
28 a relinquished newborn infant and perform tests that, based on
29 reasonable medical judgment, are appropriate in evaluating
30 whether the relinquished newborn infant was abused or
31 neglected.

32 The act of relinquishing a newborn infant serves as implied
33 consent for the hospital and its medical personnel and
34 physicians on staff to treat and provide care for the infant.

35 The hospital shall be deemed to have temporary protective

1 custody of a relinquished newborn infant until the infant is
2 discharged to the custody of a child-placing agency or the
3 Department.

4 (b) Fire stations and emergency medical facilities. Every
5 fire station and emergency medical facility must accept and
6 provide all necessary emergency services and care to a
7 relinquished newborn infant, in accordance with this Act.

8 The act of relinquishing a newborn infant serves as implied
9 consent for the fire station or emergency medical facility and
10 its emergency medical professionals to treat and provide care
11 for the infant, to the extent that those emergency medical
12 professionals are trained to provide those services.

13 After the relinquishment of a newborn infant to a fire
14 station or emergency medical facility, the fire station or
15 emergency medical facility's personnel must arrange for the
16 transportation of the infant to the nearest hospital as soon as
17 transportation can be arranged.

18 If the parent of a newborn infant returns to reclaim the
19 child within 72 hours after relinquishing the child to a fire
20 station or emergency medical facility, the fire station or
21 emergency medical facility must inform the parent of the name
22 and location of the hospital to which the infant was
23 transported.

24 (c) Police stations. Every police station must accept a
25 relinquished newborn infant, in accordance with this Act. After
26 the relinquishment of a newborn infant to a police station, the
27 police station must arrange for the transportation of the
28 infant to the nearest hospital as soon as transportation can be
29 arranged. The act of relinquishing a newborn infant serves as
30 implied consent for the hospital to which the infant is
31 transported and that hospital's medical personnel and
32 physicians on staff to treat and provide care for the infant.

33 If the parent of a newborn infant returns to reclaim the
34 infant within 72 hours after relinquishing the infant to a
35 police station, the police station must inform the parent of
36 the name and location of the hospital to which the infant was

1 transported.

2 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

3 (325 ILCS 2/25)

4 (Section scheduled to be repealed on July 1, 2007)

5 Sec. 25. Immunity for relinquishing person.

6 (a) The act of relinquishing a newborn infant to a
7 hospital, police station, fire station, or emergency medical
8 facility in accordance with this Act does not, by itself,
9 constitute a basis for a finding of abuse, neglect, or
10 abandonment of the infant pursuant to the laws of this State
11 nor does it, by itself, constitute a violation of Section
12 12-21.5 or 12-21.6 of the Criminal Code of 1961.

13 (b) If there is suspected child abuse or neglect that is
14 not based solely on the newborn infant's relinquishment to a
15 hospital, police station, fire station, or emergency medical
16 facility, the personnel of the hospital, police station, fire
17 station, or emergency medical facility who are mandated
18 reporters under the Abused and Neglected Child Reporting Act
19 must report the abuse or neglect pursuant to that Act.

20 (c) Neither a child protective investigation nor a criminal
21 investigation may be initiated solely because a newborn infant
22 is relinquished pursuant to this Act.

23 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

24 (325 ILCS 2/27)

25 (Section scheduled to be repealed on July 1, 2007)

26 Sec. 27. Immunity of facility and personnel. A hospital,
27 police station, fire station, or emergency medical facility,
28 and any personnel of a hospital, police station, fire station,
29 or emergency medical facility, are immune from criminal or
30 civil liability for acting in good faith in accordance with
31 this Act. Nothing in this Act limits liability for negligence
32 for care and medical treatment.

33 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

1 (325 ILCS 2/30)

2 (Section scheduled to be repealed on July 1, 2007)

3 Sec. 30. Anonymity of relinquishing person. If there is no
4 evidence of abuse or neglect of a relinquished newborn infant,
5 the relinquishing person has the right to remain anonymous and
6 to leave the hospital, police station, fire station, or
7 emergency medical facility at any time and not be pursued or
8 followed. Before the relinquishing person leaves the hospital,
9 police station, fire station, or emergency medical facility,
10 the hospital, police station, fire station, or emergency
11 medical facility personnel shall (i) ~~ii~~ verbally inform the
12 relinquishing person that by relinquishing the child
13 anonymously, he or she will have to petition the court if he or
14 she desires to prevent the termination of parental rights and
15 regain custody of the child and (ii) ~~iii~~ shall offer the
16 relinquishing person the information packet described in
17 Section 35 of this Act. However, nothing in this Act shall be
18 construed as precluding the relinquishing person from
19 providing his or her identity or completing the application
20 forms for the Illinois Adoption Registry and Medical
21 Information Exchange and requesting that the hospital, police
22 station, fire station, or emergency medical facility forward
23 those forms to the Illinois Adoption Registry and Medical
24 Information Exchange.

25 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

26 (325 ILCS 2/35)

27 (Section scheduled to be repealed on July 1, 2007)

28 Sec. 35. Information for relinquishing person. A hospital,
29 police station, fire station, or emergency medical facility
30 that receives a newborn infant relinquished in accordance with
31 this Act must offer an information packet to the relinquishing
32 person and, if possible, must clearly inform the relinquishing
33 person that his or her acceptance of the information is
34 completely voluntary, that registration with the Illinois
35 Adoption Registry and Medical Information Exchange is

1 voluntary, that the person will remain anonymous if he or she
2 completes a Denial of Information Exchange, and that the person
3 has the option to provide medical information only and still
4 remain anonymous. The information packet must include all of
5 the following:

6 (1) All Illinois Adoption Registry and Medical
7 Information Exchange application forms, including the
8 Medical Information Exchange Questionnaire and the web
9 site address and toll-free phone number of the Registry.

10 (2) Written notice of the following:

11 (A) No sooner than 60 days following the date of
12 the initial relinquishment of the infant to a hospital,
13 police station, fire station, or emergency medical
14 facility, the child-placing agency or the Department
15 will commence proceedings for the termination of
16 parental rights and placement of the infant for
17 adoption.

18 (B) Failure of a parent of the infant to contact
19 the Department and petition for the return of custody
20 of the infant before termination of parental rights
21 bars any future action asserting legal rights with
22 respect to the infant.

23 (3) A resource list of providers of counseling services
24 including grief counseling, pregnancy counseling, and
25 counseling regarding adoption and other available options
26 for placement of the infant.

27 Upon request, the Department of Public Health shall provide
28 the application forms for the Illinois Adoption Registry and
29 Medical Information Exchange to hospitals, police stations,
30 fire stations, and emergency medical facilities.

31 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

32 (325 ILCS 2/40)

33 (Section scheduled to be repealed on July 1, 2007)

34 Sec. 40. Reporting requirements.

35 (a) Within 12 hours after accepting a newborn infant from a

1 relinquishing person or from a police station, fire station, or
2 emergency medical facility in accordance with this Act, a
3 hospital must report to the Department's State Central Registry
4 for the purpose of transferring physical custody of the infant
5 from the hospital to either a child-placing agency or the
6 Department.

7 (b) Within 24 hours after receiving a report under
8 subsection (a), the Department must request assistance from law
9 enforcement officials to investigate the matter using the
10 National Crime Information Center to ensure that the
11 relinquished newborn infant is not a missing child.

12 (c) Once a hospital has made a report to the Department
13 under subsection (a), the Department must arrange for a
14 licensed child-placing agency to accept physical custody of the
15 relinquished newborn infant.

16 (d) If a relinquished child is not a newborn infant as
17 defined in this Act, the hospital and the Department must
18 proceed as if the child is an abused or neglected child.

19 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

20 (325 ILCS 2/50)

21 (Section scheduled to be repealed on July 1, 2007)

22 Sec. 50. Child-placing agency procedures.

23 (a) The Department's State Central Registry must maintain a
24 list of licensed child-placing agencies willing to take legal
25 custody of newborn infants relinquished in accordance with this
26 Act. The child-placing agencies on the list must be contacted
27 by the Department on a rotating basis upon notice from a
28 hospital that a newborn infant has been relinquished in
29 accordance with this Act.

30 (b) Upon notice from the Department that a newborn infant
31 has been relinquished in accordance with this Act, a
32 child-placing agency must accept the newborn infant if the
33 agency has the accommodations to do so. The child-placing
34 agency must seek an order for legal custody of the infant upon
35 its acceptance of the infant.

1 (c) Within 3 business days after assuming physical custody
2 of the infant, the child-placing agency shall file a petition
3 in the division of the circuit court in which petitions for
4 adoption would normally be heard. The petition shall allege
5 that the newborn infant has been relinquished in accordance
6 with this Act and shall state that the child-placing agency
7 intends to place the infant in an adoptive home.

8 (d) If no licensed child-placing agency is able to accept
9 the relinquished newborn infant, then the Department must
10 assume responsibility for the infant as soon as practicable.

11 (e) A custody order issued under subsection (b) shall
12 remain in effect until a final adoption order based on the
13 relinquished newborn infant's best interests is issued in
14 accordance with this Act and the Adoption Act.

15 (f) When possible, the child-placing agency must place a
16 relinquished newborn infant in a prospective adoptive home.

17 (g) The Department or child-placing agency must initiate
18 proceedings to (i) terminate the parental rights of the
19 relinquished newborn infant's known or unknown parents, (ii)
20 appoint a guardian for the infant, and (iii) obtain consent to
21 the infant's adoption in accordance with this Act no sooner
22 than 60 days following the date of the initial relinquishment
23 of the infant to the hospital, police station, fire station, or
24 emergency medical facility.

25 (h) Before filing a petition for termination of parental
26 rights, the Department or child-placing agency must do the
27 following:

28 (1) Search its Putative Father Registry for the purpose
29 of determining the identity and location of the putative
30 father of the relinquished newborn infant who is, or is
31 expected to be, the subject of an adoption proceeding, in
32 order to provide notice of the proceeding to the putative
33 father. At least one search of the Registry must be
34 conducted, at least 30 days after the relinquished newborn
35 infant's estimated date of birth; earlier searches may be
36 conducted, however. Notice to any potential putative

1 father discovered in a search of the Registry according to
2 the estimated age of the relinquished newborn infant must
3 be in accordance with Section 12a of the Adoption Act.

4 (2) Verify with law enforcement officials, using the
5 National Crime Information Center, that the relinquished
6 newborn infant is not a missing child.

7 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

8 (325 ILCS 2/55)

9 (Section scheduled to be repealed on July 1, 2007)

10 Sec. 55. Petition for return of custody.

11 (a) A parent of a newborn infant relinquished in accordance
12 with this Act may petition for the return of custody of the
13 infant before the termination of parental rights with respect
14 to the infant.

15 (b) A parent of a newborn infant relinquished in accordance
16 with this Act may petition for the return of custody of the
17 infant by contacting the Department for the purpose of
18 obtaining the name of the child-placing agency and then filing
19 a petition for return of custody in the circuit court in which
20 the proceeding for the termination of parental rights is
21 pending.

22 (c) If a petition for the termination of parental rights
23 has not been filed by the Department or the child-placing
24 agency, the parent of the relinquished newborn infant must
25 contact the Department, which must notify the parent of the
26 appropriate court in which the petition for return of custody
27 must be filed.

28 (d) The circuit court may hold the proceeding for the
29 termination of parental rights in abeyance for a period not to
30 exceed 60 days from the date that the petition for return of
31 custody was filed without a showing of good cause. During that
32 period:

33 (1) The court shall order genetic testing to establish
34 maternity or paternity, or both.

35 (2) The Department shall conduct a child protective

1 investigation and home study to develop recommendations to
2 the court.

3 (3) When indicated as a result of the Department's
4 investigation and home study, further proceedings under
5 the Juvenile Court Act of 1987 as the court determines
6 appropriate, may be conducted. However, relinquishment of
7 a newborn infant in accordance with this Act does not
8 render the infant abused, neglected, or abandoned solely
9 because the newborn infant was relinquished to a hospital,
10 police station, fire station, or emergency medical
11 facility in accordance with this Act.

12 (e) Failure to file a petition for the return of custody of
13 a relinquished newborn infant before the termination of
14 parental rights bars any future action asserting legal rights
15 with respect to the infant unless the parent's act of
16 relinquishment that led to the termination of parental rights
17 involved fraud perpetrated against and not stemming from or
18 involving the parent. No action to void or revoke the
19 termination of parental rights of a parent of a newborn infant
20 relinquished in accordance with this Act, including an action
21 based on fraud, may be commenced after 12 months after the date
22 that the newborn infant was initially relinquished to a
23 hospital, police station, fire station, or emergency medical
24 facility.

25 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

26 (325 ILCS 2/65)

27 (Section scheduled to be repealed on July 1, 2007)

28 Sec. 65. Evaluation.

29 (a) The Department shall collect and analyze information
30 regarding the relinquishment of newborn infants and placement
31 of children under this Act. Police stations, fire stations,
32 emergency medical facilities, and medical professionals
33 accepting and providing services to a newborn infant under this
34 Act shall report to the Department data necessary for the
35 Department to evaluate and determine the effect of this Act in

1 the prevention of injury or death of newborn infants.
2 Child-placing agencies shall report to the Department data
3 necessary to evaluate and determine the effectiveness of these
4 agencies in providing child protective and child welfare
5 services to newborn infants relinquished under this Act.

6 (b) The information collected shall include, but need not
7 be limited to: the number of newborn infants relinquished; the
8 services provided to relinquished newborn infants; the outcome
9 of care for the relinquished newborn infants; the number and
10 disposition of cases of relinquished newborn infants subject to
11 placement; the number of children accepted and served by
12 child-placing agencies; and the services provided by
13 child-placing agencies and the disposition of the cases of the
14 children placed under this Act.

15 (c) The Department shall submit a report by January 1,
16 2002, and on January 1 of each year thereafter, to the Governor
17 and General Assembly regarding the prevention of injury or
18 death of newborn infants and the effect of placements of
19 children under this Act. The report shall include, but need not
20 be limited to, a summary of collected data, an analysis of the
21 data and conclusions regarding the Act's effectiveness, a
22 determination whether the purposes of the Act are being
23 achieved, and recommendations for changes that may be
24 considered necessary to improve the administration and
25 enforcement of this Act.

26 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.