

1 A bill to be entitled
2 An act relating to surrendered newborn infants;
3 amending s. 383.50, F.S.; revising and providing
4 definitions; authorizing certain hospitals, emergency
5 medical services stations, and fire stations to use
6 newborn infant safety devices to accept surrendered
7 newborn infants if the device meets specified
8 criteria; requiring such hospitals, emergency medical
9 services stations, or fire stations to physically
10 check and test the devices at specified intervals;
11 authorizing a parent to leave a newborn infant with
12 medical staff or a licensed healthcare professional at
13 a hospital after the delivery of the newborn infant
14 under certain circumstances; conforming provisions to
15 changes made by the act; providing additional
16 locations to which the prohibition on the initiation
17 of criminal investigations based solely on the
18 surrendering of a newborn infant applies; authorizing
19 a parent to surrender a newborn infant by calling 911
20 and requesting an emergency medical services provider
21 to meet at a specified location to retrieve the
22 newborn infant; requiring the parent to stay with the
23 newborn infant until the emergency medical services
24 provider arrives; amending s. 63.0423, F.S.;
25 conforming a cross-reference; making conforming

26 changes; providing an effective date.

27

28 Be It Enacted by the Legislature of the State of Florida:

29

30 Section 1. Section 383.50, Florida Statutes, is amended to
31 read:

32 383.50 Treatment of surrendered newborn infant.—

33 (1) As used in this section, the term:

34 (a) "Newborn infant" means a child who a licensed
35 physician reasonably believes is approximately 30 7 days old or
36 younger at the time the child is left at a hospital, an
37 emergency medical services station, or a fire station.

38 (b) "Newborn infant safety device" means a device which is
39 installed in a supporting wall of a hospital, an emergency
40 medical services station, or a fire station and which has an
41 exterior point of access that allows an individual to place a
42 newborn infant inside and an interior point of access that
43 allows individuals inside the building to safely retrieve the
44 newborn infant.

45 (2) There is a presumption that the parent who leaves the
46 newborn infant in accordance with this section intended to leave
47 the newborn infant and consented to termination of parental
48 rights.

49 (3)(a) A hospital, an emergency medical services station,
50 or a fire station that is staffed 24 hours per day may use a

51 newborn infant safety device to accept surrendered newborn
52 infants under this section if the device is:

53 1. Physically part of the hospital, emergency medical
54 services station, or fire station.

55 2. Temperature-controlled and ventilated for the safety of
56 newborns.

57 3. Equipped with an alarm system connected to the physical
58 location of the device which automatically triggers an alarm
59 inside the building when a newborn infant is placed in the
60 device.

61 4. Equipped with a surveillance system that allows
62 employees of the hospital, emergency medical services station,
63 or fire station to monitor the inside of the device 24 hours per
64 day.

65 5. Located such that the interior point of access is in an
66 area that is conspicuous and visible to the employees of the
67 hospital, emergency medical services station, or fire station.

68 (b) A hospital, an emergency medical services station, or
69 a fire station that uses a newborn infant safety device to
70 accept surrendered newborn infants must use the device's
71 surveillance system to monitor the inside of the newborn infant
72 safety device 24 hours per day and shall physically check the
73 device at least twice daily and test the device at least weekly
74 to ensure that the alarm system is in working order. A fire
75 station that is staffed 24 hours per day except when all

76 firefighter first responders are dispatched from the fire
 77 station for an emergency must use the dual alarm system of the
 78 newborn infant safety device to immediately dispatch the nearest
 79 first responder to retrieve any newborn infant left in the
 80 newborn infant safety device.

81 (4)-(3) Each emergency medical services station or fire
 82 station that is staffed with full-time firefighters, emergency
 83 medical technicians, or paramedics shall accept any newborn
 84 infant left with a firefighter, an emergency medical technician,
 85 or a paramedic or in a newborn infant safety device. The
 86 firefighter, emergency medical technician, or paramedic shall
 87 consider these actions as implied consent to and shall:

88 (a) Provide emergency medical services to the newborn
 89 infant to the extent that he or she is trained to provide those
 90 services, and

91 (b) Arrange for the immediate transportation of the
 92 newborn infant to the nearest hospital having emergency
 93 services.

94
 95 A licensee as defined in s. 401.23, a fire department, or an
 96 employee or agent of a licensee or fire department may treat and
 97 transport a newborn infant pursuant to this section. If a
 98 newborn infant is placed in the physical custody of an employee
 99 or agent of a licensee or fire department or is placed in a
 100 newborn infant safety device at an emergency medical services

101 station or a fire station, such placement ~~is shall be~~ considered
102 implied consent for treatment and transport. A licensee, a fire
103 department, or an employee or agent of a licensee or fire
104 department is immune from criminal or civil liability for acting
105 in good faith pursuant to this section. Nothing in this
106 subsection limits liability for negligence.

107 (5)(a) A newborn infant may be left with medical staff or
108 a licensed health care professional after the delivery in a
109 hospital when the parent of the newborn infant notifies medical
110 staff or a licensed health care professional that the parent is
111 voluntarily surrendering the infant and does not intend to
112 return.

113 (b)(4) Each hospital of this state subject to s. 395.1041
114 shall, and any other hospital may, admit and provide all
115 necessary emergency services and care, as defined in s.
116 395.002(9), to any newborn infant left with the hospital in
117 accordance with this section. The hospital or any of its
118 licensed health care professionals shall consider these actions
119 as implied consent for treatment, and a hospital accepting
120 physical custody of a newborn infant has implied consent to
121 perform all necessary emergency services and care. The hospital
122 or any of its licensed health care professionals is immune from
123 criminal or civil liability for acting in good faith in
124 accordance with this section. Nothing in this subsection limits
125 liability for negligence.

126 ~~(6)-(5)~~ Except when there is actual or suspected child
127 abuse or neglect, any parent who leaves a newborn infant in a
128 newborn infant safety device or with a firefighter, an emergency
129 medical technician, or a paramedic at a fire station or an
130 emergency medical services station, or brings a newborn infant
131 to an emergency room of a hospital and expresses an intent to
132 leave the newborn infant and not return, has the absolute right
133 to remain anonymous and to leave at any time and may not be
134 pursued or followed unless the parent seeks to reclaim the
135 newborn infant. When an infant is born in a hospital and the
136 mother expresses intent to leave the infant and not return, upon
137 the mother's request, the hospital or registrar shall complete
138 the infant's birth certificate without naming the mother
139 thereon.

140 ~~(7)-(6)~~ A parent of a newborn infant left at a hospital,
141 emergency medical services station, or fire station under this
142 section may claim his or her newborn infant up until the court
143 enters a judgment terminating his or her parental rights. A
144 claim to the newborn infant must be made to the entity having
145 physical or legal custody of the newborn infant or to the
146 circuit court before whom proceedings involving the newborn
147 infant are pending.

148 ~~(8)-(7)~~ Upon admitting a newborn infant under this section,
149 the hospital shall immediately contact a local licensed child-
150 placing agency or alternatively contact the statewide central

151 abuse hotline for the name of a licensed child-placing agency
152 for purposes of transferring physical custody of the newborn
153 infant. The hospital shall notify the licensed child-placing
154 agency that a newborn infant has been left with the hospital and
155 approximately when the licensed child-placing agency can take
156 physical custody of the child. In cases where there is actual or
157 suspected child abuse or neglect, the hospital or any of its
158 licensed health care professionals shall report the actual or
159 suspected child abuse or neglect in accordance with ss. 39.201
160 and 395.1023 in lieu of contacting a licensed child-placing
161 agency.

162 ~~(9)(8)~~ Any newborn infant admitted to a hospital in
163 accordance with this section is presumed eligible for coverage
164 under Medicaid, subject to federal rules.

165 ~~(10)(9)~~ A newborn infant left at a hospital, an emergency
166 medical services station, or a fire station in accordance with
167 this section shall not be deemed abandoned and subject to
168 reporting and investigation requirements under s. 39.201 unless
169 there is actual or suspected child abuse or until the Department
170 of Health takes physical custody of the child.

171 (11) If the parent of a newborn infant is unable to
172 surrender the newborn infant in accordance with this section,
173 the parent may dial 911 to request that an emergency medical
174 services provider meet the surrendering parent at a specified
175 location. The surrendering parent must stay with the newborn

176 infant until the emergency medical services provider arrives to
 177 take custody of the newborn infant.

178 ~~(12)-(10)~~ A criminal investigation may ~~shall~~ not be
 179 initiated solely because a newborn infant is left at a hospital,
 180 an emergency medical services station, or a fire station under
 181 this section unless there is actual or suspected child abuse or
 182 neglect.

183 Section 2. Section 63.0423, Florida Statutes, is amended
 184 to read:

185 63.0423 Procedures with respect to surrendered newborn
 186 infants.—

187 (1) Upon entry of final judgment terminating parental
 188 rights, a licensed child-placing agency that takes physical
 189 custody of a newborn ~~an~~ infant surrendered at a hospital, an
 190 emergency medical services station, or a fire station pursuant
 191 to s. 383.50 assumes responsibility for the medical and other
 192 costs associated with the emergency services and care of the
 193 surrendered newborn infant from the time the licensed child-
 194 placing agency takes physical custody of the surrendered newborn
 195 infant.

196 (2) The licensed child-placing agency shall immediately
 197 seek an order from the circuit court for emergency custody of
 198 the surrendered newborn infant. The emergency custody order
 199 shall remain in effect until the court orders preliminary
 200 approval of placement of the surrendered newborn infant in the

201 prospective home, at which time the prospective adoptive parents
202 become guardians pending termination of parental rights and
203 finalization of adoption or until the court orders otherwise.
204 The guardianship of the prospective adoptive parents shall
205 remain subject to the right of the licensed child-placing agency
206 to remove the surrendered newborn infant from the placement
207 during the pendency of the proceedings if such removal is deemed
208 by the licensed child-placing agency to be in the best interests
209 of the child. The licensed child-placing agency may immediately
210 seek to place the surrendered newborn infant in a prospective
211 adoptive home.

212 (3) The licensed child-placing agency that takes physical
213 custody of the surrendered newborn infant shall, within 24 hours
214 thereafter, request assistance from law enforcement officials to
215 investigate and determine, through the Missing Children
216 Information Clearinghouse, the National Center for Missing and
217 Exploited Children, and any other national and state resources,
218 whether the surrendered newborn infant is a missing child.

219 (4) The parent who surrenders the newborn infant in
220 accordance with s. 383.50 is presumed to have consented to
221 termination of parental rights, and express consent is not
222 required. Except when there is actual or suspected child abuse
223 or neglect, the licensed child-placing agency may ~~shall~~ not
224 attempt to pursue, search for, or notify that parent as provided
225 in s. 63.088 and chapter 49. For purposes of s. 383.50 and this

226 section, a surrendered newborn ~~an~~ infant who tests positive for
227 illegal drugs, narcotic prescription drugs, alcohol, or other
228 substances, but shows no other signs of child abuse or neglect,
229 shall be placed in the custody of a licensed child-placing
230 agency. Such a placement does not eliminate the reporting
231 requirement under s. 383.50(8) ~~s. 383.50(7)~~. When the department
232 is contacted regarding a newborn ~~an~~ infant properly surrendered
233 under this section and s. 383.50, the department shall provide
234 instruction to contact a licensed child-placing agency and may
235 not take custody of the newborn infant unless reasonable efforts
236 to contact a licensed child-placing agency to accept the newborn
237 infant have not been successful.

238 (5) A petition for termination of parental rights under
239 this section may not be filed until 30 days after the date the
240 newborn infant was surrendered in accordance with s. 383.50. A
241 petition for termination of parental rights may not be granted
242 until a parent has failed to reclaim or claim the surrendered
243 newborn infant within the time period specified in s. 383.50.

244 (6) A claim of parental rights of the surrendered newborn
245 infant must be made to the entity having legal custody of the
246 surrendered newborn infant or to the circuit court before which
247 proceedings involving the surrendered newborn infant are
248 pending. A claim of parental rights of the surrendered newborn
249 infant may not be made after the judgment to terminate parental
250 rights is entered, except as otherwise provided by subsection

251 (9).

252 (7) If a claim of parental rights of a surrendered newborn
253 infant is made before the judgment to terminate parental rights
254 is entered, the circuit court may hold the action for
255 termination of parental rights in abeyance for a period of time
256 not to exceed 60 days.

257 (a) The court may order scientific testing to determine
258 maternity or paternity at the expense of the parent claiming
259 parental rights.

260 (b) The court shall appoint a guardian ad litem for the
261 surrendered newborn infant and order whatever investigation,
262 home evaluation, and psychological evaluation are necessary to
263 determine what is in the best interests of the surrendered
264 newborn infant.

265 (c) The court may not terminate parental rights solely on
266 the basis that the parent left the newborn infant at a hospital,
267 an emergency medical services station, or a fire station in
268 accordance with s. 383.50.

269 (d) The court shall enter a judgment with written findings
270 of fact and conclusions of law.

271 (8) Within 7 business days after recording the judgment,
272 the clerk of the court shall mail a copy of the judgment to the
273 department, the petitioner, and any person whose consent was
274 required, if known. The clerk shall execute a certificate of
275 each mailing.

276 (9)(a) A judgment terminating parental rights of a
277 surrendered newborn infant pending adoption is voidable, and any
278 later judgment of adoption of that child ~~minor~~ is voidable, if,
279 upon the motion of a parent, the court finds that a person
280 knowingly gave false information that prevented the parent from
281 timely making known his or her desire to assume parental
282 responsibilities toward the child ~~minor~~ or from exercising his
283 or her parental rights. A motion under this subsection must be
284 filed with the court originally entering the judgment. The
285 motion must be filed within a reasonable time but not later than
286 1 year after the entry of the judgment terminating parental
287 rights.

288 (b) No later than 30 days after the filing of a motion
289 under this subsection, the court shall conduct a preliminary
290 hearing to determine what contact, if any, will be allowed
291 ~~permitted~~ between a parent and the child pending resolution of
292 the motion. Such contact may be allowed only if it is requested
293 by a parent who has appeared at the hearing and the court
294 determines that it is in the best interests of the child. If the
295 court orders contact between a parent and the child, the order
296 must be issued in writing as expeditiously as possible and must
297 state with specificity any provisions regarding contact with
298 persons other than those with whom the child resides.

299 (c) The court may not order scientific testing to
300 determine the paternity or maternity of the child ~~minor~~ until

301 such time as the court determines that a previously entered
302 judgment terminating the parental rights of that parent is
303 voidable pursuant to paragraph (a), unless all parties agree
304 that such testing is in the best interests of the child. Upon
305 the filing of test results establishing that person's maternity
306 or paternity of the surrendered newborn infant, the court may
307 order visitation only if it appears to be in the best interests
308 of the child.

309 (d) Within 45 days after the preliminary hearing, the
310 court shall conduct a final hearing on the motion to set aside
311 the judgment and shall enter its written order as expeditiously
312 as possible thereafter.

313 (10) Except to the extent expressly provided in this
314 section, proceedings initiated by a licensed child-placing
315 agency for the termination of parental rights and subsequent
316 adoption of a newborn infant left at a hospital, an emergency
317 medical services station, or a fire station in accordance with
318 s. 383.50 shall be conducted pursuant to this chapter.

319 Section 3. This act shall take effect July 1, 2023.