

By Representative Murman

1                                   A bill to be entitled  
2           An act relating to child protection; creating  
3           s. 383.50, F.S.; prescribing duties of  
4           hospitals with respect to newborn infants, as  
5           defined in the act, who are abandoned at such  
6           hospitals; providing for anonymity of such  
7           infants' parents; providing certain immunity  
8           from liability; amending s. 63.167, F.S.;  
9           providing duties of the state adoption  
10          information center with respect to maintaining  
11          a list of child-placing agencies with which  
12          abandoned newborns may be placed; creating s.  
13          63.0423, F.S.; prescribing procedures of  
14          child-placing agencies, the courts, and the  
15          Department of Children and Family Services with  
16          respect to custody and placement of abandoned  
17          newborns; creating s. 409.163, F.S.; providing  
18          duties of the department to provide certain  
19          forms and information with respect to abandoned  
20          newborns and placement alternatives; creating  
21          s. 827.035, F.S.; providing that it is an  
22          affirmative defense to certain child abuse  
23          charges that the parent of a newborn infant  
24          arranged its placement under this act;  
25          providing an effective date.

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27           WHEREAS, in this state and in the nation, infants have  
28          suffered and died as the result of abandonment in  
29          life-threatening situations, and

30           WHEREAS, some parents of newborn infants are under  
31          severe emotional stress, and

1 WHEREAS, anonymity, confidentiality, and freedom from  
2 prosecution for such parents may encourage them to leave an  
3 infant safely and save the infant's life, NOW, THEREFORE,

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

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7 Section 1. Section 383.50, Florida Statutes, is  
8 created to read:

9 383.50 Treatment of abandoned newborn infants.--

10 (1) As used in this section, the term "newborn infant"  
11 means a child that a hospital or physician reasonably believes  
12 to be approximately 3 days old or younger.

13 (2) Each hospital of this state that offers emergency  
14 services shall admit, and any other hospital may admit, and  
15 provide all necessary medical care, diagnostic tests, and  
16 medical treatment to any newborn infant left with the hospital  
17 when the identity of the parents is unknown. The physician  
18 shall consider these actions as implied consent for treatment,  
19 and a hospital accepting physical custody of a newborn infant  
20 has implied consent to perform any and all appropriate medical  
21 treatment. Any person performing medical care, diagnostic  
22 testing, or medical treatment is immune from criminal or civil  
23 liability for having performed the act. Nothing in this  
24 subsection limits liability for negligence.

25 (3) Any parent who leaves a newborn infant at a  
26 hospital, or brings a newborn infant to an emergency room and  
27 expresses an intent to leave the infant and not return, has  
28 the absolute right to remain anonymous and to leave at any  
29 time and may not be pursued or followed.

30 (4) Upon admitting a newborn infant under this  
31 section, the physician or hospital administrator shall

1 immediately contact the emergency infant-adoption line at the  
2 state adoption information center to obtain the names of the  
3 first three child-placing agencies eligible to receive the  
4 newborn infant in the order of eligibility. The hospital shall  
5 notify the child-placing agency that a newborn infant has been  
6 left with the hospital and approximately when the  
7 child-placing agency can take physical custody of the child.  
8 If the first child-placing agency refuses to take custody of  
9 the child, the hospital shall contact at least the next two  
10 child-placing agencies on the list of eligible agencies. If  
11 none of the contacted agencies will take custody of the child,  
12 the hospital shall notify the Department of Children and  
13 Family Services.

14 (5) Each hospital taking custody of a child under this  
15 section shall make available materials to gather health and  
16 medical information concerning the newborn infant and the  
17 parents. The materials must be offered to the person leaving  
18 the newborn infant, and it must be clearly stated that  
19 acceptance is completely voluntary and that completion of the  
20 materials may be done anonymously.

21 Section 2. Paragraph (f) is added to subsection (2) of  
22 section 63.167, Florida Statutes, to read:

23 63.167 State adoption information center.--

24 (2) The functions of the state adoption information  
25 center shall include:

26 (f) Maintaining a list of agencies eligible and  
27 willing to take custody of and place newborn infants left at a  
28 hospital, pursuant to s. 383.50. The names and contact  
29 information for the child-placing agencies on the list shall  
30 be provided on a rotating basis, with each hospital seeking  
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1 names from the list to be given the names of the top three  
2 child-placing agencies in the order of priority.

3 Section 3. Section 63.0423, Florida Statutes, is  
4 created to read:

5 63.0423 Procedures with respect to abandoned  
6 newborns.--

7 (1) Upon notice from any hospital staff that a newborn  
8 infant has been left with the hospital pursuant to s. 383.50,  
9 a child-placing agency accepting the newborn infant shall  
10 assume responsibility for all medical costs and shall  
11 immediately seek an order for emergency custody of the infant.

12 (2) The emergency custody order shall remain in effect  
13 until a final order based on the newborn infant's best  
14 interest is issued in accordance with this chapter.

15 (3) A child protective investigation or criminal  
16 investigation shall not be initiated solely because a newborn  
17 infant is left with a hospital pursuant to s. 383.50 unless a  
18 claim of parental rights is made and the court orders the  
19 investigation conducted in accordance with subsection (7).

20 (4) Upon the newborn infant's release from the  
21 hospital, the child-placing agency shall, when possible, place  
22 the newborn infant in a prospective adoptive home.

23 (5) During the initial 30 days of placement, the  
24 child-placing agency shall request assistance from law  
25 enforcement officials to investigate through the Missing  
26 Children Information Clearinghouse and other state and  
27 national resources to ensure that the newborn infant is not a  
28 missing child.

29 (6) As soon as practicable following the initial  
30 30-day placement period, the child-placing agency shall file a  
31 petition in circuit court seeking the involuntary termination

1 of parental rights of the unknown parents of the newborn  
2 infant and authority to place the newborn infant for adoption  
3 in accordance with this chapter.

4 (7) If a claim of parental rights is made before the  
5 filing of the petition or before the adoption hearing, the  
6 circuit court may hold the action for involuntary termination  
7 of parental rights and adoption in abeyance for a period of  
8 time not to exceed 60 days. During that period:

9 (a) The district court shall order genetic testing to  
10 establish maternity or paternity, at the expense of the  
11 claimant.

12 (b) The department shall conduct a child protective  
13 investigation and home evaluation to develop recommendations  
14 for the circuit court.

15 (c) When indicated as a result of the investigation  
16 and home evaluation, a shelter hearing in accordance with  
17 chapter 39 shall be conducted in circuit court on the  
18 emergency custody order within 10 days after the assertion of  
19 parental rights.

20 (d) Further proceedings under chapter 39 shall be  
21 conducted as the court determines appropriate. However, a  
22 newborn infant that has been placed in accordance with this  
23 section may not be found to be a neglected or abandoned child  
24 solely because the newborn infant has been left with a  
25 hospital pursuant to s. 383.50.

26 Section 4. Section 409.163, Florida Statutes, is  
27 created to read:

28 409.163 Duties with respect to abandoned newborns.--

29 (1) The department shall make available to hospitals  
30 standardized health, medical, and background information forms  
31 for use in gathering voluntary, nonidentifying information

1 from a person who places a newborn infant in accordance with  
2 s. 383.50. The materials must clearly state that the  
3 information requested is designed to facilitate care for the  
4 newborn infant. The materials must include information on  
5 family services, termination of parental rights, and adoption.  
6 The material must also include:  
7 (a) Information on the importance of medical and  
8 health information regarding the newborn infant.  
9 (b) Written notification that failure to contact the  
10 department and assert a claim of parental rights within 30  
11 days after the receipt of the material shall result in the  
12 commencement of proceedings for involuntary termination of  
13 parental rights and placement of the newborn infant for  
14 adoption.  
15 (2) The department shall produce a media campaign to  
16 promote safe placement alternatives for newborn infants, the  
17 confidentiality offered to birth parents, and information  
18 regarding adoption procedures.  
19 (3) The department shall provide to all hospitals the  
20 number for the emergency infant-adoption line at the state  
21 adoption information center, along with the hours the line  
22 will be available to provide information concerning  
23 child-placing agencies.  
24 Section 5. Section 827.035, Florida Statutes, is  
25 created to read:  
26 827.035 Affirmative defense.--It is an affirmative  
27 defense to any prosecution under this chapter that the parent  
28 of a newborn infant placed or arranged for placement of the  
29 infant with any hospital in accordance with s. 383.50.  
30 Section 6. This act shall take effect July 1, 2000.  
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LEGISLATIVE SUMMARY

Provides that a hospital offering emergency services shall, and other hospitals may, accept custody of newborn infants whose parents wish to permanently and anonymously abandon their parental rights over such children. Provides duties of such hospitals, child-placing agencies, and the Department of Children and Family Services. Provides that the fact that a child was abandoned in accordance with the act constitutes an affirmative defense in a criminal action for child abuse.