

By Senator Grant

13-1306-00

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, who are abandoned at such hospitals;
6 providing for anonymity of such infants'
7 parents; amending s. 63.167, F.S.; providing
8 duties of the state adoption information center
9 with respect to maintaining a list of
10 child-placing agencies with which abandoned
11 newborns may be placed; creating s. 63.0423,
12 F.S.; prescribing powers of child-placing
13 agencies with respect to custody and placement
14 of abandoned newborns; creating s. 409.163,
15 F.S.; providing duties of the Department of
16 Children and Family Services with respect to
17 abandoned newborns; creating s. 827.035, F.S.;
18 providing that it is an affirmative defense to
19 certain child-abuse charges that the parent of
20 a newborn infant arranged its placement under
21 this act; providing an effective date.

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23 WHEREAS, in this state and in the nation, infants have
24 suffered and died as the result of abandonment in
25 life-threatening situations, and

26 WHEREAS, the parents of newborn infants are under
27 severe emotional stress, and

28 WHEREAS, anonymity, confidentiality, and freedom from
29 prosecution for parents may encourage them to leave an infant
30 safely and save the infant's life, NOW, THEREFORE,

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

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3 Section 1. Section 383.50, Florida Statutes, is
4 created to read:

5 383.50 Treatment of abandoned newborn infant.--

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

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

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

26 (4) Upon admitting a newborn infant under this
27 section, the physician or hospital administrator shall
28 immediately contact the emergency infant-adoption line at the
29 adoption-information center to obtain the name of the first
30 three child-placing agencies eligible to receive the newborn
31 infant in the order of eligibility. The hospital shall notify

1 the child-placing agency that a newborn infant has been left
2 with the hospital and approximately when the child-placing
3 agency can take physical custody of the child. If the first
4 child-placing agency refuses to take custody of the child, the
5 hospital shall contact at least the next two child-placing
6 agencies on the list of eligible agencies. If none of the
7 contacted agencies will take custody of the child, the
8 hospital shall notify the Department of Children and Family
9 Services.

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

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

19 63.167 State adoption information center.--

20 (2) The functions of the state adoption information
21 center shall include:

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

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

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1 63.0423 Procedures with respect to abandoned
2 newborns.--

3 (1) Upon notice from any hospital staff that a newborn
4 infant has been turned over to a hospital pursuant to s.
5 383.50, a child-placing agency accepting the newborn infant
6 shall assume responsibility for all medical costs and shall
7 immediately seek an order for emergency custody of the infant.

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

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

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

19 (5) During the initial 30 days of placement, the
20 child-placing agency shall request assistance from law
21 enforcement officials to investigate through the Missing Child
22 Information Center and other national and state resources to
23 ensure that the newborn infant is not a missing child.

24 (6) As soon as practicable following the 30-day
25 placement period, the child-placing agency shall file a
26 petition in circuit court seeking the involuntary termination
27 of parental rights of the unknown parents of the newborn
28 infant and authority to place the newborn infant for adoption
29 in accordance with this chapter.

30 (7) If a claim of parental rights is made before the
31 filing of the petition or before the adoption hearing, the

1 circuit court may hold the action for involuntary termination
2 of parental rights and adoption in abeyance for a period of
3 time not to exceed 60 days. During that period:

4 (a) The district court shall order genetic testing to
5 establish maternity or paternity at the expense of the
6 claimant;

7 (b) The Department of Children and Family Services
8 shall conduct a child-protective investigation and home
9 evaluation to develop recommendations for the circuit court;

10 (c) When indicated as a result of the investigation
11 and home evaluation, a shelter hearing in accordance with
12 chapter 39 shall be conducted in circuit court on the
13 emergency-custody order within 10 days after the assertion of
14 parental rights;

15 (d) Further proceedings under chapter 39 as the court
16 determines appropriate shall be conducted; however, a newborn
17 infant that has been placed in accordance with this section
18 may not be found to be a neglected or abandoned child solely
19 because the newborn infant has been left at a hospital
20 pursuant to s. 383.50.

21 Section 4. Section 409.163, Florida Statutes, is
22 created to read:

23 409.163 Department; duties with respect to abandoned
24 newborns.--

25 (1) The Department of Children and Family Services
26 shall make available to hospitals standardized health,
27 medical, and background information forms for use in gathering
28 voluntary, nonidentifying information from a person who places
29 a newborn infant in accordance with s. 383.50. The materials
30 must clearly state that the information requested is designed
31 to facilitate care for the newborn infant. The materials must

1 include information on family services, termination of
2 parental rights, and adoption. The material must also include:

3 (a) Information on the importance of medical and
4 health information regarding the newborn infant; and

5 (b) Written notification that failure to contact the
6 Department of Children and Family Services and assert a claim
7 of parental rights within 30 days after the receipt of the
8 material shall result in the commencement of proceedings for
9 involuntary termination of parental rights and placement of
10 the newborn infant for adoption.

11 (2) The department shall produce a media campaign to
12 promote safe placement alternatives for newborn infants, the
13 confidentiality offered to birth parents, and information
14 regarding adoption procedures.

15 (3) The department shall provide to all hospitals the
16 number for the emergency infant-adoption line along with the
17 hours the line will be available to provide information
18 concerning child-placing agencies.

19 Section 5. Section 827.035, Florida Statutes, is
20 created to read:

21 827.035 Affirmative defense.--It is an affirmative
22 defense to any prosecution under this chapter that the parent
23 of a newborn infant placed or arranged for placement of the
24 infant with any hospital in accordance with s. 383.50.

25 Section 6. This act shall take effect July 1, 2000.

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SENATE 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.