



021404

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/19/2008	.	
	.	
	.	

1 The Committee on Children, Families, and Elder Affairs (Storms)
 2 recommended the following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7
 8 Section 1. Subsection (1) and paragraph (e) of subsection
 9 (31) of section 39.01, Florida Statutes, are amended to read:

10 39.01 Definitions.--When used in this chapter, unless the
 11 context otherwise requires:

12 (1) "Abandoned" means a situation in which the parent or
 13 legal custodian of a child or, in the absence of a parent or
 14 legal custodian, the caregiver responsible for the child's
 15 welfare, while being able, makes no provision for the child's

Bill No. SB 1704



021404

16 support and makes no effort to communicate with the child, which
17 situation is sufficient to evince a willful rejection of
18 parental obligations. If the efforts of the parent or legal
19 custodian, or caregiver primarily responsible for the child's
20 welfare, to support and communicate with the child are, in the
21 opinion of the court, only marginal efforts that do not evince a
22 settled purpose to assume all parental duties, the court may
23 declare the child to be abandoned. The term "abandoned" does not
24 include a surrendered ~~an abandoned~~ newborn infant as described
25 in s. 383.50, a "child in need of services" as defined in
26 chapter 984, or a "family in need of services" as defined in
27 chapter 984. The incarceration of a parent, legal custodian, or
28 caregiver responsible for a child's welfare may support a
29 finding of abandonment.

30 (31) "Harm" to a child's health or welfare can occur when
31 any person:

32 (e) Abandons the child. Within the context of the
33 definition of "harm," the term "abandons the child" means that
34 the parent or legal custodian of a child or, in the absence of a
35 parent or legal custodian, the person responsible for the
36 child's welfare, while being able, makes no provision for the
37 child's support and makes no effort to communicate with the
38 child, which situation is sufficient to evince a willful
39 rejection of parental obligation. If the efforts of the parent
40 or legal custodian or person primarily responsible for the
41 child's welfare to support and communicate with the child are
42 only marginal efforts that do not evince a settled purpose to
43 assume all parental duties, the child may be determined to be

Bill No. SB 1704



021404

44 ~~have been~~ abandoned. The term "abandoned" does not include a
45 surrendered ~~an abandoned~~ newborn infant as described in s.
46 383.50.

47 Section 2. Paragraph (g) of subsection (2) of section
48 39.201, Florida Statutes, is amended to read:

49 39.201 Mandatory reports of child abuse, abandonment, or
50 neglect; mandatory reports of death; central abuse hotline.--

51 (2)

52 (g) Reports involving surrendered ~~abandoned~~ newborn
53 infants as described in s. 383.50 shall be made and received by
54 the department.

55 1. If the report is of a surrendered ~~an abandoned~~ newborn
56 infant as described in s. 383.50 and there is no indication of
57 abuse, neglect, or abandonment other than that necessarily
58 entailed in the infant having been left at a hospital, emergency
59 medical services station, or fire station, the department shall
60 provide to the caller the name of a licensed child-placing
61 agency on a rotating basis from a list of licensed child-placing
62 agencies eligible and required to accept physical custody of and
63 to place newborn infants left at a hospital, emergency medical
64 services station, or fire station. The report may ~~shall~~ not be
65 considered a report of abuse, neglect, or abandonment solely
66 because the infant has been left at a hospital, emergency
67 medical services station, or fire station pursuant to s. 383.50.

68 2. If the caller reports indications of abuse or neglect
69 beyond that necessarily entailed in the infant having been left
70 at a hospital, emergency medical services station, or fire
71 station, the report shall be considered ~~as~~ a report of abuse,

Bill No. SB 1704



021404

72 neglect, or abandonment and is ~~shall be~~ subject to the
73 requirements of s. 39.395 and all other relevant provisions of
74 this chapter, notwithstanding any provisions of chapter 383.

75 Section 3. Section 63.0423, Florida Statutes, is amended
76 to read:

77 63.0423 Procedures with respect to surrendered ~~abandoned~~
78 infants.--

79 (1) A licensed child-placing agency that takes physical
80 custody of an infant surrendered ~~abandoned~~ at a hospital,
81 emergency medical services station, or fire station pursuant to
82 s. 383.50~~7~~ shall assume responsibility for all medical costs and
83 all other costs associated with the emergency services and care
84 of the surrendered ~~abandoned~~ infant from the time the licensed
85 child-placing agency takes physical custody of the ~~abandoned~~
86 infant.

87 (2) The licensed child-placing agency shall immediately
88 seek an order from the circuit court for emergency custody of
89 the surrendered ~~abandoned~~ infant. The emergency custody order
90 shall remain in effect until the court orders preliminary
91 approval of placement of the surrendered ~~abandoned~~ infant in the
92 prospective home, at which time the prospective adoptive parents
93 become guardians pending termination of parental rights and
94 finalization of adoption or until the court orders otherwise.
95 The guardianship of the prospective adoptive parents shall
96 remain subject to the right of the licensed child-placing agency
97 to remove the surrendered ~~abandoned~~ infant from the placement
98 during the pendency of the proceedings if such removal is deemed
99 by the licensed child-placing agency to be in the best interest

Bill No. SB 1704



021404

100 of the child. The licensed child-placing agency may immediately
101 seek to place the surrendered ~~abandoned~~ infant in a prospective
102 adoptive home.

103 (3) The licensed child-placing agency that takes physical
104 custody of the surrendered ~~abandoned~~ infant shall, within 24
105 hours thereafter, request assistance from law enforcement
106 officials to investigate and determine, through the Missing
107 Children Information Clearinghouse, the National Center for
108 Missing and Exploited Children, and any other national and state
109 resources, whether ~~or not~~ the surrendered ~~abandoned~~ infant is a
110 missing child.

111 (4) A parent who surrenders a newborn infant in accordance
112 with s. 383.50 is presumed to have consented to termination of
113 parental rights, and express consent is not required. Except
114 where there is actual or suspected child abuse or neglect, the
115 licensed child-placing agency may not attempt to search for or
116 notify the parent as required under s. 63.088. ~~Within 7 days~~
117 ~~after accepting physical custody of the abandoned infant, the~~
118 ~~licensed child-placing agency shall initiate a diligent search~~
119 ~~to notify and to obtain consent from a parent whose identity is~~
120 ~~known but whose location is unknown. The diligent search must~~
121 ~~include, at a minimum, inquiries as provided for in s. 63.088.~~
122 ~~Constructive notice must also be provided pursuant to chapter 49~~
123 ~~in the county where the infant was abandoned. If a parent is~~
124 ~~identified and located, notice of the hearing on the petition~~
125 ~~for termination of parental rights shall be provided.~~

126 (5) A petition for termination of parental rights under
127 this section may not be filed until 30 days after the date the

Bill No. SB 1704



021404

128 infant was surrendered ~~abandoned~~ in accordance with s. 383.50. A
129 ~~petition for termination of parental rights may not be granted~~
130 ~~until consent to adoption or an affidavit of nonpaternity has~~
131 ~~been executed by a parent of the abandoned infant as set forth~~
132 ~~in s. 63.062, a parent has failed to reclaim or claim the~~
133 ~~abandoned infant within the time period specified in s. 383.50,~~
134 ~~or the consent of a parent is otherwise waived by the court.~~

135 (6) A claim of parental rights to the surrendered ~~of the~~
136 ~~abandoned~~ infant must be made before the court enters a judgment
137 terminating parental rights to the licensed child-placing agency
138 entity having legal custody of the ~~abandoned~~ infant or to the
139 circuit court before which ~~whom~~ proceedings involving the
140 ~~abandoned~~ infant are pending. A claim of parental rights ~~of the~~
141 ~~abandoned infant~~ may not be made after the judgment to terminate
142 parental rights is entered, except as ~~otherwise~~ provided in ~~by~~
143 subsection (9).

144 (7) If a claim of parental rights of a surrendered ~~an~~
145 ~~abandoned~~ infant is made before the judgment to terminate
146 parental rights is entered, the circuit court may hold the
147 action for termination of parental rights pending subsequent
148 adoption in abeyance for a period of time not to exceed 60 days.

149 (a) The court may order scientific testing to determine
150 maternity or paternity at the expense of the parent claiming
151 parental rights.

152 (b) The court shall appoint a guardian ad litem for the
153 surrendered ~~abandoned~~ infant and order whatever investigation,
154 home evaluation, and psychological evaluation are necessary to
155 determine what is in the best interest of the ~~abandoned~~ infant.

Bill No. SB 1704



021404

156 (c) The court may not terminate parental rights solely on
157 the basis that the parent left the infant at a hospital,
158 emergency medical services station, or fire station in
159 accordance with s. 383.50.

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

162 (8) Within 7 business days after recording the judgment,
163 the clerk of the court shall mail a copy of the judgment to the
164 department, the petitioner, and the persons whose consent were
165 required, if known. The clerk shall execute a certificate of
166 each mailing.

167 (9)(a) A judgment terminating parental rights pending
168 adoption is voidable, and any later judgment of adoption of that
169 minor is voidable, if, upon the motion of a birth parent, the
170 court finds that a person knowingly gave false information that
171 prevented the birth parent from timely making known his or her
172 desire to assume parental responsibilities toward the minor or
173 from exercising his or her parental rights. A motion under this
174 subsection must be filed with the court originally entering the
175 judgment. The motion must be filed within a reasonable time, but
176 not later than 1 year after the entry of the judgment
177 terminating parental rights.

178 (b) Within ~~No later than~~ 30 days after the filing of a
179 motion under this subsection, the court shall conduct a
180 preliminary hearing to determine what contact, if any, will be
181 permitted between a birth parent and the child pending
182 resolution of the motion. Such contact may be allowed only if ~~it~~
183 ~~is~~ requested by a parent who has appeared at the hearing and the

Bill No. SB 1704



021404

184 court determines that it is in the best interest of the child.
185 If the court orders contact between a birth parent and child,
186 the order must be issued in writing as expeditiously as possible
187 and must state with specificity any provisions regarding contact
188 with persons other than those with whom the child resides.

189 (c) At the preliminary hearing, the court, upon the motion
190 of any party or upon its own motion, may order scientific
191 testing to determine the paternity or maternity of the minor if
192 the person seeking to set aside the judgment is alleging to be
193 the child's birth parent but has not previously been determined
194 by legal proceedings or scientific testing to be the birth
195 parent. Upon the filing of test results establishing that
196 person's maternity or paternity of the surrendered ~~abandoned~~
197 infant, the court may order visitation as it deems appropriate
198 and in the best interest of the child.

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

203 (10) Except as ~~to the extent~~ expressly provided in this
204 section, proceedings initiated by a licensed child-placing
205 agency for the termination of parental rights and subsequent
206 adoption of a newborn left at a hospital, emergency medical
207 services station, or fire station in accordance with s. 383.50
208 shall be conducted pursuant to this chapter.

209 Section 4. Section 383.50, Florida Statutes, is amended to
210 read:

Bill No. SB 1704



021404

211 383.50 Treatment of surrendered ~~abandoned~~ newborn
212 infant.--

213 (1) As used in this section, the term "newborn infant"
214 means a child who ~~that~~ a licensed physician reasonably believes
215 is to be approximately 7 ~~3~~ days old or younger at the time the
216 child is left at a hospital, emergency medical services station,
217 or fire station.

218 (2) There is a presumption that the parent who surrenders
219 a ~~leaves the~~ newborn infant in accordance with this section
220 intended to leave the newborn infant and consented to
221 termination of parental rights.

222 (3) Each emergency medical services station or fire
223 station staffed with full-time firefighters, emergency medical
224 technicians, or paramedics shall accept any newborn infant left
225 with a firefighter, emergency medical technician, or paramedic.
226 The firefighter, emergency medical technician, or paramedic
227 shall consider these actions as implied consent to and shall:

228 (a) Provide emergency medical services to the newborn
229 infant to the extent he or she is trained to provide those
230 services, and

231 (b) Arrange for the immediate transportation of the
232 newborn infant to the nearest hospital having emergency
233 services.

234

235 A licensee as defined in s. 401.23, a fire department, or an
236 employee or agent of a licensee or fire department may treat and
237 transport a newborn infant pursuant to this section. If a
238 newborn infant is placed in the physical custody of an employee

Bill No. SB 1704



021404

239 or agent of a licensee or fire department, such placement shall
240 be considered implied consent for treatment and transport. A
241 licensee, a fire department, or an employee or agent of a
242 licensee or fire department is immune from criminal or civil
243 liability for acting in good faith pursuant to this section.
244 Nothing in this subsection limits liability for negligence.

245 (4) Each hospital ~~of this state~~ subject to s. 395.1041
246 shall, and any other hospital may, admit and provide all
247 necessary emergency services and care, as defined in s.
248 395.002(9), to any newborn infant left with the hospital in
249 accordance with this section. The hospital or any of its
250 licensed health care professionals shall consider these actions
251 as implied consent for treatment, and a hospital accepting
252 physical custody of a newborn infant may ~~has implied consent to~~
253 perform all necessary emergency services and care. The hospital
254 or any of its licensed health care professionals is immune from
255 criminal or civil liability for acting in good faith in
256 accordance with this section. Nothing in this subsection limits
257 liability for negligence.

258 (5) Except when ~~where~~ there is actual or suspected child
259 abuse or neglect, any parent who surrenders ~~leaves~~ a newborn
260 infant in accordance with this section ~~with a firefighter,~~
261 ~~emergency medical technician, or paramedic at a fire station or~~
262 ~~emergency medical services station, or brings a newborn infant~~
263 ~~to an emergency room of a hospital~~ and expresses an intent to
264 leave the newborn infant and not return, has the absolute right
265 to remain anonymous and to leave at any time and may not be
266 pursued or followed unless the parent seeks to reclaim the

Bill No. SB 1704



021404

267 | newborn infant. If the newborn infant is born in a hospital and
268 | the mother expresses intent to leave the infant and not return,
269 | upon the mother's request, the hospital or registrar shall
270 | complete the birth certificate without naming the mother.

271 | (6) A parent of a newborn infant left at a hospital,
272 | emergency medical services station, or fire station under this
273 | section may claim his or her newborn infant up until the court
274 | enters a judgment terminating his or her parental rights. A
275 | claim to the newborn infant must be made to the entity having
276 | physical or legal custody of the newborn infant or to the
277 | circuit court before whom proceedings involving the newborn
278 | infant are pending.

279 | (7) Upon admitting a newborn infant under this section,
280 | the hospital shall immediately contact a local licensed child-
281 | placing agency or alternatively contact the statewide central
282 | abuse hotline for the name of a licensed child-placing agency
283 | for purposes of transferring physical custody of the newborn
284 | infant. The hospital shall notify the licensed child-placing
285 | agency that a newborn infant has been left with the hospital and
286 | approximately when the licensed child-placing agency can take
287 | physical custody of the child. If ~~In cases where~~ there is actual
288 | or suspected child abuse or neglect, the hospital or any of its
289 | licensed health care professionals shall report the actual or
290 | suspected child abuse or neglect in accordance with ss. 39.201
291 | and 395.1023 in lieu of contacting a licensed child-placing
292 | agency.



021404

293 (8) Any newborn infant admitted to a hospital in
294 accordance with this section is presumed eligible for coverage
295 under Medicaid, subject to federal rules.

296 (9) A newborn infant left at a hospital, emergency medical
297 services station, or fire station in accordance with this
298 section shall not be deemed abandoned and subject to reporting
299 and investigation requirements under s. 39.201 unless there is
300 actual or suspected child abuse or until the department takes
301 physical custody of the child.

302 (10) A criminal investigation may ~~shall~~ not be initiated
303 solely because a newborn infant is left at a hospital under this
304 section unless there is actual or suspected child abuse or
305 neglect.

306 Section 5. This act shall take effect July 1, 2008.

307
308 ===== T I T L E A M E N D M E N T =====

309 And the title is amended as follows:

310 Delete everything before the enacting clause
311 and insert:

312 A bill to be entitled
313 An act relating to safe haven protection for surrendered
314 newborn infants; amending s. 39.01, F.S.; revising
315 definitions to conform to changes made by the act;
316 amending s. 39.201, F.S.; conforming terminology to
317 changes made by the act; amending s. 63.0423, F.S.;
318 deleting the requirement for a licensed child-placing
319 agency to conduct a diligent search for the parent and
320 obtain consent for the termination of parental rights;

Bill No. SB 1704



021404

321 amending s. 383.50, F.S.; redefining the term "newborn
322 infant" to raise the age at which an infant may be left
323 anonymously from 3 to 7 days old; requiring that if a
324 surrendered child is born in a hospital, the mother's name
325 be left off the birth certificate upon the mother's
326 request; providing an effective date.