

By the Committee on Children, Families, and Elder Affairs; and  
Senators Storms and Peadar

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1 A bill to be entitled

2 An act relating to safe haven protection for surrendered  
3 newborn infants; amending s. 39.01, F.S.; revising  
4 definitions to conform to changes made by the act;  
5 amending s. 39.201, F.S.; conforming terminology to  
6 changes made by the act; amending s. 63.0423, F.S.;  
7 deleting the requirement for a licensed child-placing  
8 agency to conduct a diligent search for the parent and  
9 obtain consent for the termination of parental rights;  
10 amending s. 383.50, F.S.; redefining the term "newborn  
11 infant" to raise the age at which an infant may be left  
12 anonymously from 3 to 7 days old; requiring that if a  
13 surrendered child is born in a hospital, the mother's name  
14 be left off the birth certificate upon the mother's  
15 request; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Subsection (1) and paragraph (e) of subsection  
20 (31) of section 39.01, Florida Statutes, are amended to read:

21 39.01 Definitions.--When used in this chapter, unless the  
22 context otherwise requires:

23 (1) "Abandoned" means a situation in which the parent or  
24 legal custodian of a child or, in the absence of a parent or  
25 legal custodian, the caregiver responsible for the child's  
26 welfare, while being able, makes no provision for the child's  
27 support and makes no effort to communicate with the child, which  
28 situation is sufficient to evince a willful rejection of parental  
29 obligations. If the efforts of the parent or legal custodian, or

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30 caregiver primarily responsible for the child's welfare, to  
31 support and communicate with the child are, in the opinion of the  
32 court, only marginal efforts that do not evince a settled purpose  
33 to assume all parental duties, the court may declare the child to  
34 be abandoned. The term "abandoned" does not include a surrendered  
35 ~~an abandoned~~ newborn infant as described in s. 383.50, a "child  
36 in need of services" as defined in chapter 984, or a "family in  
37 need of services" as defined in chapter 984. The incarceration of  
38 a parent, legal custodian, or caregiver responsible for a child's  
39 welfare may support a finding of abandonment.

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

42 (e) Abandons the child. Within the context of the  
43 definition of "harm," the term "abandons the child" means that  
44 the parent or legal custodian of a child or, in the absence of a  
45 parent or legal custodian, the person responsible for the child's  
46 welfare, while being able, makes no provision for the child's  
47 support and makes no effort to communicate with the child, which  
48 situation is sufficient to evince a willful rejection of parental  
49 obligation. If the efforts of the parent or legal custodian or  
50 person primarily responsible for the child's welfare to support  
51 and communicate with the child are only marginal efforts that do  
52 not evince a settled purpose to assume all parental duties, the  
53 child may be determined to be ~~have been~~ abandoned. The term  
54 "abandoned" does not include a surrendered ~~an abandoned~~ newborn  
55 infant as described in s. 383.50.

56 Section 2. Paragraph (g) of subsection (2) of section  
57 39.201, Florida Statutes, is amended to read:

58 39.201 Mandatory reports of child abuse, abandonment, or

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59 neglect; mandatory reports of death; central abuse hotline.--

60 (2)

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

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

77 2. If the caller reports indications of abuse or neglect  
78 beyond that necessarily entailed in the infant having been left  
79 at a hospital, emergency medical services station, or fire  
80 station, the report shall be considered ~~as~~ a report of abuse,  
81 neglect, or abandonment and is ~~shall be~~ subject to the  
82 requirements of s. 39.395 and all other relevant provisions of  
83 this chapter, notwithstanding any provisions of chapter 383.

84 Section 3. Section 63.0423, Florida Statutes, is amended to  
85 read:

86 63.0423 Procedures with respect to surrendered ~~abandoned~~  
87 infants.--

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88 (1) A licensed child-placing agency that takes physical  
89 custody of an infant surrendered ~~abandoned~~ at a hospital,  
90 emergency medical services station, or fire station pursuant to  
91 s. 383.50~~7~~, shall assume responsibility for all medical costs and  
92 all other costs associated with the emergency services and care  
93 of the surrendered ~~abandoned~~ infant from the time the licensed  
94 child-placing agency takes physical custody of the ~~abandoned~~  
95 infant.

96 (2) The licensed child-placing agency shall immediately  
97 seek an order from the circuit court for emergency custody of the  
98 surrendered ~~abandoned~~ infant. The emergency custody order shall  
99 remain in effect until the court orders preliminary approval of  
100 placement of the surrendered ~~abandoned~~ infant in the prospective  
101 home, at which time the prospective adoptive parents become  
102 guardians pending termination of parental rights and finalization  
103 of adoption or until the court orders otherwise. The guardianship  
104 of the prospective adoptive parents shall remain subject to the  
105 right of the licensed child-placing agency to remove the  
106 surrendered ~~abandoned~~ infant from the placement during the  
107 pendency of the proceedings if such removal is deemed by the  
108 licensed child-placing agency to be in the best interest of the  
109 child. The licensed child-placing agency may immediately seek to  
110 place the surrendered ~~abandoned~~ infant in a prospective adoptive  
111 home.

112 (3) The licensed child-placing agency that takes physical  
113 custody of the surrendered ~~abandoned~~ infant shall, within 24  
114 hours thereafter, request assistance from law enforcement  
115 officials to investigate and determine, through the Missing  
116 Children Information Clearinghouse, the National Center for

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117 Missing and Exploited Children, and any other national and state  
118 resources, whether ~~or not~~ the surrendered ~~abandoned~~ infant is a  
119 missing child.

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

135 (5) A petition for termination of parental rights under  
136 this section may not be filed until 30 days after the date the  
137 infant was surrendered ~~abandoned~~ in accordance with s. 383.50. A  
138 ~~petition for termination of parental rights may not be granted~~  
139 ~~until consent to adoption or an affidavit of nonpaternity has~~  
140 ~~been executed by a parent of the abandoned infant as set forth in~~  
141 ~~s. 63.062, a parent has failed to reclaim or claim the abandoned~~  
142 ~~infant within the time period specified in s. 383.50, or the~~  
143 ~~consent of a parent is otherwise waived by the court.~~

144 (6) A claim of parental rights to the surrendered ~~of the~~  
145 ~~abandoned~~ infant must be made before the court enters a judgment

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146 terminating parental rights to the licensed child-placing agency  
147 ~~entity~~ having legal custody of the ~~abandoned~~ infant or to the  
148 circuit court before which ~~whom~~ proceedings involving the  
149 ~~abandoned~~ infant are pending. A claim of parental rights ~~of the~~  
150 ~~abandoned infant~~ may not be made after the judgment to terminate  
151 parental rights is entered, except as ~~otherwise~~ provided in ~~by~~  
152 subsection (9).

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

158 (a) The court may order scientific testing to determine  
159 maternity or paternity at the expense of the parent claiming  
160 parental rights.

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

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

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

171 (8) Within 7 business days after recording the judgment,  
172 the clerk of the court shall mail a copy of the judgment to the  
173 department, the petitioner, and the persons whose consent were  
174 required, if known. The clerk shall execute a certificate of each

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175 mailing.

176 (9) (a) A judgment terminating parental rights pending  
177 adoption is voidable, and any later judgment of adoption of that  
178 minor is voidable, if, upon the motion of a birth parent, the  
179 court finds that a person knowingly gave false information that  
180 prevented the birth parent from timely making known his or her  
181 desire to assume parental responsibilities toward the minor or  
182 from exercising his or her parental rights. A motion under this  
183 subsection must be filed with the court originally entering the  
184 judgment. The motion must be filed within a reasonable time, but  
185 not later than 1 year after the entry of the judgment terminating  
186 parental rights.

187 (b) Within ~~No later than~~ 30 days after the filing of a  
188 motion under this subsection, the court shall conduct a  
189 preliminary hearing to determine what contact, if any, will be  
190 permitted between a birth parent and the child pending resolution  
191 of the motion. Such contact may be allowed only if ~~it is~~  
192 requested by a parent who has appeared at the hearing and the  
193 court determines that it is in the best interest of the child. If  
194 the court orders contact between a birth parent and child, the  
195 order must be issued in writing as expeditiously as possible and  
196 must state with specificity any provisions regarding contact with  
197 persons other than those with whom the child resides.

198 (c) At the preliminary hearing, the court, upon the motion  
199 of any party or upon its own motion, may order scientific testing  
200 to determine the paternity or maternity of the minor if the  
201 person seeking to set aside the judgment is alleging to be the  
202 child's birth parent but has not previously been determined by  
203 legal proceedings or scientific testing to be the birth parent.

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204 Upon the filing of test results establishing that person's  
205 maternity or paternity of the surrendered ~~abandoned~~ infant, the  
206 court may order visitation as it deems appropriate and in the  
207 best interest of the child.

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

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

218 Section 4. Section 383.50, Florida Statutes, is amended to  
219 read:

220 383.50 Treatment of surrendered ~~abandoned~~ newborn infant.--

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

226 (2) There is a presumption that the parent who surrenders a  
227 ~~leaves the~~ newborn infant in accordance with this section  
228 intended to leave the newborn infant and consented to termination  
229 of parental rights.

230 (3) Each emergency medical services station or fire station  
231 staffed with full-time firefighters, emergency medical  
232 technicians, or paramedics shall accept any newborn infant left



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233 | with a firefighter, emergency medical technician, or paramedic.  
234 | The firefighter, emergency medical technician, or paramedic shall  
235 | consider these actions as implied consent to and shall:

236 |       (a) Provide emergency medical services to the newborn  
237 | infant to the extent he or she is trained to provide those  
238 | services, and

239 |       (b) Arrange for the immediate transportation of the newborn  
240 | infant to the nearest hospital having emergency services.

241 |  
242 | A licensee as defined in s. 401.23, a fire department, or an  
243 | employee or agent of a licensee or fire department may treat and  
244 | transport a newborn infant pursuant to this section. If a newborn  
245 | infant is placed in the physical custody of an employee or agent  
246 | of a licensee or fire department, such placement shall be  
247 | considered implied consent for treatment and transport. A  
248 | licensee, a fire department, or an employee or agent of a  
249 | licensee or fire department is immune from criminal or civil  
250 | liability for acting in good faith pursuant to this section.  
251 | Nothing in this subsection limits liability for negligence.

252 |       (4) Each hospital ~~of this state~~ subject to s. 395.1041  
253 | shall, and any other hospital may, admit and provide all  
254 | necessary emergency services and care, as defined in s.  
255 | 395.002(9), to any newborn infant left with the hospital in  
256 | accordance with this section. The hospital or any of its licensed  
257 | health care professionals shall consider these actions as implied  
258 | consent for treatment, and a hospital accepting physical custody  
259 | of a newborn infant may ~~has implied consent to~~ perform all  
260 | necessary emergency services and care. The hospital or any of its  
261 | licensed health care professionals is immune from criminal or

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262 civil liability for acting in good faith in accordance with this  
263 section. Nothing in this subsection limits liability for  
264 negligence.

265 (5) Except when ~~where~~ there is actual or suspected child  
266 abuse or neglect, any parent who surrenders ~~leaves~~ a newborn  
267 infant in accordance with this section ~~with a firefighter,~~  
268 ~~emergency medical technician, or paramedic at a fire station or~~  
269 ~~emergency medical services station, or brings a newborn infant to~~  
270 ~~an emergency room of a hospital~~ and expresses an intent to leave  
271 the newborn infant and not return, has the absolute right to  
272 remain anonymous and to leave at any time and may not be pursued  
273 or followed unless the parent seeks to reclaim the newborn  
274 infant. If the newborn infant is born in a hospital and the  
275 mother expresses intent to leave the infant and not return, upon  
276 the mother's request, the hospital or registrar shall complete  
277 the birth certificate without naming the mother.

278 (6) A parent of a newborn infant left at a hospital,  
279 emergency medical services station, or fire station under this  
280 section may claim his or her newborn infant up until the court  
281 enters a judgment terminating his or her parental rights. A claim  
282 to the newborn infant must be made to the entity having physical  
283 or legal custody of the newborn infant or to the circuit court  
284 before whom proceedings involving the newborn infant are pending.

285 (7) Upon admitting a newborn infant under this section, the  
286 hospital shall immediately contact a local licensed child-placing  
287 agency or alternatively contact the statewide central abuse  
288 hotline for the name of a licensed child-placing agency for  
289 purposes of transferring physical custody of the newborn infant.  
290 The hospital shall notify the licensed child-placing agency that

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291 a newborn infant has been left with the hospital and  
292 approximately when the licensed child-placing agency can take  
293 physical custody of the child. If ~~In cases where~~ there is actual  
294 or suspected child abuse or neglect, the hospital or any of its  
295 licensed health care professionals shall report the actual or  
296 suspected child abuse or neglect in accordance with ss. 39.201  
297 and 395.1023 in lieu of contacting a licensed child-placing  
298 agency.

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

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

308 (10) A criminal investigation shall not be initiated solely  
309 because a newborn infant is left at a hospital under this section  
310 unless there is actual or suspected child abuse or neglect.

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