

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; amending s. 39.201, F.S.; conforming
 5 terminology to changes made by the act; amending s.
 6 63.0423, F.S.; providing for presumption of consent to
 7 termination of parental rights in cases of surrendered
 8 infants; removing a requirement that the child-placing
 9 agency conduct a search to identify a parent of a
 10 surrendered infant; providing an exception; conforming
 11 provisions relating to granting a petition for termination
 12 of parental rights; amending s. 383.50, F.S.; increasing
 13 the age at which an infant is considered a newborn infant
 14 for purposes of treatment after surrender; providing for
 15 anonymity of the infant's parents; providing an effective
 16 date.

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

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

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

24 (1) "Abandoned" means a situation in which the parent or
 25 legal custodian of a child or, in the absence of a parent or
 26 legal custodian, the caregiver responsible for the child's
 27 welfare, while being able, makes no provision for the child's
 28 support and makes no effort to communicate with the child, which

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

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

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

HB 7007

2008

57 surrendered ~~an abandoned~~ newborn infant as described in s.
58 383.50.

59 Section 2. Paragraph (g) of subsection (2) of section
60 39.201, Florida Statutes, is amended to read:

61 39.201 Mandatory reports of child abuse, abandonment, or
62 neglect; mandatory reports of death; central abuse hotline.--

63 (2)

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

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

80 2. If the caller reports indications of abuse or neglect
81 beyond that necessarily entailed in the infant having been left
82 at a hospital, emergency medical services station, or fire
83 station, the report shall be considered as a report of abuse,
84 neglect, or abandonment and shall be subject to the requirements

85 of s. 39.395 and all other relevant provisions of this chapter,
 86 notwithstanding any provisions of chapter 383.

87 Section 3. Section 63.0423, Florida Statutes, is amended
 88 to read:

89 63.0423 Procedures with respect to surrendered ~~abandoned~~
 90 infants.--

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

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

HB 7007

2008

113 seek to place the surrendered ~~abandoned~~ infant in a prospective
114 adoptive home.

115 (3) The licensed child-placing agency that takes physical
116 custody of the surrendered ~~abandoned~~ infant shall, within 24
117 hours thereafter, request assistance from law enforcement
118 officials to investigate and determine, through the Missing
119 Children Information Clearinghouse, the National Center for
120 Missing and Exploited Children, and any other national and state
121 resources, whether ~~or not~~ the surrendered ~~abandoned~~ infant is a
122 missing child.

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

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

HB 7007

2008

141 infant was surrendered ~~abandoned~~ in accordance with s. 383.50. A
 142 petition for termination of parental rights may not be granted
 143 until ~~consent to adoption or an affidavit of nonpaternity has~~
 144 ~~been executed by a parent of the abandoned infant as set forth~~
 145 ~~in s. 63.062,~~ a parent has failed to reclaim or claim the
 146 surrendered ~~abandoned~~ infant within the time period specified in
 147 s. 383.50, ~~or the consent of a parent is otherwise waived by the~~
 148 ~~court.~~

149 (6) A claim of parental rights of the surrendered
 150 ~~abandoned~~ infant must be made to the entity having legal custody
 151 of the surrendered ~~abandoned~~ infant or to the circuit court
 152 before which ~~whom~~ proceedings involving the surrendered
 153 ~~abandoned~~ infant are pending. A claim of parental rights of the
 154 surrendered ~~abandoned~~ infant may not be made after the judgment
 155 to terminate parental rights is entered, except as otherwise
 156 provided by subsection (9).

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

162 (a) The court may order scientific testing to determine
 163 maternity or paternity at the expense of the parent claiming
 164 parental rights.

165 (b) The court shall appoint a guardian ad litem for the
 166 surrendered ~~abandoned~~ infant and order whatever investigation,
 167 home evaluation, and psychological evaluation are necessary to

HB 7007

2008

168 determine what is in the best interest of the surrendered
169 ~~abandoned~~ infant.

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

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

176 (8) Within 7 business days after recording the judgment,
177 the clerk of the court shall mail a copy of the judgment to the
178 department, the petitioner, and the persons whose consent were
179 required, if known. The clerk shall execute a certificate of
180 each mailing.

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

192 (b) No later than 30 days after the filing of a motion
193 under this subsection, the court shall conduct a preliminary
194 hearing to determine what contact, if any, will be permitted
195 between a birth parent and the child pending resolution of the

HB 7007

2008

196 motion. Such contact may be allowed only if it is requested by a
197 parent who has appeared at the hearing and the court determines
198 that it is in the best interest of the child. If the court
199 orders contact between a birth parent and child, the order must
200 be issued in writing as expeditiously as possible and must state
201 with specificity any provisions regarding contact with persons
202 other than those with whom the child resides.

203 (c) At the preliminary hearing, the court, upon the motion
204 of any party or upon its own motion, may order scientific
205 testing to determine the paternity or maternity of the minor if
206 the person seeking to set aside the judgment is alleging to be
207 the child's birth parent but has not previously been determined
208 by legal proceedings or scientific testing to be the birth
209 parent. Upon the filing of test results establishing that
210 person's maternity or paternity of the surrendered ~~abandoned~~
211 infant, the court may order visitation as it deems appropriate
212 and in the best interest of the child.

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

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

223 Section 4. Subsections (1) and (5) of section 383.50,
 224 Florida Statutes, are amended to read:

225 383.50 Treatment of surrendered ~~abandoned~~ newborn
 226 infant.--

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

232 (5) Except when ~~where~~ there is actual or suspected child
 233 abuse or neglect, any parent who leaves a newborn infant with a
 234 firefighter, emergency medical technician, or paramedic at a
 235 fire station or emergency medical services station, or brings a
 236 newborn infant to an emergency room of a hospital and expresses
 237 an intent to leave the newborn infant and not return, has the
 238 absolute right to remain anonymous and to leave at any time and
 239 may not be pursued or followed unless the parent seeks to
 240 reclaim the newborn infant. When an infant is born in a hospital
 241 and the mother expresses intent to leave the infant and not
 242 return, upon the mother's request, the hospital or registrar
 243 shall complete the infant's birth certificate without naming the
 244 mother thereon.

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