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 HB 7007

2008 Legislature

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:

19  
 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

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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

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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

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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

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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

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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

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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

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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.



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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.