

By Senator Baxley

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1 A bill to be entitled
2 An act relating to surrendered newborn infants;
3 amending s. 383.50, F.S.; revising and defining terms;
4 authorizing the Department of Health to approve, and
5 certain hospitals, emergency medical services
6 stations, and fire stations to use, newborn infant
7 safety devices to accept surrendered newborn infants
8 under certain circumstances; requiring such hospitals,
9 emergency medical services stations, or fire stations
10 to physically check and test the devices at specified
11 intervals; conforming provisions to changes made by
12 the act; providing additional locations to which the
13 prohibition on the initiation of criminal
14 investigations based solely on the surrendering of a
15 newborn infant applies; amending s. 63.0423, F.S.;
16 conforming a cross-reference; making conforming and
17 technical changes; providing an effective date.

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

20
21 Section 1. Present subsections (2) through (10) of section
22 383.50, Florida Statutes, are redesignated as subsections (3)
23 through (11), respectively, a new subsection (2) is added to
24 that section, and subsection (1) and present subsections (3),
25 (5), and (10) of that section are amended, to read:

26 383.50 Treatment of surrendered newborn infant.—

27 (1) As used in this section, the term:

28 (a) "Department" means the Department of Health.

29 (b) "Newborn infant" means a child who a licensed physician

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30 reasonably believes is approximately 30 ~~7~~ days old or younger at
31 the time the child is left at a hospital, an emergency medical
32 services station, or a fire station.

33 (c) "Newborn infant safety device" means a device approved
34 by the department under subsection (2) which is installed in an
35 exterior wall of a hospital, an emergency medical services
36 station, or a fire station and which has an exterior point of
37 access that allows an individual to place a newborn infant
38 inside and an interior point of access that allows individuals
39 inside the building to safely retrieve the newborn infant.

40 (2) (a) The department may approve by rule, and a hospital,
41 an emergency medical services station, or a fire station that is
42 staffed 24 hours per day may use, a newborn infant safety device
43 to accept surrendered newborn infants under this section if the
44 device is:

45 1. Physically part of the hospital, emergency medical
46 services station, or fire station;

47 2. Temperature-controlled and ventilated for the safety of
48 newborns;

49 3. Equipped with an alarm system connected to the physical
50 location of the device which automatically triggers an alarm
51 inside the building when a newborn infant is placed in the
52 device;

53 4. Equipped with a surveillance system that allows
54 employees of the hospital, emergency medical services station,
55 or fire station to monitor the inside of the device 24 hours per
56 day; and

57 5. Located such that the interior point of access is in an
58 area that is conspicuous and visible to the employees of the

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59 hospital, emergency medical services station, or fire station.

60 (b) A hospital, an emergency medical services station, or a
61 fire station that uses a newborn infant safety device to accept
62 surrendered newborn infants shall use the device's surveillance
63 system to monitor the inside of the newborn infant safety device
64 24 hours per day and shall physically check the device at least
65 twice daily and test the device at least weekly to ensure that
66 the alarm system is in working order.

67 (4)~~(3)~~ Each emergency medical services station or fire
68 station that is staffed 24 hours per day with full-time
69 firefighters, emergency medical technicians, or paramedics shall
70 accept any newborn infant left with a firefighter, an emergency
71 medical technician, or a paramedic or in a newborn infant safety
72 device that is physically part of the emergency medical services
73 station or fire station. The firefighter, emergency medical
74 technician, or paramedic shall consider these actions as implied
75 consent to and shall:

76 (a) Provide emergency medical services to the newborn
77 infant to the extent that he or she is trained to provide those
78 services, and

79 (b) Arrange for the immediate transportation of the newborn
80 infant to the nearest hospital having emergency services.

81
82 A licensee as defined in s. 401.23, a fire department, or an
83 employee or agent of a licensee or fire department may treat and
84 transport a newborn infant pursuant to this section. If a
85 newborn infant is placed in the physical custody of an employee
86 or agent of a licensee or fire department or is placed in a
87 newborn infant safety device that is physically part of an

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88 emergency medical services station or a fire station, such
89 placement is ~~shall be~~ considered implied consent for treatment
90 and transport. A licensee, a fire department, or an employee or
91 agent of a licensee or fire department is immune from criminal
92 or civil liability for acting in good faith pursuant to this
93 section. Nothing in this subsection limits liability for
94 negligence.

95 (6) ~~(5)~~ Except when there is actual or suspected child abuse
96 or neglect, any parent who leaves a newborn infant in a newborn
97 infant safety device or with a firefighter, an emergency medical
98 technician, or a paramedic at a fire station or an emergency
99 medical services station, leaves a newborn infant in a newborn
100 infant safety device at a hospital, or brings a newborn infant
101 to an emergency room of a hospital and expresses an intent to
102 leave the newborn infant and not return, has the absolute right
103 to remain anonymous and to leave at any time and may not be
104 pursued or followed unless the parent seeks to reclaim the
105 newborn infant. When an infant is born in a hospital and the
106 mother expresses intent to leave the infant and not return, upon
107 the mother's request, the hospital or registrar shall complete
108 the infant's birth certificate without naming the mother
109 thereon.

110 (11) ~~(10)~~ A criminal investigation may ~~shall~~ not be
111 initiated solely because a newborn infant is left at a hospital,
112 an emergency medical services station, or a fire station under
113 this section unless there is actual or suspected child abuse or
114 neglect.

115 Section 2. Section 63.0423, Florida Statutes, is amended to
116 read:

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117 63.0423 Procedures with respect to surrendered newborn
118 infants.-

119 (1) Upon entry of final judgment terminating parental
120 rights, a licensed child-placing agency that takes physical
121 custody of a newborn ~~an~~ infant surrendered at a hospital, an
122 emergency medical services station, or a fire station pursuant
123 to s. 383.50 assumes responsibility for the medical and other
124 costs associated with the emergency services and care of the
125 surrendered newborn infant from the time the licensed child-
126 placing agency takes physical custody of the surrendered newborn
127 infant.

128 (2) The licensed child-placing agency shall immediately
129 seek an order from the circuit court for emergency custody of
130 the surrendered newborn infant. The emergency custody order
131 shall remain in effect until the court orders preliminary
132 approval of placement of the surrendered newborn infant in the
133 prospective home, at which time the prospective adoptive parents
134 become guardians pending termination of parental rights and
135 finalization of adoption or until the court orders otherwise.
136 The guardianship of the prospective adoptive parents shall
137 remain subject to the right of the licensed child-placing agency
138 to remove the surrendered newborn infant from the placement
139 during the pendency of the proceedings if such removal is deemed
140 by the licensed child-placing agency to be in the best interests
141 of the child. The licensed child-placing agency may immediately
142 seek to place the surrendered newborn infant in a prospective
143 adoptive home.

144 (3) The licensed child-placing agency that takes physical
145 custody of the surrendered newborn infant shall, within 24 hours

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146 thereafter, request assistance from law enforcement officials to
147 investigate and determine, through the Missing Children
148 Information Clearinghouse, the National Center for Missing and
149 Exploited Children, and any other national and state resources,
150 whether the surrendered newborn infant is a missing child.

151 (4) The parent who surrenders the newborn infant in
152 accordance with s. 383.50 is presumed to have consented to
153 termination of parental rights, and express consent is not
154 required. Except when there is actual or suspected child abuse
155 or neglect, the licensed child-placing agency shall not attempt
156 to pursue, search for, or notify that parent as provided in s.
157 63.088 and chapter 49. For purposes of s. 383.50 and this
158 section, a surrendered newborn ~~an~~ infant who tests positive for
159 illegal drugs, narcotic prescription drugs, alcohol, or other
160 substances, but shows no other signs of child abuse or neglect,
161 shall be placed in the custody of a licensed child-placing
162 agency. Such a placement does not eliminate the reporting
163 requirement under s. 383.50(8) ~~s. 383.50(7)~~. When the department
164 is contacted regarding a newborn ~~an~~ infant properly surrendered
165 under this section and s. 383.50, the department shall provide
166 instruction to contact a licensed child-placing agency and may
167 not take custody of the newborn infant unless reasonable efforts
168 to contact a licensed child-placing agency to accept the newborn
169 infant have not been successful.

170 (5) A petition for termination of parental rights under
171 this section may not be filed until 30 days after the date the
172 newborn infant was surrendered in accordance with s. 383.50. A
173 petition for termination of parental rights may not be granted
174 until a parent has failed to reclaim or claim the surrendered

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175 newborn infant within the time period specified in s. 383.50.

176 (6) A claim of parental rights of the surrendered newborn
177 infant must be made to the entity having legal custody of the
178 surrendered newborn infant or to the circuit court before which
179 proceedings involving the surrendered newborn infant are
180 pending. A claim of parental rights of the surrendered newborn
181 infant may not be made after the judgment to terminate parental
182 rights is entered, except as otherwise provided by subsection
183 (9).

184 (7) If a claim of parental rights of a surrendered newborn
185 infant is made before the judgment to terminate parental rights
186 is entered, the circuit court may hold the action for
187 termination of parental rights in abeyance for a period of time
188 not to exceed 60 days.

189 (a) The court may order scientific testing to determine
190 maternity or paternity at the expense of the parent claiming
191 parental rights.

192 (b) The court shall appoint a guardian ad litem for the
193 surrendered newborn infant and order whatever investigation,
194 home evaluation, and psychological evaluation are necessary to
195 determine what is in the best interests of the surrendered
196 newborn infant.

197 (c) The court may not terminate parental rights solely on
198 the basis that the parent left the newborn infant at a hospital,
199 an emergency medical services station, or a fire station in
200 accordance with s. 383.50.

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

203 (8) Within 7 business days after recording the judgment,

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204 the clerk of the court shall mail a copy of the judgment to the
205 department, the petitioner, and any person whose consent was
206 required, if known. The clerk shall execute a certificate of
207 each mailing.

208 (9) (a) A judgment terminating parental rights of a
209 surrendered newborn infant pending adoption is voidable, and any
210 later judgment of adoption of that child ~~minor~~ is voidable, if,
211 upon the motion of a parent, the court finds that a person
212 knowingly gave false information that prevented the parent from
213 timely making known his or her desire to assume parental
214 responsibilities toward the child ~~minor~~ or from exercising his
215 or her parental rights. A motion under this subsection must be
216 filed with the court originally entering the judgment. The
217 motion must be filed within a reasonable time but not later than
218 1 year after the entry of the judgment terminating parental
219 rights.

220 (b) No later than 30 days after the filing of a motion
221 under this subsection, the court shall conduct a preliminary
222 hearing to determine what contact, if any, will be allowed
223 ~~permitted~~ between a parent and the child pending resolution of
224 the motion. Such contact may be allowed only if it is requested
225 by a parent who has appeared at the hearing and the court
226 determines that it is in the best interests of the child. If the
227 court orders contact between a parent and the child, the order
228 must be issued in writing as expeditiously as possible and must
229 state with specificity any provisions regarding contact with
230 persons other than those with whom the child resides.

231 (c) The court may not order scientific testing to determine
232 the paternity or maternity of the child ~~minor~~ until such time as

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233 the court determines that a previously entered judgment
234 terminating the parental rights of that parent is voidable
235 pursuant to paragraph (a), unless all parties agree that such
236 testing is in the best interests of the child. Upon the filing
237 of test results establishing that person's maternity or
238 paternity of the surrendered newborn infant, the court may order
239 visitation only if it appears to be in the best interests of the
240 child.

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

245 (10) Except to the extent expressly provided in this
246 section, proceedings initiated by a licensed child-placing
247 agency for the termination of parental rights and subsequent
248 adoption of a newborn infant left at a hospital, an emergency
249 medical services station, or a fire station in accordance with
250 s. 383.50 shall be conducted pursuant to this chapter.

251 Section 3. This act shall take effect July 1, 2021.