

1 A bill to be entitled
2 An act relating to surrendered newborn infants;
3 amending s. 383.50, F.S.; revising and providing
4 definitions; authorizing certain hospitals, emergency
5 medical services stations, and fire stations to use
6 newborn infant safety devices to accept surrendered
7 newborn infants under certain circumstances; requiring
8 such hospitals, emergency medical services stations,
9 or fire stations to physically check and test the
10 devices at specified intervals; conforming provisions
11 to changes made by the act; providing additional
12 locations to which the prohibition on the initiation
13 of criminal investigations based solely on the
14 surrendering of a newborn infant applies; requiring
15 the Department of Health to review and approve newborn
16 infant safety devices; authorizing the department to
17 adopt rules; amending s. 63.0423, F.S.; conforming a
18 cross-reference; making conforming and technical
19 changes; providing an effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Subsections (2) through (10) of section 383.50,
24 Florida Statutes, are renumbered as subsections (3) through
25 (11), respectively, subsection (1) and present subsections (3),

26 (5), and (10) of that section are amended, and new subsections
 27 (2) and (12) are added to that section, to read:

28 383.50 Treatment of surrendered newborn infant.-

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

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

31 (b) "Newborn infant" means a child who a licensed
 32 physician reasonably believes is approximately 30 7 days old or
 33 younger at the time the child is left at a hospital, an
 34 emergency medical services station, or a fire station.

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

42 (2) (a) A hospital, an emergency medical services station,
 43 or a fire station that is staffed 24 hours per day may use a
 44 newborn infant safety device to accept surrendered newborn
 45 infants under this section if the device is:

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

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

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

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

58 5. Located such that the interior point of access is in an
 59 area that is conspicuous and visible to the employees of the
 60 hospital, emergency medical services station, or fire station;
 61 and

62 6. Approved by the department.

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

70 (4)-(3) Each emergency medical services station or fire
 71 station that is staffed 24 hours per day with full-time
 72 firefighters, emergency medical technicians, or paramedics shall
 73 accept any newborn infant left with a firefighter, an emergency
 74 medical technician, or a paramedic or in a newborn infant safety

75 | device that is physically part of the emergency medical services
 76 | station or fire station. The firefighter, emergency medical
 77 | technician, or paramedic shall consider these actions as implied
 78 | consent to and shall:

79 | (a) Provide emergency medical services to the newborn
 80 | infant to the extent that he or she is trained to provide those
 81 | services, and

82 | (b) Arrange for the immediate transportation of the
 83 | newborn infant to the nearest hospital having emergency
 84 | services.

85 |
 86 | A licensee as defined in s. 401.23, a fire department, or an
 87 | employee or agent of a licensee or fire department may treat and
 88 | transport a newborn infant pursuant to this section. If a
 89 | newborn infant is placed in the physical custody of an employee
 90 | or agent of a licensee or fire department or is placed in a
 91 | newborn infant safety device that is physically part of an
 92 | emergency medical services station or a fire station, such
 93 | placement ~~is shall be~~ considered implied consent for treatment
 94 | and transport. A licensee, a fire department, or an employee or
 95 | agent of a licensee or fire department is immune from criminal
 96 | or civil liability for acting in good faith pursuant to this
 97 | section. Nothing in this subsection limits liability for
 98 | negligence.

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

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

119 (12) The department shall review and approve newborn
 120 infant safety devices for use under this section. The department
 121 may adopt rules necessary to implement the review and approval
 122 process.

123 Section 2. Section 63.0423, Florida Statutes, is amended

124 to read:

125 63.0423 Procedures with respect to surrendered newborn
126 infants.-

127 (1) Upon entry of final judgment terminating parental
128 rights, a licensed child-placing agency that takes physical
129 custody of a newborn ~~an~~ infant surrendered at a hospital, an
130 emergency medical services station, or a fire station pursuant
131 to s. 383.50 assumes responsibility for the medical and other
132 costs associated with the emergency services and care of the
133 surrendered newborn infant from the time the licensed child-
134 placing agency takes physical custody of the surrendered newborn
135 infant.

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

149 of the child. The licensed child-placing agency may immediately
150 seek to place the surrendered newborn infant in a prospective
151 adoptive home.

152 (3) The licensed child-placing agency that takes physical
153 custody of the surrendered newborn infant shall, within 24 hours
154 thereafter, request assistance from law enforcement officials to
155 investigate and determine, through the Missing Children
156 Information Clearinghouse, the National Center for Missing and
157 Exploited Children, and any other national and state resources,
158 whether the surrendered newborn infant is a missing child.

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

174 instruction to contact a licensed child-placing agency and may
175 not take custody of the newborn infant unless reasonable efforts
176 to contact a licensed child-placing agency to accept the newborn
177 infant have not been successful.

178 (5) A petition for termination of parental rights under
179 this section may not be filed until 30 days after the date the
180 newborn infant was surrendered in accordance with s. 383.50. A
181 petition for termination of parental rights may not be granted
182 until a parent has failed to reclaim or claim the surrendered
183 newborn infant within the time period specified in s. 383.50.

184 (6) A claim of parental rights of the surrendered newborn
185 infant must be made to the entity having legal custody of the
186 surrendered newborn infant or to the circuit court before which
187 proceedings involving the surrendered newborn infant are
188 pending. A claim of parental rights of the surrendered newborn
189 infant may not be made after the judgment to terminate parental
190 rights is entered, except as otherwise provided by subsection
191 (9).

192 (7) If a claim of parental rights of a surrendered newborn
193 infant is made before the judgment to terminate parental rights
194 is entered, the circuit court may hold the action for
195 termination of parental rights in abeyance for a period of time
196 not to exceed 60 days.

197 (a) The court may order scientific testing to determine
198 maternity or paternity at the expense of the parent claiming

199 | parental rights.

200 | (b) The court shall appoint a guardian ad litem for the
201 | surrendered newborn infant and order whatever investigation,
202 | home evaluation, and psychological evaluation are necessary to
203 | determine what is in the best interests of the surrendered
204 | newborn infant.

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

209 | (d) The court shall enter a judgment with written findings
210 | of fact and conclusions of law.

211 | (8) Within 7 business days after recording the judgment,
212 | the clerk of the court shall mail a copy of the judgment to the
213 | department, the petitioner, and any person whose consent was
214 | required, if known. The clerk shall execute a certificate of
215 | each mailing.

216 | (9) (a) A judgment terminating parental rights of a
217 | surrendered newborn infant pending adoption is voidable, and any
218 | later judgment of adoption of that child ~~minor~~ is voidable, if,
219 | upon the motion of a parent, the court finds that a person
220 | knowingly gave false information that prevented the parent from
221 | timely making known his or her desire to assume parental
222 | responsibilities toward the child ~~minor~~ or from exercising his
223 | or her parental rights. A motion under this subsection must be

224 filed with the court originally entering the judgment. The
225 motion must be filed within a reasonable time but not later than
226 1 year after the entry of the judgment terminating parental
227 rights.

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

239 (c) The court may not order scientific testing to
240 determine the paternity or maternity of the child ~~minor~~ until
241 such time as the court determines that a previously entered
242 judgment terminating the parental rights of that parent is
243 voidable pursuant to paragraph (a), unless all parties agree
244 that such testing is in the best interests of the child. Upon
245 the filing of test results establishing that person's maternity
246 or paternity of the surrendered newborn infant, the court may
247 order visitation only if it appears to be in the best interests
248 of the child.

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

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

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