

By Senator Burton

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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 the definition of  
4           the term "newborn infant"; defining the term "newborn  
5           infant safety device"; authorizing certain hospitals,  
6           emergency medical services stations, and fire stations  
7           to use newborn infant safety devices to accept  
8           surrendered newborn infants if the device meets  
9           specified criteria; requiring such hospitals,  
10          emergency medical services stations, and fire stations  
11          to monitor the inside of the device 24 hours per day  
12          and physically check and test the devices at specified  
13          intervals; providing additional requirements for  
14          certain fire stations using such devices; conforming  
15          provisions to changes made by the act; authorizing a  
16          parent to leave a newborn infant with medical staff or  
17          a licensed health care professional at a hospital  
18          after the delivery of the newborn infant under certain  
19          circumstances; providing that a parent who leaves a  
20          newborn infant in a newborn infant safety device has  
21          the right to remain anonymous and not to be pursued or  
22          followed, with exceptions; authorizing a parent to  
23          surrender a newborn infant by calling 911 and  
24          requesting an emergency medical services provider to  
25          meet at a specified location to retrieve the newborn  
26          infant; requiring the parent to stay with the newborn  
27          infant until the emergency medical services provider  
28          arrives; providing additional locations to which the  
29          prohibition on the initiation of criminal

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30 investigations based solely on the surrendering of a  
31 newborn infant applies; amending s. 63.0423, F.S.;  
32 conforming a cross-reference; making conforming  
33 changes; providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Section 383.50, Florida Statutes, is amended to  
38 read:

39 383.50 Treatment of surrendered newborn infant.—

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

41 (a) "Newborn infant" means a child who a licensed physician  
42 reasonably believes is approximately 30 7 days old or younger at  
43 the time the child is left at a hospital, an emergency medical  
44 services station, or a fire station.

45 (b) "Newborn infant safety device" means a device that is  
46 installed in a supporting wall of a hospital, an emergency  
47 medical services station, or a fire station and that has an  
48 exterior point of access allowing an individual to place a  
49 newborn infant inside and an interior point of access allowing  
50 individuals inside the building to safely retrieve the newborn  
51 infant.

52 (2) There is a presumption that the parent who leaves the  
53 newborn infant in accordance with this section intended to leave  
54 the newborn infant and consented to termination of parental  
55 rights.

56 (3) (a) A hospital, an emergency medical services station,  
57 or a fire station that is staffed 24 hours per day may use a  
58 newborn infant safety device to accept surrendered newborn

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59 infants under this section if the device is:

60 1. Physically part of the hospital, emergency medical  
61 services station, or fire station.

62 2. Temperature-controlled and ventilated for the safety of  
63 newborns.

64 3. Equipped with a dual alarm system connected to the  
65 physical location of the device which automatically triggers an  
66 alarm inside the building when a newborn infant is placed in the  
67 device.

68 4. Equipped with a surveillance system that allows  
69 employees of the hospital, emergency medical services station,  
70 or fire station to monitor the inside of the device 24 hours per  
71 day.

72 5. Located such that the interior point of access is in an  
73 area that is conspicuous and visible to the employees of the  
74 hospital, emergency medical services station, or fire station.

75 (b) A hospital, an emergency medical services station, or a  
76 fire station that uses a newborn infant safety device to accept  
77 surrendered newborn infants shall use the device's surveillance  
78 system to monitor the inside of the newborn infant safety device  
79 24 hours per day and shall physically check the device at least  
80 twice daily and test the device at least weekly to ensure that  
81 the alarm system is in working order. A fire station that is  
82 staffed 24 hours per day except when all firefighter first  
83 responders are dispatched from the fire station for an emergency  
84 must use the dual alarm system of the newborn infant safety  
85 device to immediately dispatch the nearest first responder to  
86 retrieve any newborn infant left in the newborn infant safety  
87 device.

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88        (4)~~(3)~~ Each emergency medical services station or fire  
89 station that is staffed with full-time firefighters, emergency  
90 medical technicians, or paramedics shall accept any newborn  
91 infant left with a firefighter, an emergency medical technician,  
92 or a paramedic or in a newborn infant safety device. The  
93 firefighter, emergency medical technician, or paramedic shall  
94 consider these actions as implied consent to and shall:

95            (a) Provide emergency medical services to the newborn  
96 infant to the extent that he or she is trained to provide those  
97 services, and

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

100  
101 A licensee as defined in s. 401.23, a fire department, or an  
102 employee or agent of a licensee or fire department may treat and  
103 transport a newborn infant pursuant to this section. If a  
104 newborn infant is placed in the physical custody of an employee  
105 or agent of a licensee or fire department or is placed in a  
106 newborn infant safety device, such placement is ~~shall be~~  
107 considered implied consent for treatment and transport. A  
108 licensee, a fire department, or an employee or agent of a  
109 licensee or fire department is immune from criminal or civil  
110 liability for acting in good faith pursuant to this section.  
111 Nothing in this subsection limits liability for negligence.

112        (5) (a) A newborn infant may be left with medical staff or a  
113 licensed health care professional after the delivery of the  
114 newborn infant in a hospital if the parent of the newborn infant  
115 notifies medical staff or a licensed health care professional  
116 that the parent is voluntarily surrendering the infant and does

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117 not intend to return.

118 (b)~~(4)~~ Each hospital of this state subject to s. 395.1041  
119 shall, and any other hospital may, admit and provide all  
120 necessary emergency services and care, as defined in s.  
121 395.002(9), to any newborn infant left with the hospital in  
122 accordance with this section. The hospital or any of its  
123 licensed health care professionals shall consider these actions  
124 as implied consent for treatment, and a hospital accepting  
125 physical custody of a newborn infant has implied consent to  
126 perform all necessary emergency services and care. The hospital  
127 or any of its licensed health care professionals is immune from  
128 criminal or civil liability for acting in good faith in  
129 accordance with this section. Nothing in this subsection limits  
130 liability for negligence.

131 (6)~~(5)~~ Except when there is actual or suspected child abuse  
132 or neglect, any parent who leaves a newborn infant in a newborn  
133 infant safety device or with a firefighter, an emergency medical  
134 technician, or a paramedic at a fire station or an emergency  
135 medical services station, or brings a newborn infant to an  
136 emergency room of a hospital and expresses an intent to leave  
137 the newborn infant and not return, has the absolute right to  
138 remain anonymous and to leave at any time and may not be pursued  
139 or followed unless the parent seeks to reclaim the newborn  
140 infant. When an infant is born in a hospital and the mother  
141 expresses intent to leave the infant and not return, upon the  
142 mother's request, the hospital or registrar shall complete the  
143 infant's birth certificate without naming the mother thereon.

144 (7)~~(6)~~ A parent of a newborn infant left at a hospital,  
145 emergency medical services station, or fire station under this

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146 section may claim his or her newborn infant up until the court  
147 enters a judgment terminating his or her parental rights. A  
148 claim to the newborn infant must be made to the entity having  
149 physical or legal custody of the newborn infant or to the  
150 circuit court before whom proceedings involving the newborn  
151 infant are pending.

152 (8)~~(7)~~ Upon admitting a newborn infant under this section,  
153 the hospital shall immediately contact a local licensed child-  
154 placing agency or alternatively contact the statewide central  
155 abuse hotline for the name of a licensed child-placing agency  
156 for purposes of transferring physical custody of the newborn  
157 infant. The hospital shall notify the licensed child-placing  
158 agency that a newborn infant has been left with the hospital and  
159 approximately when the licensed child-placing agency can take  
160 physical custody of the child. In cases where there is actual or  
161 suspected child abuse or neglect, the hospital or any of its  
162 licensed health care professionals shall report the actual or  
163 suspected child abuse or neglect in accordance with ss. 39.201  
164 and 395.1023 in lieu of contacting a licensed child-placing  
165 agency.

166 (9)~~(8)~~ Any newborn infant admitted to a hospital in  
167 accordance with this section is presumed eligible for coverage  
168 under Medicaid, subject to federal rules.

169 (10)~~(9)~~ A newborn infant left at a hospital, an emergency  
170 medical services station, or a fire station in accordance with  
171 this section is ~~shall~~ not ~~be~~ deemed abandoned or ~~and~~ subject to  
172 reporting and investigation requirements under s. 39.201 unless  
173 there is actual or suspected child abuse or until the Department  
174 of Health takes physical custody of the child.

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175       (11) If the parent of a newborn infant is unable to  
176 surrender the newborn infant in accordance with this section,  
177 the parent may dial 911 to request that an emergency medical  
178 services provider meet the surrendering parent at a specified  
179 location. The surrendering parent must stay with the newborn  
180 infant until the emergency medical services provider arrives to  
181 take custody of the newborn infant.

182       (12)~~(10)~~ A criminal investigation may ~~shall~~ not be  
183 initiated solely because a newborn infant is left at a hospital,  
184 an emergency medical services station, or a fire station under  
185 this section unless there is actual or suspected child abuse or  
186 neglect.

187       Section 2. Section 63.0423, Florida Statutes, is amended to  
188 read:

189       63.0423 Procedures with respect to surrendered newborn  
190 infants.—

191       (1) Upon entry of final judgment terminating parental  
192 rights, a licensed child-placing agency that takes physical  
193 custody of a newborn ~~an~~ infant surrendered at a hospital, an  
194 emergency medical services station, or a fire station pursuant  
195 to s. 383.50 assumes responsibility for the medical and other  
196 costs associated with the emergency services and care of the  
197 surrendered newborn infant from the time the licensed child-  
198 placing agency takes physical custody of the surrendered newborn  
199 infant.

200       (2) The licensed child-placing agency shall immediately  
201 seek an order from the circuit court for emergency custody of  
202 the surrendered newborn infant. The emergency custody order  
203 shall remain in effect until the court orders preliminary

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204 approval of placement of the surrendered newborn infant in the  
205 prospective home, at which time the prospective adoptive parents  
206 become guardians pending termination of parental rights and  
207 finalization of adoption or until the court orders otherwise.  
208 The guardianship of the prospective adoptive parents shall  
209 remain subject to the right of the licensed child-placing agency  
210 to remove the surrendered newborn infant from the placement  
211 during the pendency of the proceedings if such removal is deemed  
212 by the licensed child-placing agency to be in the best interests  
213 of the child. The licensed child-placing agency may immediately  
214 seek to place the surrendered newborn infant in a prospective  
215 adoptive home.

216 (3) The licensed child-placing agency that takes physical  
217 custody of the surrendered newborn infant shall, within 24 hours  
218 thereafter, request assistance from law enforcement officials to  
219 investigate and determine, through the Missing Children  
220 Information Clearinghouse, the National Center for Missing and  
221 Exploited Children, and any other national and state resources,  
222 whether the surrendered newborn infant is a missing child.

223 (4) The parent who surrenders the newborn infant in  
224 accordance with s. 383.50 is presumed to have consented to  
225 termination of parental rights, and express consent is not  
226 required. Except when there is actual or suspected child abuse  
227 or neglect, the licensed child-placing agency may ~~shall~~ not  
228 attempt to pursue, search for, or notify that parent as provided  
229 in s. 63.088 and chapter 49. For purposes of s. 383.50 and this  
230 section, a surrendered newborn ~~an~~ infant who tests positive for  
231 illegal drugs, narcotic prescription drugs, alcohol, or other  
232 substances, but shows no other signs of child abuse or neglect,



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233 shall be placed in the custody of a licensed child-placing  
234 agency. Such a placement does not eliminate the reporting  
235 requirement under s. 383.50(8) ~~s. 383.50(7)~~. When the department  
236 is contacted regarding a newborn ~~an~~ infant properly surrendered  
237 under this section and s. 383.50, the department shall provide  
238 instruction to contact a licensed child-placing agency and may  
239 not take custody of the newborn infant unless reasonable efforts  
240 to contact a licensed child-placing agency to accept the newborn  
241 infant have not been successful.

242 (5) A petition for termination of parental rights under  
243 this section may not be filed until 30 days after the date the  
244 newborn infant was surrendered in accordance with s. 383.50. A  
245 petition for termination of parental rights may not be granted  
246 until a parent has failed to reclaim or claim the surrendered  
247 newborn infant within the time period specified in s. 383.50.

248 (6) A claim of parental rights of the surrendered newborn  
249 infant must be made to the entity having legal custody of the  
250 surrendered newborn infant or to the circuit court before which  
251 proceedings involving the surrendered newborn infant are  
252 pending. A claim of parental rights of the surrendered newborn  
253 infant may not be made after the judgment to terminate parental  
254 rights is entered, except as otherwise provided by subsection  
255 (9).

256 (7) If a claim of parental rights of a surrendered newborn  
257 infant is made before the judgment to terminate parental rights  
258 is entered, the circuit court may hold the action for  
259 termination of parental rights in abeyance for a period of time  
260 not to exceed 60 days.

261 (a) The court may order scientific testing to determine

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262 maternity or paternity at the expense of the parent claiming  
263 parental rights.

264 (b) The court shall appoint a guardian ad litem for the  
265 surrendered newborn infant and order whatever investigation,  
266 home evaluation, and psychological evaluation are necessary to  
267 determine what is in the best interests of the surrendered  
268 newborn infant.

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

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

275 (8) Within 7 business days after recording the judgment,  
276 the clerk of the court shall mail a copy of the judgment to the  
277 department, the petitioner, and any person whose consent was  
278 required, if known. The clerk shall execute a certificate of  
279 each mailing.

280 (9) (a) A judgment terminating parental rights of a  
281 surrendered newborn infant pending adoption is voidable, and any  
282 later judgment of adoption of that child ~~minor~~ is voidable, if,  
283 upon the motion of a parent, the court finds that a person  
284 knowingly gave false information that prevented the parent from  
285 timely making known his or her desire to assume parental  
286 responsibilities toward the child ~~minor~~ or from exercising his  
287 or her parental rights. A motion under this subsection must be  
288 filed with the court originally entering the judgment. The  
289 motion must be filed within a reasonable time but not later than  
290 1 year after the entry of the judgment terminating parental

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291 rights.

292 (b) No later than 30 days after the filing of a motion  
293 under this subsection, the court shall conduct a preliminary  
294 hearing to determine what contact, if any, will be allowed  
295 ~~permitted~~ between a parent and the child pending resolution of  
296 the motion. Such contact may be allowed only if it is requested  
297 by a parent who has appeared at the hearing and the court  
298 determines that it is in the best interests of the child. If the  
299 court orders contact between a parent and the child, the order  
300 must be issued in writing as expeditiously as possible and must  
301 state with specificity any provisions regarding contact with  
302 persons other than those with whom the child resides.

303 (c) The court may not order scientific testing to determine  
304 the paternity or maternity of the child ~~minor~~ until such time as  
305 the court determines that a previously entered judgment  
306 terminating the parental rights of that parent is voidable  
307 pursuant to paragraph (a), unless all parties agree that such  
308 testing is in the best interests of the child. Upon the filing  
309 of test results establishing that person's maternity or  
310 paternity of the surrendered newborn infant, the court may order  
311 visitation only if it appears to be in the best interests of the  
312 child.

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

317 (10) Except to the extent expressly provided in this  
318 section, proceedings initiated by a licensed child-placing  
319 agency for the termination of parental rights and subsequent

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320 adoption of a newborn infant left at a hospital, an emergency  
321 medical services station, or a fire station in accordance with  
322 s. 383.50 shall be conducted pursuant to this chapter.

323 Section 3. This act shall take effect July 1, 2023.