

AN ACT in relation to children.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Abandoned Newborn Infant Protection Act is amended by changing Sections 10, 15, 20, 25, 27, 30, 35, 40, 50, 55, and 65 as follows:

(325 ILCS 2/10)

(Section scheduled to be repealed on July 1, 2007)

Sec. 10. Definitions. In this Act:

"Abandon" has the same meaning as in the Abused and Neglected Child Reporting Act.

"Abused child" has the same meaning as in the Abused and Neglected Child Reporting Act.

"Child-placing agency" means a licensed public or private agency that receives a child for the purpose of placing or arranging for the placement of the child in a foster family home or other facility for child care, apart from the custody of the child's parents.

"Department" or "DCFS" means the Illinois Department of Children and Family Services.

"Emergency medical facility" means a freestanding emergency center or trauma center, as defined in the Emergency Medical Services (EMS) Systems Act.

"Emergency medical professional" includes licensed physicians, and any emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, trauma nurse specialist, and pre-hospital RN, as defined in the Emergency Medical Services (EMS) Systems Act.

"Fire station" means a fire station within the State that is staffed with at least one full-time emergency medical professional.

"Hospital" has the same meaning as in the Hospital Licensing Act.

"Legal custody" means the relationship created by a court order in the best interest of a newborn infant that imposes on the infant's custodian the responsibility of physical possession of the infant, the duty to protect, train, and discipline the infant, and the duty to provide the infant with food, shelter, education, and medical care, except as these are limited by parental rights and responsibilities.

"Neglected child" has the same meaning as in the Abused and Neglected Child Reporting Act.

"Newborn infant" means a child who a licensed physician reasonably believes is 72 hours old or less at the time the child is initially relinquished to a hospital, police station, fire station, or emergency medical facility, and who is not an abused or a neglected child.

"Police station" means a municipal police station or a county sheriff's office.

"Relinquish" means to bring a newborn infant, who a licensed physician reasonably believes is 72 hours old or less, to a hospital, police station, fire station, or emergency medical facility and to leave the infant with personnel of the facility, if the person leaving the infant does not express an intent to return for the infant or states that he or she will not return for the infant. In the case of a mother who gives birth to an infant in a hospital, the mother's act of leaving that newborn infant at the hospital (i) without expressing an intent to return for the infant or (ii) stating that she will not return for the infant is not a "relinquishment" under this Act.

"Temporary protective custody" means the temporary placement of a newborn infant within a hospital or other medical facility out of the custody of the infant's parent.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(Section scheduled to be repealed on July 1, 2007)

Sec. 15. Presumptions.

(a) There is a presumption that by relinquishing a newborn infant in accordance with this Act, the infant's parent consents to the termination of his or her parental rights with respect to the infant.

(b) There is a presumption that a person relinquishing a newborn infant in accordance with this Act:

(1) is the newborn infant's biological parent; and

(2) either without expressing an intent to return for the infant or expressing an intent not to return for the infant, did intend to relinquish the infant to the hospital, police station, fire station, or emergency medical facility to treat, care for, and provide for the infant in accordance with this Act.

(c) A parent of a relinquished newborn infant may rebut the presumption set forth in either subsection (a) or subsection (b) pursuant to Section 55, at any time before the termination of the parent's parental rights.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/20)

(Section scheduled to be repealed on July 1, 2007)

Sec. 20. Procedures with respect to relinquished newborn infants.

(a) Hospitals. Every hospital must accept and provide all necessary emergency services and care to a relinquished newborn infant, in accordance with this Act. The hospital shall examine a relinquished newborn infant and perform tests that, based on reasonable medical judgment, are appropriate in evaluating whether the relinquished newborn infant was abused or neglected.

The act of relinquishing a newborn infant serves as implied consent for the hospital and its medical personnel and physicians on staff to treat and provide care for the infant.

The hospital shall be deemed to have temporary protective

custody of a relinquished newborn infant until the infant is discharged to the custody of a child-placing agency or the Department.

(b) Fire stations and emergency medical facilities. Every fire station and emergency medical facility must accept and provide all necessary emergency services and care to a relinquished newborn infant, in accordance with this Act.

The act of relinquishing a newborn infant serves as implied consent for the fire station or emergency medical facility and its emergency medical professionals to treat and provide care for the infant, to the extent that those emergency medical professionals are trained to provide those services.

After the relinquishment of a newborn infant to a fire station or emergency medical facility, the fire station or emergency medical facility's personnel must arrange for the transportation of the infant to the nearest hospital as soon as transportation can be arranged.

If the parent of a newborn infant returns to reclaim the child within 72 hours after relinquishing the child to a fire station or emergency medical facility, the fire station or emergency medical facility must inform the parent of the name and location of the hospital to which the infant was transported.

(c) Police stations. Every police station must accept a relinquished newborn infant, in accordance with this Act. After the relinquishment of a newborn infant to a police station, the police station must arrange for the transportation of the infant to the nearest hospital as soon as transportation can be arranged. The act of relinquishing a newborn infant serves as implied consent for the hospital to which the infant is transported and that hospital's medical personnel and physicians on staff to treat and provide care for the infant.

If the parent of a newborn infant returns to reclaim the infant within 72 hours after relinquishing the infant to a police station, the police station must inform the parent of the name and location of the hospital to which the infant was

transported.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/25)

(Section scheduled to be repealed on July 1, 2007)

Sec. 25. Immunity for relinquishing person.

(a) The act of relinquishing a newborn infant to a hospital, police station, fire station, or emergency medical facility in accordance with this Act does not, by itself, constitute a basis for a finding of abuse, neglect, or abandonment of the infant pursuant to the laws of this State nor does it, by itself, constitute a violation of Section 12-21.5 or 12-21.6 of the Criminal Code of 1961.

(b) If there is suspected child abuse or neglect that is not based solely on the newborn infant's relinquishment to a hospital, police station, fire station, or emergency medical facility, the personnel of the hospital, police station, fire station, or emergency medical facility who are mandated reporters under the Abused and Neglected Child Reporting Act must report the abuse or neglect pursuant to that Act.

(c) Neither a child protective investigation nor a criminal investigation may be initiated solely because a newborn infant is relinquished pursuant to this Act.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/27)

(Section scheduled to be repealed on July 1, 2007)

Sec. 27. Immunity of facility and personnel. A hospital, police station, fire station, or emergency medical facility, and any personnel of a hospital, police station, fire station, or emergency medical facility, are immune from criminal or civil liability for acting in good faith in accordance with this Act. Nothing in this Act limits liability for negligence for care and medical treatment.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/30)

(Section scheduled to be repealed on July 1, 2007)

Sec. 30. Anonymity of relinquishing person. If there is no evidence of abuse or neglect of a relinquished newborn infant, the relinquishing person has the right to remain anonymous and to leave the hospital, police station, fire station, or emergency medical facility at any time and not be pursued or followed. Before the relinquishing person leaves the hospital, police station, fire station, or emergency medical facility, the hospital, police station, fire station, or emergency medical facility personnel shall (i) ~~ii~~ verbally inform the relinquishing person that by relinquishing the child anonymously, he or she will have to petition the court if he or she desires to prevent the termination of parental rights and regain custody of the child and (ii) ~~iii~~ shall offer the relinquishing person the information packet described in Section 35 of this Act. However, nothing in this Act shall be construed as precluding the relinquishing person from providing his or her identity or completing the application forms for the Illinois Adoption Registry and Medical Information Exchange and requesting that the hospital, police station, fire station, or emergency medical facility forward those forms to the Illinois Adoption Registry and Medical Information Exchange.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/35)

(Section scheduled to be repealed on July 1, 2007)

Sec. 35. Information for relinquishing person. A hospital, police station, fire station, or emergency medical facility that receives a newborn infant relinquished in accordance with this Act must offer an information packet to the relinquishing person and, if possible, must clearly inform the relinquishing person that his or her acceptance of the information is completely voluntary, that registration with the Illinois Adoption Registry and Medical Information Exchange is

voluntary, that the person will remain anonymous if he or she completes a Denial of Information Exchange, and that the person has the option to provide medical information only and still remain anonymous. The information packet must include all of the following:

(1) All Illinois Adoption Registry and Medical Information Exchange application forms, including the Medical Information Exchange Questionnaire and the web site address and toll-free phone number of the Registry.

(2) Written notice of the following:

(A) No sooner than 60 days following the date of the initial relinquishment of the infant to a hospital, police station, fire station, or emergency medical facility, the child-placing agency or the Department will commence proceedings for the termination of parental rights and placement of the infant for adoption.

(B) Failure of a parent of the infant to contact the Department and petition for the return of custody of the infant before termination of parental rights bars any future action asserting legal rights with respect to the infant.

(3) A resource list of providers of counseling services including grief counseling, pregnancy counseling, and counseling regarding adoption and other available options for placement of the infant.

Upon request, the Department of Public Health shall provide the application forms for the Illinois Adoption Registry and Medical Information Exchange to hospitals, police stations, fire stations, and emergency medical facilities.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/40)

(Section scheduled to be repealed on July 1, 2007)

Sec. 40. Reporting requirements.

(a) Within 12 hours after accepting a newborn infant from a

relinquishing person or from a police station, fire station, or emergency medical facility in accordance with this Act, a hospital must report to the Department's State Central Registry for the purpose of transferring physical custody of the infant from the hospital to either a child-placing agency or the Department.

(b) Within 24 hours after receiving a report under subsection (a), the Department must request assistance from law enforcement officials to investigate the matter using the National Crime Information Center to ensure that the relinquished newborn infant is not a missing child.

(c) Once a hospital has made a report to the Department under subsection (a), the Department must arrange for a licensed child-placing agency to accept physical custody of the relinquished newborn infant.

(d) If a relinquished child is not a newborn infant as defined in this Act, the hospital and the Department must proceed as if the child is an abused or neglected child.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/50)

(Section scheduled to be repealed on July 1, 2007)

Sec. 50. Child-placing agency procedures.

(a) The Department's State Central Registry must maintain a list of licensed child-placing agencies willing to take legal custody of newborn infants relinquished in accordance with this Act. The child-placing agencies on the list must be contacted by the Department on a rotating basis upon notice from a hospital that a newborn infant has been relinquished in accordance with this Act.

(b) Upon notice from the Department that a newborn infant has been relinquished in accordance with this Act, a child-placing agency must accept the newborn infant if the agency has the accommodations to do so. The child-placing agency must seek an order for legal custody of the infant upon its acceptance of the infant.

(c) Within 3 business days after assuming physical custody of the infant, the child-placing agency shall file a petition in the division of the circuit court in which petitions for adoption would normally be heard. The petition shall allege that the newborn infant has been relinquished in accordance with this Act and shall state that the child-placing agency intends to place the infant in an adoptive home.

(d) If no licensed child-placing agency is able to accept the relinquished newborn infant, then the Department must assume responsibility for the infant as soon as practicable.

(e) A custody order issued under subsection (b) shall remain in effect until a final adoption order based on the relinquished newborn infant's best interests is issued in accordance with this Act and the Adoption Act.

(f) When possible, the child-placing agency must place a relinquished newborn infant in a prospective adoptive home.

(g) The Department or child-placing agency must initiate proceedings to (i) terminate the parental rights of the relinquished newborn infant's known or unknown parents, (ii) appoint a guardian for the infant, and (iii) obtain consent to the infant's adoption in accordance with this Act no sooner than 60 days following the date of the initial relinquishment of the infant to the hospital, police station, fire station, or emergency medical facility.

(h) Before filing a petition for termination of parental rights, the Department or child-placing agency must do the following:

(1) Search its Putative Father Registry for the purpose of determining the identity and location of the putative father of the relinquished newborn infant who is, or is expected to be, the subject of an adoption proceeding, in order to provide notice of the proceeding to the putative father. At least one search of the Registry must be conducted, at least 30 days after the relinquished newborn infant's estimated date of birth; earlier searches may be conducted, however. Notice to any potential putative

father discovered in a search of the Registry according to the estimated age of the relinquished newborn infant must be in accordance with Section 12a of the Adoption Act.

(2) Verify with law enforcement officials, using the National Crime Information Center, that the relinquished newborn infant is not a missing child.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/55)

(Section scheduled to be repealed on July 1, 2007)

Sec. 55. Petition for return of custody.

(a) A parent of a newborn infant relinquished in accordance with this Act may petition for the return of custody of the infant before the termination of parental rights with respect to the infant.

(b) A parent of a newborn infant relinquished in accordance with this Act may petition for the return of custody of the infant by contacting the Department for the purpose of obtaining the name of the child-placing agency and then filing a petition for return of custody in the circuit court in which the proceeding for the termination of parental rights is pending.

(c) If a petition for the termination of parental rights has not been filed by the Department or the child-placing agency, the parent of the relinquished newborn infant must contact the Department, which must notify the parent of the appropriate court in which the petition for return of custody must be filed.

(d) The circuit court may hold the proceeding for the termination of parental rights in abeyance for a period not to exceed 60 days from the date that the petition for return of custody was filed without a showing of good cause. During that period:

(1) The court shall order genetic testing to establish maternity or paternity, or both.

(2) The Department shall conduct a child protective

investigation and home study to develop recommendations to the court.

(3) When indicated as a result of the Department's investigation and home study, further proceedings under the Juvenile Court Act of 1987 as the court determines appropriate, may be conducted. However, relinquishment of a newborn infant in accordance with this Act does not render the infant abused, neglected, or abandoned solely because the newborn infant was relinquished to a hospital, police station, fire station, or emergency medical facility in accordance with this Act.

(e) Failure to file a petition for the return of custody of a relinquished newborn infant before the termination of parental rights bars any future action asserting legal rights with respect to the infant unless the parent's act of relinquishment that led to the termination of parental rights involved fraud perpetrated against and not stemming from or involving the parent. No action to void or revoke the termination of parental rights of a parent of a newborn infant relinquished in accordance with this Act, including an action based on fraud, may be commenced after 12 months after the date that the newborn infant was initially relinquished to a hospital, police station, fire station, or emergency medical facility.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

(325 ILCS 2/65)

(Section scheduled to be repealed on July 1, 2007)

Sec. 65. Evaluation.

(a) The Department shall collect and analyze information regarding the relinquishment of newborn infants and placement of children under this Act. Police stations, fire stations, emergency medical facilities, and medical professionals accepting and providing services to a newborn infant under this Act shall report to the Department data necessary for the Department to evaluate and determine the effect of this Act in

the prevention of injury or death of newborn infants. Child-placing agencies shall report to the Department data necessary to evaluate and determine the effectiveness of these agencies in providing child protective and child welfare services to newborn infants relinquished under this Act.

(b) The information collected shall include, but need not be limited to: the number of newborn infants relinquished; the services provided to relinquished newborn infants; the outcome of care for the relinquished newborn infants; the number and disposition of cases of relinquished newborn infants subject to placement; the number of children accepted and served by child-placing agencies; and the services provided by child-placing agencies and the disposition of the cases of the children placed under this Act.

(c) The Department shall submit a report by January 1, 2002, and on January 1 of each year thereafter, to the Governor and General Assembly regarding the prevention of injury or death of newborn infants and the effect of placements of children under this Act. The report shall include, but need not be limited to, a summary of collected data, an analysis of the data and conclusions regarding the Act's effectiveness, a determination whether the purposes of the Act are being achieved, and recommendations for changes that may be considered necessary to improve the administration and enforcement of this Act.

(Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

Section 99. Effective date. This Act takes effect upon becoming law.