



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4544

Introduced 1/11/2006, by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

325 ILCS 2/10
325 ILCS 2/15
325 ILCS 2/20
325 ILCS 2/25
325 ILCS 2/27
325 ILCS 2/30
325 ILCS 2/35
325 ILCS 2/40
325 ILCS 2/50
325 ILCS 2/55
325 ILCS 2/65

Amends the Abandoned Newborn Infant Protection Act. Provides that a parent may relinquish a newborn infant to a church that complies with Department of Children and Family Services (DCFS) standards, and requires DCFS to adopt criteria, standards, and procedures for designating and identifying churches as places where a parent may relinquish a newborn infant under the Act. Authorizes these churches to conduct public information campaigns to alert the public about these provisions. Requires annual inspections of churches and a determination by DCFS that a church continues to meet all applicable standards. Provides that only a church designated by DCFS under the Act has the immunity from liability provided for in the Act.

LRB094 17347 DRJ 52642 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning children.

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

4 Section 5. The Abandoned Newborn Infant Protection Act is
5 amended by changing Sections 10, 15, 20, 25, 27, 30, 35, 40,
6 50, 55, and 65 as follows:

7 (325 ILCS 2/10)

8 Sec. 10. Definitions. In this Act:

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

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

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

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

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

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

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

32 "Hospital" has the same meaning as in the Hospital

1 Licensing Act.

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

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

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

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

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

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

33 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
34 93-820, eff. 7-27-04.)

1 Sec. 15. Presumptions.

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

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

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

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

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

19 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
20 93-820, eff. 7-27-04.)

21 (325 ILCS 2/20)

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

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

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

34 The hospital shall be deemed to have temporary protective
35 custody of a relinquished newborn infant until the infant is

1 discharged to the custody of a child-placing agency or the
2 Department.

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

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

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

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

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

32 If the parent of a newborn infant returns to reclaim the
33 infant within 72 hours after relinquishing the infant to a
34 police station, the police station must inform the parent of
35 the name and location of the hospital to which the infant was
36 transported.

1 (d) Churches. A church may accept a relinquished newborn
2 infant only if it has been authorized to do so under this Act
3 by the Department. After the relinquishment of a newborn infant
4 to a church, the church must arrange for the transportation of
5 the infant to the nearest hospital as soon as transportation
6 can be arranged. The act of relinquishing a newborn infant
7 serves as implied consent for the hospital to which the infant
8 is transported and that hospital's medical personnel and
9 physicians on staff to treat and provide care for the infant.
10 If the parent of a newborn infant returns to reclaim the infant
11 within 72 hours after relinquishing the infant to a church, the
12 church must inform the parent of the name and location of the
13 hospital to which the infant was transported.

14 The Department shall adopt rules setting forth the
15 criteria, standards, and procedures for authorizing churches
16 to accept relinquished newborn infants under this Act and for
17 designating or identifying those churches as places where a
18 parent may relinquish a newborn infant under this Act. The
19 rules shall include the following provisions:

20 (1) A church must apply to the Department for
21 authorization to accept relinquished newborn infants.

22 (2) The authorization shall be valid for no longer than
23 one year, and a church must apply for renewed authorization
24 for each succeeding year.

25 (3) A church shall be subject to inspection by the
26 Department at the time of an initial or renewed
27 authorization to verify that it meets the criteria and
28 standards established by the Department for the acceptance
29 of relinquished newborn infants.

30 (4) Only a church that has been authorized by the
31 Department to accept relinquished newborn infants under
32 this Act may conduct a public information campaign to alert
33 the public about the provisions of this subsection.

34 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
35 93-820, eff. 7-27-04.)

1 (325 ILCS 2/25)

2 Sec. 25. Immunity for relinquishing person.

3 (a) The act of relinquishing a newborn infant to a church,
4 hospital, police station, fire station, or emergency medical
5 facility in accordance with this Act does not, by itself,
6 constitute a basis for a finding of abuse, neglect, or
7 abandonment of the infant pursuant to the laws of this State
8 nor does it, by itself, constitute a violation of Section
9 12-21.5 or 12-21.6 of the Criminal Code of 1961.

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

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

21 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
22 93-820, eff. 7-27-04.)

23 (325 ILCS 2/27)

24 Sec. 27. Immunity of facility and personnel. A hospital,
25 police station, fire station, or emergency medical facility,
26 and any personnel of a hospital, police station, fire station,
27 or emergency medical facility, are immune from criminal or
28 civil liability for acting in good faith in accordance with
29 this Act. A church and its personnel are immune from criminal
30 or civil liability for acting in good faith in accordance with
31 this Act only if the church has been authorized by the
32 Department to accept relinquished newborn infants under
33 subsection (d) of Section 20. Nothing in this Act limits
34 liability for negligence for care and medical treatment.

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

1 93-820, eff. 7-27-04.)

2 (325 ILCS 2/30)

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

25 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
26 93-820, eff. 7-27-04.)

27 (325 ILCS 2/35)

28 Sec. 35. Information for relinquishing person. A church,
29 hospital, police station, fire station, or emergency medical
30 facility that receives a newborn infant relinquished in
31 accordance with this Act must offer an information packet to
32 the relinquishing person and, if possible, must clearly inform
33 the relinquishing person that his or her acceptance of the
34 information is completely voluntary, that registration with

1 the Illinois Adoption Registry and Medical Information
2 Exchange is voluntary, that the person will remain anonymous if
3 he or she completes a Denial of Information Exchange, and that
4 the person has the option to provide medical information only
5 and still remain anonymous. The information packet must include
6 all of the following:

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

11 (2) Written notice of the following:

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

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

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

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

32 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
33 93-820, eff. 7-27-04.)

34 (325 ILCS 2/40)

35 Sec. 40. Reporting requirements.

1 (a) Within 12 hours after accepting a newborn infant from a
2 relinquishing person or from a church, police station, fire
3 station, or emergency medical facility in accordance with this
4 Act, a hospital must report to the Department's State Central
5 Registry for the purpose of transferring physical custody of
6 the infant from the hospital to either a child-placing agency
7 or the Department.

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

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

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

20 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
21 93-820, eff. 7-27-04.)

22 (325 ILCS 2/50)

23 Sec. 50. Child-placing agency procedures.

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

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

1 its acceptance of the infant.

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

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

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

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

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

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

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

1 conducted, however. Notice to any potential putative
2 father discovered in a search of the Registry according to
3 the estimated age of the relinquished newborn infant must
4 be in accordance with Section 12a of the Adoption Act.

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

8 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
9 93-820, eff. 7-27-04.)

10 (325 ILCS 2/55)

11 Sec. 55. Petition for return of custody.

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

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

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

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

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

1 (2) The Department shall conduct a child protective
2 investigation and home study to develop recommendations to
3 the court.

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

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

26 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
27 93-820, eff. 7-27-04.)

28 (325 ILCS 2/65)

29 Sec. 65. Evaluation.

30 (a) The Department shall collect and analyze information
31 regarding the relinquishment of newborn infants and placement
32 of children under this Act. Churches, police ~~Police~~ stations,
33 fire stations, emergency medical facilities, and medical
34 professionals accepting and providing services to a newborn
35 infant under this Act shall report to the Department data

1 necessary for the Department to evaluate and determine the
2 effect of this Act in the prevention of injury or death of
3 newborn infants. Child-placing agencies shall report to the
4 Department data necessary to evaluate and determine the
5 effectiveness of these agencies in providing child protective
6 and child welfare services to newborn infants relinquished
7 under this Act.

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

17 (c) The Department shall submit a report by January 1,
18 2002, and on January 1 of each year thereafter, to the Governor
19 and General Assembly regarding the prevention of injury or
20 death of newborn infants and the effect of placements of
21 children under this Act. The report shall include, but need not
22 be limited to, a summary of collected data, an analysis of the
23 data and conclusions regarding the Act's effectiveness, a
24 determination whether the purposes of the Act are being
25 achieved, and recommendations for changes that may be
26 considered necessary to improve the administration and
27 enforcement of this Act.

28 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01;
29 93-820, eff. 7-27-04.)