

ABANDONED NEWBORN INFANT PROTECTION ACT

Illinois Department of Children and Family Services

Annual Report to the General Assembly December 2002

General Overview

A. Introduction

On August 17, 2001 Governor Ryan signed House Bill 632 and Senate Bill 216, enacting The Abandoned Newborn Infant Protection Act. This act provides a mechanism for infants to be relinquished into a safe haven. Illinois recognizes that newborn infants have been abandoned in various circumstances that are unsafe. These circumstances resulted in death or severe bodily harm to infants of Illinois. The act also provides immunity from prosecution for child abuse, neglect or abandonment to parents as an incentive to relinquish their newborn to a safe haven. The Department of Children and Family Services is responsible for collecting and analyzing information regarding the relinquishment and placement of infants under this act. The Department is further responsible to report any results to the Illinois General Assembly. This report intends to satisfy the Department's of Children and Family Services obligation under the act.

B. Requirements and Procedures

This act provides procedures to follow when a parent relinquishes an infant to a hospital, manned fire station or other emergency medical facility. The act also states that a parent may relinquish an infant anonymously and free from prosecution if the requirements of the act are met. In addition to the requirements for hospitals, fire stations and emergency medical facilities, there are various requirements for government agencies to follow such as reporting requirements, placement of the infant and subsequent court proceedings to terminate parental rights.

Under the act, there are two definitions that are important to emphasize. The act defines a "newborn" as an infant who a licensed physician determines is seventy-two (72) hours old or younger. "Relinquish" is defined as leaving the infant with the personnel of a hospital, staffed fire station or other emergency medical facility.

Hospitals, fire stations and emergency medical facilities have a number of responsibilities under the act. These facilities must accept the infant and provide any medical care necessary to ensure the safety of the child and that there is no abuse or neglect. Additionally, personnel must offer an information packet to the relinquishing person. This packet contains information on the Adoption Registry

and Medical Exchange, written notice of the process to terminate parental rights, which will take place no sooner than sixty (60) days after the relinquishment procedure, and a resource list of counselors. Personnel must inform the individual that they may relinquish the infant anonymously and acceptance of the information packet is completely voluntary. Before the relinquishing person leaves the hospital, fire station or emergency medical facility, personnel shall verbally inform the person that by relinquishing the infant anonymously he or she will have to petition the court to prevent the termination of parental rights and regain custody.

The facilities outlined in the act have additional yet different procedures mandated under the act. A hospital is deemed to have temporary protective custody until the Department of Children and Family Services or a licensed child-placing agency takes physical custody of the infant. A hospital must also place a call to the State Central Registry (1-800-25-ABUSE) to report the relinquished infant within twelve (12) hours of accepting the child. A fire station or emergency medical facility is responsible for transporting the child to the nearest hospital for further examination and subsequent reporting to the State Central Registry.

When a call is received to report the abandonment of an infant under this act, the State Central Registry will release the name of a child-placing agency to the hospital making the report. The State Central Registry maintains a rotating list of child-placing agencies for this purpose. If the child-placing agency is unable to take the child, the hospital may again call the State Central Registry and request another agency name. This procedure can be repeated until the rotating list has been exhausted. If a child-placing agency cannot be found who will accept the child, the Department will assume responsibility for the infant.

After the child is reported to the Department of Children and Family Services, the department will contact law enforcement agencies and the National Crime Information Center, within 24 hours, to determine the infant is not a missing child. The department will also search the Putative Father Registry. The department or a licensed child-placing agency will seek an order for legal custody and when possible, place the infant in a prospective adoptive home.

Within three days of assuming custody, the agency shall file a petition in the circuit court stating that the child was relinquished in accordance with the act and the agency intends to place the infant in an adoptive home. The custody order will remain in effect until the final adoption order is issued. The agency is also responsible for filing a petition to terminate parental rights and appointing a guardian for the infant no sooner than 60 days after the relinquishment. There is a presumption that by relinquishing the newborn infant, the parent consents to the termination of his/her parental rights. The act of relinquishing a newborn in accordance with the act does not by itself constitute a basis for a finding of abuse, neglect or abandonment or a violation of any kind.

A parent may petition for the return of the child before parental rights are terminated. If a parent intends to do so, he or she must contact the Department of Children and Family Services for the purposes of identifying the agency that obtained custody of the infant. After the child-placing agency is determined, the parent must file a petition for return of custody in the court where the proceeding for termination is pending. The court may hold the proceeding for Termination of Parental Rights in abeyance for a period not to exceed sixty (60) days from the date that the petition for return of custody was filed. The court shall order genetic testing to establish paternity, request the Department of Children and Family Services to conduct a child protective investigation and home study to develop recommendations to the court and, if indicated, order further proceedings under Juvenile Court Act.

Nothing in the Act precludes the courts from exercising their discretion to protect the health and safety of children in individual cases. The best interests and welfare of a child shall be paramount in the construction and interpretation of this act.

Public Information Campaign

Under the law, the Department of Children and Family Services must implement a public information campaign to promote placement alternatives for newborn infant. The information campaign must include the relinquishment procedures provided in this act for infants less than 72 hours of age and the alternative of adoption through a public or private agency. The program may include: educational and informational materials; a website; public service announcements; and/or a toll-free hotline to provide information.

The Department of Children and Family Services continues to educate the public on the rights and responsibilities under the act. The Department of Children and Family Services distributed posters and brochures in English and Spanish to public schools and private organizations and communities throughout Illinois. Various representatives of the department attend speaking engagements to educate organizations and other state agencies about the act. Information regarding this law is always available on the DCFS website to the public, hospitals, fire stations and other emergency medical facilities throughout the state. The Department of Children and Family Services coordinates the public information campaign with the Illinois Hospital Association, the Illinois Department of Public Health and Save Abandoned Babies.

Evaluation of Act

The act requires the Department to submit a report to the General Assembly regarding the prevention of injury or death of newborn infants and the effect of placements of children. Since January 2001, the State Central Registry took reports of seven abandoned infants who met the age requirement under the act.

One infant's abandonment resulted in death and four infants were not relinquished to an appropriate safe haven. Two of the seven infants were relinquished under the remaining requirements. One infant was placed in an adoptive home and the other infant was returned to the family.

Conclusion

The State of Illinois acknowledges that newborn infants are sometimes abandoned in dangerous circumstances. These conditions have caused injury and death to newborn infants and give rise to potential civil or criminal liability to parents who may be under severe emotional distress. This act intends to provide a procedure for a newborn infant to be relinquished to a safe environment. It also allows the parents to remain anonymous if they choose. The act also provides for a parent, who relinquishes their child in accordance with this act, to be free from civil liability or criminal prosecution. While establishing an adoption plan is preferable to relinquishing a child using the procedures outlined in this act, this law can reduce the chance of injury and provides a safe alternative to abandonment.