

January 1, 2022 Report to the Honorable J.B. Pritzker, Governor, and the Honorable Members of the Illinois General Assembly Concerning the Illinois Abandoned Newborn Infant Protection Act

A. Introduction

The Abandoned Newborn Infant Protection Act, 325 ILCS 2/ et seq. became effective on August 17, 2001. This Illinois law recognizes that newborn infants have been abandoned in various circumstances that are unsafe. In some cases, the abandonments have resulted in the deaths of the infants. The Act provides immunity from prosecution for child abuse, neglect or abandonment to a parent who relinquishes his/her unharmed newborn infant to a safe haven.

B. Requirements and Procedures

The Abandoned Newborn Infant Protection Act grants parents immunity from criminal prosecution if they relinquish their unharmed newborn infants within 30 days of birth to an individual at a safe haven. The Act provides that a parent can relinquish an unharmed newborn infant anonymously. "Relinquish" is defined as leaving the newborn infant with the personnel of a hospital, staffed fire station, police station or emergency medical facility.

Hospitals, police stations, fire stations and emergency medical facilities have a number of responsibilities under the Act. These facilities must accept the infant and provide any necessary emergency care to ensure the safety of the child. These facilities, other than hospitals, must arrange for transportation of the infant to the nearest hospital as soon as possible. The receiving hospital staff members must then treat and provide care for the infant. The hospital is deemed to have temporary protective custody of the infant until the infant is discharged to the custody of a DCFS assigned child-placing agency.

Additionally, Safe Haven 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, a brochure on post-partum care, and a resource list of counselors. Personnel in the Safe Havens must inform the relinquishing individual that he/she may relinquish the infant anonymously and that acceptance of the information packet is voluntary. Before the relinquishing person leaves the hospital, police station, 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 to regain custody.

The Safe Haven facilities identified in the Act also must follow mandated reporting procedures. If there is suspected child abuse or neglect, personnel at a hospital, police station, fire station or emergency medical facility, who are mandated reporters under the Illinois Abused and Neglected Child Reporting Act, are required to report their reasonable suspicions. If no abuse or neglect is reasonably suspected, a hospital must place a call to the DCFS State Central Register (1-800-25-ABUSE) to report the relinquished infant within twelve (12) hours of accepting the infant.

After a call is received reporting the relinquishment of an infant under this Act, the Illinois Department of Children and Family Services (DCFS) State Central Register will provide to the hospital in writing the name of the authorized child-welfare agency assigned to the case. The DCFS State Central Register maintains a rotating list of child-welfare agencies for this purpose. The law provides that if a child-placing agency cannot be found that will accept the child, the DCFS will assume responsibility for the infant, but such a situation has never occurred.

After the child is reported to the Department of Children and Family Services, the Department, within 24 hours, will contact the Illinois State Police, which in turn contacts the National Crime Information Center to determine that the infant is not a missing child. The Department or the child-placing agency will also search the Putative Father Registry.

The licensed child-placing agency will seek an order for legal custody and place the infant in a prospective adoptive home. Within three (3) business days of assuming physical custody of the infant, the agency shall file a petition in the circuit court stating that the child was relinquished in accordance with the Act and that the agency intends to place the infant in an adoptive home. The custody order will remain in effect until the court issues the final adoption order. No sooner than sixty (60) days following the date of the initial relinquishment, the child-welfare agency must then petition to: 1) terminate the parental rights of the relinquished infant's known or unknown parents; 2) appoint a guardian for the infant; and 3) obtain consent to the infant's adoption. There is a presumption that by relinquishing the newborn infant, the parent consents to the termination of his/her parental rights.

A parent may petition for the return of the child before his/her parental rights are terminated. If a parent intends to do so, he /she must contact the Department of Children and Family Services for the purpose of identifying the child-placing agency that obtained custody of the infant. The child-placing agency or DCFS must advise such parent of the exact circuit court and its location where the termination of parental rights and adoption proceeding is pending. The parent must file a petition for return of custody in the court where the proceeding for termination is pending. The court may place the proceeding for termination of parental rights on hold 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 parentage, request that the Department of Children and Family Services conduct a child protective investigation and home study to develop recommendations to the court, and, if indicated, order further proceedings under the Juvenile Court Act.

Nothing in the Act precludes the courts from exercising 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.

C. Training and Website Information

A training program for hospitals is in place regarding the Safe Haven law. As a reminder, all of the Illinois Safe Haven adoption agencies are assigned to certain hospitals around the State to serve as a training resource on the Safe Haven law. Each agency is responsible for doing outreach to the hospitals to which they were assigned, to offer training on the Safe Haven law.

Information regarding the Safe Haven law is always publicly available on the DCFS website, and on the Save Abandoned Babies Foundation website. The Department of Children and Family Services continues to coordinate public information education with the Illinois Hospital Association and the Save Abandoned Babies Foundation.

D. Evaluation of Act

The purpose of the law is for it to serve as a deterrent to child abandonment and infanticide and provide birth parents with an alternative. Promotion of public awareness of the law is important in Illinois. The Department of Children and Family Services' efforts and outreach, such as collaborating with the Save Abandoned Babies Foundation, have enabled and driven the public education program. As has been true in prior years, the fact that the State of Illinois did not allocate funds to implement the public education program or to print and send the information packets to Safe Haven sites has hindered the State's ability to comply with the law.

E. Numbers for 2021 and Current Trends

Since the inception of the Act in 2001, as of December 30, 2021, 129 infants in Illinois were relinquished in accordance with the criteria of the Illinois Abandoned Newborn Infant Protection Act.

In calendar year 2021, 6 newborn infants were safely relinquished under the Act; 1 in the Chicago metro area, 1 in the Chicago suburbs, and 4 downstate. 1 infant was relinquished at a fire station and the rest at hospitals.

F. 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 given rise to potential criminal liability to parents who may be in crisis and severe emotional distress. This Act provides a procedure for a parent to anonymously relinquish a newborn infant to a safe environment so the baby can be adopted. It also allows the parents to be free from criminal prosecution. While establishing an adoption plan is preferable to relinquishing a child using the procedures outlined in this Act, this

law reduces the chance of injury and death to newborn infants by providing a safe alternative to abandonment.

The effectiveness of the Act can only be measured by the lives it has saved. With a goal of improving its ability to do so, active promotion of awareness of the law would help its effectiveness. The hope is that the incidence of child abandonment and death will decrease, and these efforts will lead to greater awareness of the issues of abandonment, abuse and unplanned parenthood, as well as the availability of the traditional methods for establishing adoption plans.