

1 A bill to be entitled
2 An act relating to surrendered newborn infants;
3 amending s. 383.50, F.S.; revising and defining terms;
4 authorizing the Department of Health to approve, and
5 certain hospitals, emergency medical services
6 stations, and fire stations to use, newborn infant
7 safety devices to accept surrendered newborn infants
8 under certain circumstances; requiring such hospitals,
9 emergency medical services stations, or fire stations
10 to physically check and test the devices at specified
11 intervals; conforming provisions to changes made by
12 the act; providing additional locations to which the
13 prohibition on the initiation of criminal
14 investigations based solely on the surrendering of a
15 newborn infant applies; amending s. 63.0423, F.S.;
16 conforming a cross-reference; making conforming and
17 technical changes; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Present subsections (2) through (10) of section
22 383.50, Florida Statutes, are redesignated as subsections (3)
23 through (11), respectively, a new subsection (2) is added to
24 that section, and subsection (1) and present subsections (3),
25 (5), and (10) of that section are amended, to read:

26 | 383.50 Treatment of surrendered newborn infant.—
 27 | (1) As used in this section, the term:
 28 | (a) "Department" means the Department of Health.
 29 | (b) "Newborn infant" means a child who a licensed
 30 | physician reasonably believes is approximately 30 7 days old or
 31 | younger at the time the child is left at a hospital, an
 32 | emergency medical services station, or a fire station.
 33 | (c) "Newborn infant safety device" means a device approved
 34 | by the department under subsection (2) which is installed in an
 35 | exterior wall of a hospital, an emergency medical services
 36 | station, or a fire station and which has an exterior point of
 37 | access that allows an individual to place a newborn infant
 38 | inside and an interior point of access that allows individuals
 39 | inside the building to safely retrieve the newborn infant.
 40 | (2) (a) The department may approve by rule, and a hospital,
 41 | an emergency medical services station, or a fire station that is
 42 | staffed 24 hours per day may use, a newborn infant safety device
 43 | to accept surrendered newborn infants under this section if the
 44 | device is:
 45 | 1. Physically part of the hospital, emergency medical
 46 | services station, or fire station;
 47 | 2. Temperature-controlled and ventilated for the safety of
 48 | newborns;
 49 | 3. Equipped with an alarm system connected to the physical
 50 | location of the device which automatically triggers an alarm

51 inside the building when a newborn infant is placed in the
52 device;

53 4. Equipped with a surveillance system that allows
54 employees of the hospital, emergency medical services station,
55 or fire station to monitor the inside of the device 24 hours per
56 day; and

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

60 (b) A hospital, an emergency medical services station, or
61 a fire station that uses a newborn infant safety device to
62 accept surrendered newborn infants shall use the device's
63 surveillance system to monitor the inside of the newborn infant
64 safety device 24 hours per day and shall physically check the
65 device at least twice daily and test the device at least weekly
66 to ensure that the alarm system is in working order.

67 (4)-(3) Each emergency medical services station or fire
68 station that is staffed 24 hours per day with full-time
69 firefighters, emergency medical technicians, or paramedics shall
70 accept any newborn infant left with a firefighter, an emergency
71 medical technician, or a paramedic or in a newborn infant safety
72 device that is physically part of the emergency medical services
73 station or fire station. The firefighter, emergency medical
74 technician, or paramedic shall consider these actions as implied
75 consent to and shall:

76 (a) Provide emergency medical services to the newborn
 77 infant to the extent that he or she is trained to provide those
 78 services, and

79 (b) Arrange for the immediate transportation of the
 80 newborn infant to the nearest hospital having emergency
 81 services.

82
 83 A licensee as defined in s. 401.23, a fire department, or an
 84 employee or agent of a licensee or fire department may treat and
 85 transport a newborn infant pursuant to this section. If a
 86 newborn infant is placed in the physical custody of an employee
 87 or agent of a licensee or fire department or is placed in a
 88 newborn infant safety device that is physically part of an
 89 emergency medical services station or a fire station, such
 90 placement is ~~shall be~~ considered implied consent for treatment
 91 and transport. A licensee, a fire department, or an employee or
 92 agent of a licensee or fire department is immune from criminal
 93 or civil liability for acting in good faith pursuant to this
 94 section. Nothing in this subsection limits liability for
 95 negligence.

96 ~~(6)(5)~~ Except when there is actual or suspected child
 97 abuse or neglect, any parent who leaves a newborn infant in a
 98 newborn infant safety device or with a firefighter, an emergency
 99 medical technician, or a paramedic at a fire station or an
 100 emergency medical services station, leaves a newborn infant in a

101 newborn infant safety device at a hospital, or brings a newborn
102 infant to an emergency room of a hospital and expresses an
103 intent to leave the newborn infant and not return, has the
104 absolute right to remain anonymous and to leave at any time and
105 may not be pursued or followed unless the parent seeks to
106 reclaim the newborn infant. When an infant is born in a hospital
107 and the mother expresses intent to leave the infant and not
108 return, upon the mother's request, the hospital or registrar
109 shall complete the infant's birth certificate without naming the
110 mother thereon.

111 (11)~~(10)~~ A criminal investigation may ~~shall~~ not be
112 initiated solely because a newborn infant is left at a hospital,
113 an emergency medical services station, or a fire station under
114 this section unless there is actual or suspected child abuse or
115 neglect.

116 Section 2. Section 63.0423, Florida Statutes, is amended
117 to read:

118 63.0423 Procedures with respect to surrendered newborn
119 infants.—

120 (1) Upon entry of final judgment terminating parental
121 rights, a licensed child-placing agency that takes physical
122 custody of a newborn ~~an~~ infant surrendered at a hospital, an
123 emergency medical services station, or a fire station pursuant
124 to s. 383.50 assumes responsibility for the medical and other
125 costs associated with the emergency services and care of the

126 surrendered newborn infant from the time the licensed child-
127 placing agency takes physical custody of the surrendered newborn
128 infant.

129 (2) The licensed child-placing agency shall immediately
130 seek an order from the circuit court for emergency custody of
131 the surrendered newborn infant. The emergency custody order
132 shall remain in effect until the court orders preliminary
133 approval of placement of the surrendered newborn infant in the
134 prospective home, at which time the prospective adoptive parents
135 become guardians pending termination of parental rights and
136 finalization of adoption or until the court orders otherwise.
137 The guardianship of the prospective adoptive parents shall
138 remain subject to the right of the licensed child-placing agency
139 to remove the surrendered newborn infant from the placement
140 during the pendency of the proceedings if such removal is deemed
141 by the licensed child-placing agency to be in the best interests
142 of the child. The licensed child-placing agency may immediately
143 seek to place the surrendered newborn infant in a prospective
144 adoptive home.

145 (3) The licensed child-placing agency that takes physical
146 custody of the surrendered newborn infant shall, within 24 hours
147 thereafter, request assistance from law enforcement officials to
148 investigate and determine, through the Missing Children
149 Information Clearinghouse, the National Center for Missing and
150 Exploited Children, and any other national and state resources,

151 whether the surrendered newborn infant is a missing child.

152 (4) The parent who surrenders the newborn infant in
153 accordance with s. 383.50 is presumed to have consented to
154 termination of parental rights, and express consent is not
155 required. Except when there is actual or suspected child abuse
156 or neglect, the licensed child-placing agency shall not attempt
157 to pursue, search for, or notify that parent as provided in s.
158 63.088 and chapter 49. For purposes of s. 383.50 and this
159 section, a surrendered newborn ~~an~~ infant who tests positive for
160 illegal drugs, narcotic prescription drugs, alcohol, or other
161 substances, but shows no other signs of child abuse or neglect,
162 shall be placed in the custody of a licensed child-placing
163 agency. Such a placement does not eliminate the reporting
164 requirement under s. 383.50(8) ~~s. 383.50(7)~~. When the department
165 is contacted regarding a newborn ~~an~~ infant properly surrendered
166 under this section and s. 383.50, the department shall provide
167 instruction to contact a licensed child-placing agency and may
168 not take custody of the newborn infant unless reasonable efforts
169 to contact a licensed child-placing agency to accept the newborn
170 infant have not been successful.

171 (5) A petition for termination of parental rights under
172 this section may not be filed until 30 days after the date the
173 newborn infant was surrendered in accordance with s. 383.50. A
174 petition for termination of parental rights may not be granted
175 until a parent has failed to reclaim or claim the surrendered

176 newborn infant within the time period specified in s. 383.50.

177 (6) A claim of parental rights of the surrendered newborn
178 infant must be made to the entity having legal custody of the
179 surrendered newborn infant or to the circuit court before which
180 proceedings involving the surrendered newborn infant are
181 pending. A claim of parental rights of the surrendered newborn
182 infant may not be made after the judgment to terminate parental
183 rights is entered, except as otherwise provided by subsection
184 (9).

185 (7) If a claim of parental rights of a surrendered newborn
186 infant is made before the judgment to terminate parental rights
187 is entered, the circuit court may hold the action for
188 termination of parental rights in abeyance for a period of time
189 not to exceed 60 days.

190 (a) The court may order scientific testing to determine
191 maternity or paternity at the expense of the parent claiming
192 parental rights.

193 (b) The court shall appoint a guardian ad litem for the
194 surrendered newborn infant and order whatever investigation,
195 home evaluation, and psychological evaluation are necessary to
196 determine what is in the best interests of the surrendered
197 newborn infant.

198 (c) The court may not terminate parental rights solely on
199 the basis that the parent left the newborn infant at a hospital,
200 an emergency medical services station, or a fire station in

201 accordance with s. 383.50.

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

204 (8) Within 7 business days after recording the judgment,
205 the clerk of the court shall mail a copy of the judgment to the
206 department, the petitioner, and any person whose consent was
207 required, if known. The clerk shall execute a certificate of
208 each mailing.

209 (9) (a) A judgment terminating parental rights of a
210 surrendered newborn infant pending adoption is voidable, and any
211 later judgment of adoption of that child ~~minor~~ is voidable, if,
212 upon the motion of a parent, the court finds that a person
213 knowingly gave false information that prevented the parent from
214 timely making known his or her desire to assume parental
215 responsibilities toward the child ~~minor~~ or from exercising his
216 or her parental rights. A motion under this subsection must be
217 filed with the court originally entering the judgment. The
218 motion must be filed within a reasonable time but not later than
219 1 year after the entry of the judgment terminating parental
220 rights.

221 (b) No later than 30 days after the filing of a motion
222 under this subsection, the court shall conduct a preliminary
223 hearing to determine what contact, if any, will be allowed
224 ~~permitted~~ between a parent and the child pending resolution of
225 the motion. Such contact may be allowed only if it is requested

226 | by a parent who has appeared at the hearing and the court
227 | determines that it is in the best interests of the child. If the
228 | court orders contact between a parent and the child, the order
229 | must be issued in writing as expeditiously as possible and must
230 | state with specificity any provisions regarding contact with
231 | persons other than those with whom the child resides.

232 | (c) The court may not order scientific testing to
233 | determine the paternity or maternity of the child ~~minor~~ until
234 | such time as the court determines that a previously entered
235 | judgment terminating the parental rights of that parent is
236 | voidable pursuant to paragraph (a), unless all parties agree
237 | that such testing is in the best interests of the child. Upon
238 | the filing of test results establishing that person's maternity
239 | or paternity of the surrendered newborn infant, the court may
240 | order visitation only if it appears to be in the best interests
241 | of the child.

242 | (d) Within 45 days after the preliminary hearing, the
243 | court shall conduct a final hearing on the motion to set aside
244 | the judgment and shall enter its written order as expeditiously
245 | as possible thereafter.

246 | (10) Except to the extent expressly provided in this
247 | section, proceedings initiated by a licensed child-placing
248 | agency for the termination of parental rights and subsequent
249 | adoption of a newborn infant left at a hospital, an emergency
250 | medical services station, or a fire station in accordance with

HB 133

2021

251 | s. 383.50 shall be conducted pursuant to this chapter.

252 | Section 3. This act shall take effect July 1, 2021.