

SB 1368 - Newborn Abandonment Law Fact Sheet

State law (*SB 1368, Brulte*), which took effect on Jan. 1, 2001, requires all California hospitals to accept physical custody of newborn infants (up to 72 hours old) who are voluntarily surrendered by a parent or other person with legal custody.

The intent of this new law is to encourage parents who would otherwise abandon their babies in unsafe environments (*e.g. trash bins, empty fields, shopping malls, etc.*) to leave their newborns in as safe a manner as possible.

Parents who choose to surrender custody of their infant (up to 72 hours old) to a designated employee of a California hospital will be immune from criminal liability for child abandonment.

Newborns abandoned in accordance with this new law are eligible for Medi-Cal reimbursement.

Hospital Responsibilities

Under SB 1368, hospitals are required to designate the "classes" of employees who are authorized to accept physical custody of an abandoned newborn. For example, a hospital may wish to designate registered nurses, licensed vocational nurses and physicians assistants on duty in the emergency room as authorized personnel to take custody of an abandoned newborn.

A coded, confidential identification ankle bracelet must immediately be placed on a newborn baby who is surrendered at a hospital. Hospital personnel also must make a "good faith effort" to give the person surrendering the baby a copy of the bracelet, in case the person wants to reclaim the infant at a later time.

Hospital personnel also must make a "good faith" attempt to have the person surrendering the newborn complete a family medical history questionnaire. The questionnaire must include a coded, confidential identification to ensure that the family medical history information can be matched to the newborn.

The family medical history questionnaire **MUST NOT** require any identifying information about the child or the parent, other than the ID code provided on the ankle bracelet placed on the baby. This is intended to keep the identification of the person surrendering the baby anonymous, should the person so desire.

After the baby is surrendered to the hospital, the hospital must conduct a medical screening evaluation and provide any necessary medical care to the newborn. The consent of the parent or other person surrendering the baby is **NOT** required to provide such care.

Hospitals that do not routinely provide care to newborns should have procedures in place to ensure that the baby is examined by a qualified medical professional and that all necessary newborn screening tests are performed. *(NOTE: This may be accomplished by calling in a qualified medical professional, by transferring the baby to another hospital that routinely cares for newborns or by arranging appropriate follow-up care with the child-protective services agency).*

Notifying Child-Protective Services or County Welfare Agency

SB 1368 requires a hospital to notify child-protective services or the county welfare agency of the surrender of a newborn as soon as possible, and in no event later than 48 hours after taking custody of the infant.

Once contact is made, the agency must immediately assume temporary custody of the newborn. The agency also must immediately investigate the circumstances of the case and must immediately notify the state Department of Social Services. The agency also must file a petition in juvenile court to declare the infant a dependent child of the court.

Requests to Return a Newborn

If the person who surrendered the newborn requests that the hospital return the newborn to him/her, the hospital must do so if it still has physical custody, and if the dependency petition has not yet been filed in juvenile court. If, however, a health practitioner at the hospital reasonably suspects that the child has been the victim of child abuse or neglect, he or she must notify a child-protective agency rather than return the child upon request. *(A hospital's usual child-abuse reporting procedures should be used in such a situation.)*

The voluntary surrendering of a newborn in accordance with SB 1368, however, is not in and of itself a sufficient basis for reporting child abuse or neglect.

If the dependency petition has already been filed in juvenile court, the person surrendering the newborn may reclaim the child within 14 days of the surrender. The child welfare agency must verify the identity of the person and conduct an assessment of the person's circumstances and ability to parent.

If the agency determines that the baby is not at risk for physical or emotional injury, the child welfare agency must request that the juvenile court dismiss the petition for dependency and order the release of the child. If the hospital still has physical custody of the newborn at this time, the hospital should obtain a copy of the court order before releasing custody of the infant.