

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1582 Session of  
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AND YOUNGBLOOD, MAY 9, 2001

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MAY 9, 2001

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, providing for infant protection.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Title 23 of the Pennsylvania Consolidated  
6 Statutes is amended by adding a chapter to read:

7 CHAPTER 57

8 INFANT PROTECTION

9 Sec.

10 5701. Short title of chapter.

11 5702. Legislative findings and intent.

12 5703. Definitions.

13 5704. Prohibition against certain prosecutions.

14 5705. Accepting possession of infants.

15 5706. Reporting possession of infants.

16 5707. Failure to report possession of infants.

1 5708. Immunity granted to health care providers and  
2 hospitals.

3 5709. Duties of county agency and police department.

4 5710. Bracelet; effect.

5 5711. Disposition of infant.

6 5712. Availability of information.

7 5713. Duty of hospital.

8 5714. Duties of department.

9 § 5701. Short title of chapter.

10 This chapter shall be known and may be cited as the Infant  
11 Protection Act.

12 § 5702. Legislative findings and intent.

13 (a) Findings.--The General Assembly finds it to be in the  
14 public interest to provide a safe way for a person having lawful  
15 custody of an infant to transfer possession of that infant to a  
16 health care provider at a hospital in order to reduce the number  
17 of abandonment cases with tragic consequences.

18 (b) Intent.--It is the intent of the General Assembly to  
19 provide a procedure for the voluntary transfer of possession of  
20 an infant to a health care provider at a hospital by a person  
21 having lawful custody of an infant.

22 § 5703. Definitions.

23 The following words and phrases when used in this chapter  
24 shall have the meanings given to them in this section unless the  
25 context clearly indicates otherwise:

26 "Child abuse." Child abuse as defined in section 6303  
27 (relating to definitions).

28 "County agency" or "agency." County agency as defined in  
29 section 6303 (relating to definitions).

30 "Department." The Department of Public Welfare of the

1 Commonwealth.

2 "Health care provider." A person who is licensed or  
3 certified by the laws of this Commonwealth to administer health  
4 care in the ordinary course of business or practice of a  
5 profession.

6 "Hospital." An institution having an organized medical  
7 staff, by or under the supervision of physicians, licensed under  
8 the provisions of the law of this Commonwealth.

9 "Identification bracelet." A numbered bracelet that links  
10 the person transferring possession of an infant to a hospital to  
11 the infant being transferred.

12 "Infant." A child less than 15 days of age.

13 § 5704. Prohibition against certain prosecutions.

14 (a) General rule.--Except as provided in subsection (b), a  
15 person having lawful custody of an infant shall not be  
16 prosecuted for a violation of 18 Pa.C.S. § 2705 (relating to  
17 recklessly endangering another person) or 4304 (relating to  
18 endangering welfare of children) or any other provision under 18  
19 Pa.C.S. (relating to crimes and offenses) solely for leaving an  
20 infant in the care of a hospital without regard for the infant's  
21 future care if all of the following criteria are met:

22 (1) The person expresses an intent to transfer  
23 possession of the infant. This intent may be expressed orally  
24 or through conduct.

25 (2) The person transfers possession of the infant to a  
26 health care provider at a hospital.

27 (3) There is no evidence that the child is a victim of  
28 child abuse.

29 (b) Exception.--Subsection (a) does not apply to an offense  
30 under any of the following:

1           (1) 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

2           (2) 18 Pa.C.S. Ch. 29 (relating to kidnapping).

3   § 5705. Accepting possession of infants.

4       (a) General rule.--Notwithstanding the provisions of section  
5 6315 (relating to taking child into protective custody) and 42  
6 Pa.C.S. § 6324 (relating to taking into custody), a health care  
7 provider at a hospital shall do all of the following relating to  
8 an infant transferred under this chapter:

9           (1) Take immediate possession of the infant.

10          (2) Perform a medical evaluation as well as perform any  
11 act necessary to care for and protect the physical health and  
12 safety of the infant.

13          (3) Provide the person transferring possession of the  
14 infant an informational pamphlet regarding the provisions of  
15 this chapter.

16          (4) Provide the person transferring possession of the  
17 infant with an identification bracelet.

18          (5) Notify the county agency and police department as  
19 provided in section 5706 (relating to reporting possession of  
20 infants).

21       (b) Accepting possession.--When accepting possession of an  
22 infant, a health care provider at a hospital may ask the person  
23 transferring possession of the infant about the infant's medical  
24 history. However, the person transferring possession of the  
25 infant is not required to provide any information, including the  
26 name of the person transferring possession of the infant. A  
27 person transferring possession of an infant shall be notified of  
28 the person's right not to disclose any information regarding the  
29 infant.

30   § 5706. Reporting possession of infants.

1 (a) General rule.--Except as provided in subsections (b) and  
2 (c), a health care provider at a hospital shall make a report  
3 within 24 hours to the county agency and the police department  
4 regarding an infant transferred under section 5705 (relating to  
5 accepting possession of infants).

6 (b) Immediate notification.--If it is determined that an  
7 infant is a victim of child abuse, the county agency and the  
8 police department shall be notified immediately.

9 § 5707. Failure to report possession of infants.

10 A health care provider at a hospital who intentionally or  
11 knowingly fails to report the transfer of possession of an  
12 infant as required by this chapter commits a summary offense. A  
13 second or subsequent failure to report a transfer of possession  
14 is a misdemeanor of the third degree.

15 § 5708. Immunity granted to health care providers and  
16 hospitals.

17 Except for a violation of section 5707 (relating to failure  
18 to report possession of infants), no hospital or health care  
19 provider at a hospital shall be subject to civil liability or  
20 criminal penalty solely by reason of complying with the  
21 provisions of this chapter.

22 § 5709. Duties of county agency and police department.

23 (a) Police department.--The police department shall  
24 investigate the circumstances surrounding the birth and transfer  
25 of possession of an infant if it is determined that the infant  
26 is a victim of child abuse.

27 (b) County agency.--Pursuant to 42 Pa.C.S. Ch. 63 (relating  
28 to juvenile matters), the agency shall assume custody of an  
29 infant transferred to a health care provider at a hospital.  
30 Until such time as a court makes an order pursuant to 42 Pa.C.S.

1 § 6351 (relating to disposition of dependent child), the agency  
2 shall make all medical decisions relating to the infant and  
3 shall assume any costs incurred.

4 § 5710. Bracelet; effect.

5 Possession of an identification bracelet creates a rebuttable  
6 presumption that the person possessing the bracelet has standing  
7 to participate in proceedings pursuant to 42 Pa.C.S. Ch. 63  
8 (relating to juvenile matters) to determine whether the infant  
9 is a dependent child as defined by 42 Pa.C.S. § 6302 (relating  
10 to definitions). Possession of the bracelet does not create a  
11 presumption of maternity, paternity or custody and does not  
12 permit the person possessing the bracelet to take custody of the  
13 infant on demand. If a person transferring possession of the  
14 infant desires to be reunited with the infant, the person must  
15 provide the identification bracelet to the court and participate  
16 in proceedings held pursuant to 42 Pa.C.S. Ch. 63.

17 § 5711. Disposition of infant.

18 (a) Effect of transfer.--Transferring possession under this  
19 chapter shall create a rebuttable presumption that the infant is  
20 a dependent child as defined in 42 Pa.C.S. § 6302 (relating to  
21 definitions).

22 (b) Disposition.--The county agency shall begin proceedings  
23 to determine whether the infant is a dependent child as defined  
24 in 42 Pa.C.S. § 6302 not later than 72 hours after the agency  
25 assumes custody under section 5709 (relating to duties of county  
26 agency and police department).

27 (c) Hearing required.--No infant transferred to a health  
28 care provider at a hospital under this chapter shall be reunited  
29 with any person, including the person who transferred possession  
30 to a health care provider at a hospital, without a full hearing

1 under 42 Pa.C.S. § 6351 (relating to disposition of dependent  
2 child). This hearing shall be in addition to any proceedings  
3 held under subsection (b).

4 § 5712. Availability of information.

5 Information regarding the general health of the infant may be  
6 given to the public. Information relating to the location of the  
7 infant, the name of the person transferring possession of the  
8 infant to a health care provider at a hospital or the name of  
9 the person to whom the infant has been awarded pursuant to 42  
10 Pa.C.S. § 6351 (relating to disposition of dependent child) may  
11 not be released.

12 § 5713. Duty of hospital.

13 A hospital shall insure that its officers, health care  
14 providers and employees are familiar with the provisions of this  
15 chapter. Information concerning this chapter and regulations  
16 adopted by the department shall be made part of the training  
17 curriculum at each hospital. Each hospital shall adopt a written  
18 policy in accordance with the provisions of this chapter.

19 § 5714. Duties of department.

20 The department shall promulgate regulations to implement this  
21 chapter as well as publicize the provisions of this chapter in a  
22 manner that is accessible to the general public. The department  
23 shall also provide health care providers and hospitals with an  
24 informational pamphlet regarding this chapter which may be  
25 distributed to the public. Additionally, the department shall  
26 report to the General Assembly on whether a dedicated toll-free  
27 telephone line for answering questions regarding this chapter  
28 would be useful, feasible and cost effective. Reports shall be  
29 made to the General Assembly annually on the number and  
30 disposition of children transferred in accordance with this

1 chapter.

2 Section 2. This act shall take effect in 90 days.