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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 654      Session of  
2001

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INTRODUCED BY HELFRICK, WOZNIAK, PICCOLA, COSTA, TILGHMAN,  
KUKOVICH, M. WHITE, O'PAKE, EARLL, BODACK, MURPHY,  
TARTAGLIONE, RHOADES, THOMPSON, BELL, DENT, HOLL AND KASUNIC,  
MARCH 19, 2001

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, SEPTEMBER 30, 2002

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AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <—  
2 ~~Consolidated Statutes, further providing for endangering~~  
3 ~~welfare of children; and providing for certain civil~~  
4 ~~immunity.~~  
5 ~~AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE~~ <—  
6 ~~PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING FOR INFANT~~  
7 ~~PROTECTION.~~  
8 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 23 (DOMESTIC <—  
9 RELATIONS) OF THE PENNSYLVANIA CONSOLIDATED STATUTES,  
10 PROVIDING FOR NEWBORN PROTECTION.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 ~~Section 1. Section 4304 of Title 18 of the Pennsylvania~~ <—  
14 ~~Consolidated Statutes is amended to read:~~  
15 ~~§ 4304. Endangering welfare of children.~~  
16 ~~(a) Offense defined. [A] Except as provided in subsection~~  
17 ~~(c), a parent, guardian, or other person supervising the welfare~~  
18 ~~of a child under 18 years of age commits an offense if he~~  
19 ~~knowingly endangers the welfare of the child by violating a duty~~

1 ~~of care, protection or support.~~

2 ~~(b) Grading. An offense under this section constitutes a~~  
3 ~~misdemeanor of the first degree. However, where there is a~~  
4 ~~course of conduct of endangering the welfare of a child, the~~  
5 ~~offense constitutes a felony of the third degree.~~

6 ~~(c) Safe haven delivery. The act of leaving a newborn in an~~  
7 ~~appropriate location at or with staff, an employee, contractor~~  
8 ~~or agent of a safe haven, which act is performed in a manner~~  
9 ~~that does not endanger the welfare of the newborn, shall not be~~  
10 ~~a basis of prosecution under this section.~~

11 ~~(d) General duty of safe haven. A safe haven which offers~~  
12 ~~emergency services shall admit and provide all necessary medical~~  
13 ~~care, diagnostic tests and medical treatment to a newborn~~  
14 ~~brought to the safe haven pursuant to subsection (c).~~

15 ~~(e) Specific duties of safe havens.~~

16 ~~(1) A safe haven shall immediately notify by telephone~~  
17 ~~the county children and youth agency in the county where the~~  
18 ~~newborn was received.~~

19 ~~(2) Leaving a newborn at a safe haven shall be construed~~  
20 ~~as immediate consent for the county agency of the county in~~  
21 ~~which the newborn is delivered under subsection (c) to assume~~  
22 ~~custody of the newborn for directing medical care and~~  
23 ~~treatment and the newborn shall be considered immediately~~  
24 ~~eligible for Medicaid for payment of medical services~~  
25 ~~provided.~~

26 ~~(3) A safe haven shall immediately provide or transport~~  
27 ~~a newborn left under subsection (c) to a facility where the~~  
28 ~~newborn can receive appropriate medical care or treatment.~~

29 ~~(4) A safe haven shall post signs to identify itself as~~  
30 ~~a safe haven at or near entrances used by the public.~~

~~(f) Immunity from civil liability.~~

~~(1) A person who performs medical care, diagnostic testing or medical treatment shall be immune from civil liability for having performed the care described in this section.~~

~~(2) Nothing in this subsection shall be construed to limit liability for gross negligence or willful, wanton or reckless misconduct.~~

~~(g) Procedure. Care, custody and control of the newborn shall be governed by 42 Pa.C.S. Ch. 63 (relating to juvenile matters).~~

~~(h) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection:~~

~~"County agency." A county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.~~

~~"Newborn." A child less than 30 days old.~~

~~"Safe haven." A hospital as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.~~

~~Section 2. This act shall take effect in 60 days.~~

~~SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:~~

~~CHAPTER 64~~

~~INFANT PROTECTION~~

~~SEC.~~

1 ~~6401. SHORT TITLE OF CHAPTER.~~  
2 ~~6402. LEGISLATIVE FINDINGS AND INTENT.~~  
3 ~~6403. DEFINITIONS.~~  
4 ~~6404. PROHIBITION AGAINST CERTAIN PROSECUTIONS.~~  
5 ~~6405. ACCEPTING POSSESSION OF INFANTS.~~  
6 ~~6406. REPORTING POSSESSION OF INFANTS.~~  
7 ~~6407. FAILURE TO REPORT POSSESSION OF INFANTS.~~  
8 ~~6408. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND~~  
9 ~~HOSPITALS.~~  
10 ~~6409. DUTIES OF COUNTY AGENCY AND POLICE DEPARTMENT.~~  
11 ~~6410. BRACELET; EFFECT.~~  
12 ~~6411. AVAILABILITY OF INFORMATION.~~  
13 ~~6412. DUTY OF HOSPITAL.~~  
14 ~~6413. DUTIES OF DEPARTMENT.~~

15 ~~§ 6401. SHORT TITLE OF CHAPTER.~~

16 ~~THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE INFANT~~  
17 ~~PROTECTION ACT.~~

18 ~~§ 6402. LEGISLATIVE FINDINGS AND INTENT.~~

19 ~~(A) FINDINGS. THE GENERAL ASSEMBLY FINDS IT TO BE IN THE~~  
20 ~~PUBLIC INTEREST TO PROVIDE A SAFE WAY FOR A PERSON HAVING LAWFUL~~  
21 ~~CUSTODY OF AN INFANT TO TRANSFER POSSESSION OF THAT INFANT TO A~~  
22 ~~HEALTH CARE PROVIDER AT A HOSPITAL IN ORDER TO REDUCE THE NUMBER~~  
23 ~~OF ABANDONMENT CASES WITH TRAGIC CONSEQUENCES.~~

24 ~~(B) INTENT. IT IS THE INTENT OF THE GENERAL ASSEMBLY TO~~  
25 ~~PROVIDE A PROCEDURE FOR THE VOLUNTARY TRANSFER OF POSSESSION OF~~  
26 ~~AN INFANT TO A HEALTH CARE PROVIDER AT A HOSPITAL BY A PERSON~~  
27 ~~HAVING LAWFUL CUSTODY OF AN INFANT.~~

28 ~~§ 6403. DEFINITIONS.~~

29 ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER~~  
30 ~~SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE~~

1 ~~CONTEXT CLEARLY INDICATES OTHERWISE.~~

2 ~~"CHILD ABUSE." CHILD ABUSE AS DEFINED IN 23 PA.C.S. §~~  
3 ~~6303(B) (RELATING TO DEFINITIONS).~~

4 ~~"COUNTY AGENCY" OR "AGENCY." COUNTY AGENCY AS DEFINED IN 23~~  
5 ~~PA.C.S. § 6303(A) (RELATING TO DEFINITIONS).~~

6 ~~"DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE~~  
7 ~~COMMONWEALTH.~~

8 ~~"HEALTH CARE PROVIDER." A PERSON WHO IS LICENSED OR~~  
9 ~~CERTIFIED BY THE LAWS OF THIS COMMONWEALTH TO ADMINISTER HEALTH~~  
10 ~~CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A~~  
11 ~~PROFESSION. FOR PURPOSES OF TAKING IMMEDIATE POSSESSION OF AN~~  
12 ~~INFANT AS PROVIDED IN SECTION 6405(A)(1) (RELATING TO ACCEPTING~~  
13 ~~POSSESSION OF INFANTS) AND FOR IMMUNITY PROVIDED PURSUANT TO~~  
14 ~~SECTION 6408 (RELATING TO IMMUNITY GRANTED TO HEALTH CARE~~  
15 ~~PROVIDERS AND HOSPITALS) THE TERM INCLUDES ADMINISTRATIVE,~~  
16 ~~MANAGERIAL AND SECURITY PERSONNEL EMPLOYED BY A HOSPITAL.~~

17 ~~"HOSPITAL." AS DEFINED IN SECTION 3 OF THE ACT OF JULY 3,~~  
18 ~~1985 (P.L.164, NO.45), KNOWN AS THE EMERGENCY MEDICAL SERVICES~~  
19 ~~ACT.~~

20 ~~"IDENTIFICATION BRACELET." A NUMBERED BRACELET THAT LINKS~~  
21 ~~THE PERSON TRANSFERRING POSSESSION OF AN INFANT TO A HOSPITAL TO~~  
22 ~~THE INFANT BEING TRANSFERRED.~~

23 ~~"INFANT." A CHILD LESS THAN 28 DAYS OF AGE.~~

24 ~~§ 6404. PROHIBITION AGAINST CERTAIN PROSECUTIONS.~~

25 ~~(A) GENERAL RULE. EXCEPT AS PROVIDED IN SUBSECTION (B), A~~  
26 ~~PERSON HAVING LAWFUL CUSTODY OF AN INFANT SHALL NOT BE~~  
27 ~~PROSECUTED FOR A VIOLATION OF 18 PA.C.S. § 2705 (RELATING TO~~  
28 ~~RECKLESSLY ENDANGERING ANOTHER PERSON) OR 4304 (RELATING TO~~  
29 ~~ENDANGERING WELFARE OF CHILDREN) OR ANY OTHER PROVISION UNDER 18~~  
30 ~~PA.C.S. (RELATING TO CRIMES AND OFFENSES) SOLELY FOR LEAVING AN~~

~~INFANT IN THE CARE OF A HOSPITAL WITHOUT REGARD FOR THE INFANT'S  
FUTURE CARE IF ALL OF THE FOLLOWING CRITERIA ARE MET:~~

~~(1) THE PERSON EXPRESSES AN INTENT TO TRANSFER  
POSSESSION OF THE INFANT. THIS INTENT MAY BE EXPRESSED ORALLY  
OR THROUGH CONDUCT.~~

~~(2) THE PERSON TRANSFERS POSSESSION OF THE INFANT TO A  
HEALTH CARE PROVIDER AT A HOSPITAL.~~

~~(3) THERE IS NO EVIDENCE THAT THE CHILD IS A VICTIM OF  
CHILD ABUSE.~~

~~(B) EXCEPTION. SUBSECTION (A) DOES NOT APPLY TO AN OFFENSE  
UNDER ANY OF THE FOLLOWING:~~

~~(1) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL HOMICIDE).~~

~~(2) 18 PA.C.S. CH. 29 (RELATING TO KIDNAPPING).~~

~~§ 6405. ACCEPTING POSSESSION OF INFANTS.~~

~~(A) GENERAL RULE. A HEALTH CARE PROVIDER AT A HOSPITAL  
SHALL DO ALL OF THE FOLLOWING RELATING TO AN INFANT TRANSFERRED  
UNDER THIS CHAPTER:~~

~~(1) TAKE IMMEDIATE POSSESSION OF THE INFANT, AND TAKE  
THE INFANT INTO PROTECTIVE CUSTODY.~~

~~(2) PERFORM A MEDICAL EVALUATION AS WELL AS PERFORM ANY  
ACT NECESSARY TO CARE FOR AND PROTECT THE PHYSICAL HEALTH AND  
SAFETY OF THE INFANT.~~

~~(3) PROVIDE THE PERSON TRANSFERRING POSSESSION OF THE  
INFANT AN INFORMATIONAL PAMPHLET REGARDING THE PROVISIONS OF  
THIS CHAPTER.~~

~~(4) PROVIDE THE PERSON TRANSFERRING POSSESSION OF THE  
INFANT WITH AN IDENTIFICATION BRACELET.~~

~~(5) NOTIFY THE COUNTY AGENCY AND POLICE DEPARTMENT AS  
PROVIDED IN SECTION 6406 (RELATING TO REPORTING POSSESSION OF  
INFANTS).~~

~~(B) ACCEPTING POSSESSION. WHEN ACCEPTING POSSESSION OF AN INFANT, A HEALTH CARE PROVIDER AT A HOSPITAL MAY ASK THE PERSON TRANSFERRING POSSESSION OF THE INFANT ABOUT THE INFANT'S MEDICAL HISTORY. HOWEVER, THE PERSON TRANSFERRING POSSESSION OF THE INFANT IS NOT REQUIRED TO PROVIDE ANY INFORMATION, INCLUDING THE NAME OF THE PERSON TRANSFERRING POSSESSION OF THE INFANT. A PERSON TRANSFERRING POSSESSION OF AN INFANT SHALL BE NOTIFIED OF THE PERSON'S RIGHT NOT TO DISCLOSE ANY INFORMATION REGARDING THE INFANT.~~

~~§ 6406. REPORTING POSSESSION OF INFANTS.~~

~~(A) GENERAL RULE. EXCEPT AS PROVIDED IN SUBSECTION (B), A HEALTH CARE PROVIDER AT A HOSPITAL SHALL MAKE A REPORT WITHIN 24 HOURS TO THE COUNTY AGENCY AND THE POLICE DEPARTMENT REGARDING AN INFANT TRANSFERRED UNDER SECTION 6405 (RELATING TO ACCEPTING POSSESSION OF INFANTS).~~

~~(B) IMMEDIATE NOTIFICATION. IF IT IS DETERMINED THAT AN INFANT IS A VICTIM OF CHILD ABUSE, THE COUNTY AGENCY AND THE POLICE DEPARTMENT SHALL BE NOTIFIED IMMEDIATELY.~~

~~§ 6407. FAILURE TO REPORT POSSESSION OF INFANTS.~~

~~A HEALTH CARE PROVIDER AT A HOSPITAL WHO INTENTIONALLY OR KNOWINGLY FAILS TO REPORT THE TRANSFER OF POSSESSION OF AN INFANT AS REQUIRED BY THIS CHAPTER COMMITS A SUMMARY OFFENSE. A SECOND OR SUBSEQUENT FAILURE TO REPORT A TRANSFER OF POSSESSION IS A MISDEMEANOR OF THE THIRD DEGREE.~~

~~§ 6408. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND HOSPITALS.~~

~~EXCEPT FOR A VIOLATION OF SECTION 6407 (RELATING TO FAILURE TO REPORT POSSESSION OF INFANTS), NO HOSPITAL OR HEALTH CARE PROVIDER AT A HOSPITAL SHALL BE SUBJECT TO CIVIL LIABILITY OR CRIMINAL PENALTY SOLELY BY REASON OF COMPLYING WITH THE~~

~~PROVISIONS OF THIS CHAPTER.~~

~~§ 6409. DUTIES OF COUNTY AGENCY AND POLICE DEPARTMENT.~~

~~(A) POLICE DEPARTMENT. THE POLICE DEPARTMENT SHALL INVESTIGATE THE CIRCUMSTANCES SURROUNDING THE BIRTH AND TRANSFER OF POSSESSION OF AN INFANT IF IT IS DETERMINED THAT THE INFANT IS A VICTIM OF CHILD ABUSE.~~

~~(B) COUNTY AGENCY. NO INFANT MAY BE HELD IN PROTECTIVE CUSTODY FOR MORE THAN 24 HOURS UNLESS THE APPROPRIATE COUNTY AGENCY IS IMMEDIATELY NOTIFIED THAT THE INFANT HAS BEEN TAKEN INTO CUSTODY AND THE COUNTY AGENCY OBTAINS AN ORDER FROM A COURT OF COMPETENT JURISDICTION PERMITTING THE CHILD TO BE HELD IN CUSTODY FOR A LONGER PERIOD.~~

~~(C) NOTICE OF CUSTODY. THE COUNTY AGENCY SHALL WITHIN 24 HOURS MAKE DILIGENT EFFORTS TO NOTIFY A PARENT, GUARDIAN, CUSTODIAN OR OTHER FAMILY MEMBER OF THE INFANT OF THE WHEREABOUTS OF THE INFANT UNLESS PROHIBITED BY COURT ORDER, AND THE REASONS FOR THE NEED TO TAKE THE INFANT INTO PROTECTIVE CUSTODY.~~

~~(D) INFORMAL HEARING. IN NO CASE SHALL PROTECTIVE CUSTODY UNDER THIS CHAPTER BE MAINTAINED LONGER THAN 72 HOURS WITHOUT AN INFORMAL HEARING UNDER SECTION 6332 (RELATING TO INFORMAL HEARING). IF, AT THE HEARING, IT IS DETERMINED THAT PROTECTIVE CUSTODY SHALL BE CONTINUED AND THE INFANT IS ALLEGED TO BE WITHOUT PROPER PARENTAL CARE OR CONTROL OR IS ALLEGED TO BE A DEPENDENT CHILD UNDER SECTION 6302(A) (RELATING TO DEFINITIONS), THE COUNTY AGENCY SHALL WITHIN 48 HOURS FILE A PETITION WITH THE COURT UNDER CHAPTER 63 (RELATING TO JUVENILE MATTERS) ALLEGING THAT THE CHILD IS A DEPENDENT CHILD.~~

~~§ 6410. BRACELET; EFFECT.~~

~~POSSESSION OF AN IDENTIFICATION BRACELET CREATES A REBUTTABLE~~



1 ~~PRESUMPTION THAT THE PERSON POSSESSING THE BRACELET HAS STANDING~~  
2 ~~TO PARTICIPATE IN PROCEEDINGS PURSUANT TO CHAPTER 63 (RELATING~~  
3 ~~TO JUVENILE MATTERS) TO DETERMINE WHETHER THE INFANT IS A~~  
4 ~~DEPENDENT CHILD AS DEFINED BY SECTION 6302(A) (RELATING TO~~  
5 ~~DEFINITIONS). POSSESSION OF THE BRACELET DOES NOT CREATE A~~  
6 ~~PRESUMPTION OF MATERNITY, PATERNITY OR CUSTODY AND DOES NOT~~  
7 ~~PERMIT THE PERSON POSSESSING THE BRACELET TO TAKE CUSTODY OF THE~~  
8 ~~INFANT ON DEMAND. IF A PERSON TRANSFERRING POSSESSION OF THE~~  
9 ~~INFANT DESIRES TO BE REUNITED WITH THE INFANT, THE PERSON MUST~~  
10 ~~PROVIDE THE IDENTIFICATION BRACELET TO THE COURT AND PARTICIPATE~~  
11 ~~IN PROCEEDINGS HELD PURSUANT TO CHAPTER 63.~~

12 ~~§ 6411. AVAILABILITY OF INFORMATION.~~

13 ~~INFORMATION REGARDING THE GENERAL HEALTH OF THE INFANT MAY BE~~  
14 ~~GIVEN TO THE PUBLIC. INFORMATION RELATING TO THE LOCATION OF THE~~  
15 ~~INFANT, THE NAME OF THE PERSON TRANSFERRING POSSESSION OF THE~~  
16 ~~INFANT TO A HEALTH CARE PROVIDER AT A HOSPITAL OR THE NAME OF~~  
17 ~~THE PERSON TO WHOM THE INFANT HAS BEEN AWARDED PURSUANT TO COURT~~  
18 ~~ORDER MAY NOT BE RELEASED.~~

19 ~~§ 6412. DUTY OF HOSPITAL.~~

20 ~~A HOSPITAL SHALL INSURE THAT ITS OFFICERS, HEALTH CARE~~  
21 ~~PROVIDERS AND EMPLOYEES ARE FAMILIAR WITH THE PROVISIONS OF THIS~~  
22 ~~CHAPTER AND SHALL INSURE THAT THE APPROPRIATE OFFICERS, HEALTH~~  
23 ~~CARE PROVIDERS, AND EMPLOYEES, AS THE CASE MAY BE, RECEIVE~~  
24 ~~INFORMATION PROVIDED BY THE DEPARTMENT'S TRAINING CURRICULUM, AS~~  
25 ~~ESTABLISHED UNDER SECTION 6413 (RELATING TO DUTIES OF~~  
26 ~~DEPARTMENT). INFORMATION CONCERNING THIS CHAPTER AND REGULATIONS~~  
27 ~~ADOPTED BY THE DEPARTMENT SHALL BE MADE PART OF THE TRAINING AT~~  
28 ~~EACH HOSPITAL. EACH HOSPITAL SHALL ADOPT A WRITTEN POLICY IN~~  
29 ~~ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.~~

30 ~~§ 6413. DUTIES OF DEPARTMENT.~~

1       ~~THE DEPARTMENT SHALL PROVIDE AND MAKE AVAILABLE A TRAINING~~  
2 ~~CURRICULUM FOR USE BY HOSPITALS AND HEALTH CARE PROVIDERS AT~~  
3 ~~HOSPITALS REGARDING THIS CHAPTER. THE DEPARTMENT SHALL ALSO~~  
4 ~~PROMULGATE REGULATIONS TO IMPLEMENT THIS CHAPTER AS WELL AS~~  
5 ~~PUBLICIZE THE PROVISIONS OF THIS CHAPTER IN A MANNER THAT IS~~  
6 ~~ACCESSIBLE TO THE GENERAL PUBLIC. THE DEPARTMENT SHALL ALSO~~  
7 ~~PROVIDE HEALTH CARE PROVIDERS AND HOSPITALS WITH AN~~  
8 ~~INFORMATIONAL PAMPHLET REGARDING THIS CHAPTER WHICH MAY BE~~  
9 ~~DISTRIBUTED TO THE PUBLIC. ADDITIONALLY, THE DEPARTMENT SHALL~~  
10 ~~REPORT TO THE GENERAL ASSEMBLY ON WHETHER A DEDICATED TOLL FREE~~  
11 ~~TELEPHONE LINE FOR ANSWERING QUESTIONS REGARDING THIS CHAPTER~~  
12 ~~WOULD BE USEFUL, FEASIBLE AND COST EFFECTIVE. REPORTS SHALL BE~~  
13 ~~MADE TO THE GENERAL ASSEMBLY ANNUALLY ON THE NUMBER AND~~  
14 ~~DISPOSITION OF CHILDREN TRANSFERRED IN ACCORDANCE WITH THIS~~  
15 ~~CHAPTER.~~

16       ~~SECTION 2. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.~~

17       SECTION 1. TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED  
18 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

19       § 4306. NEWBORN PROTECTION.

20       (A) GENERAL RULE.--A PARENT OF A NEWBORN SHALL NOT BE  
21 CRIMINALLY LIABLE FOR ANY VIOLATION OF THIS TITLE SOLELY FOR  
22 LEAVING A NEWBORN IN THE CARE OF A HOSPITAL PURSUANT TO 23  
23 PA.C.S. CH. 65 (RELATING TO NEWBORN PROTECTION) PROVIDING THERE  
24 IS NO EVIDENCE THAT THE NEWBORN IS A VICTIM OF CHILD ABUSE OR  
25 THAT THE FOLLOWING CRITERIA ARE MET:

26           (1) THE PARENT EXPRESSES, EITHER ORALLY OR THROUGH  
27 CONDUCT, THE INTENT TO HAVE THE HOSPITAL ACCEPT THE NEWBORN  
28 PURSUANT TO 23 PA.C.S. CH. 65.

29           (2) THE NEWBORN IS NOT A VICTIM OF CHILD ABUSE OR  
30 CRIMINAL CONDUCT.

1     (B) DEFINITION.--AS USED IN THIS SECTION THE TERM "NEWBORN"  
2     SHALL HAVE THE MEANING GIVEN TO IT IN 23 PA.C.S. § 6502  
3     (RELATING TO DEFINITIONS) AND "CHILD ABUSE" SHALL BE AS DEFINED  
4     IN 23 PA.C.S. § 6303 (RELATING TO DEFINITIONS).

5     SECTION 2. SECTION 6303(A) OF TITLE 23 IS AMENDED BY ADDING  
6     DEFINITIONS TO READ:

7     § 6303. DEFINITIONS.

8     (A) GENERAL RULE.--THE FOLLOWING WORDS AND PHRASES WHEN USED  
9     IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
10    SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

11     \* \* \*

12     "CHILD." INCLUDES A NEWBORN.

13     \* \* \*

14     "NEWBORN." AS DEFINED IN SECTION 6502 (RELATING TO  
15     DEFINITIONS).

16     \* \* \*

17    SECTION 3. SECTION 6315(A) AND (C) OF TITLE 23 ARE AMENDED  
18    TO READ:

19    § 6315. TAKING CHILD INTO PROTECTIVE CUSTODY.

20    (A) GENERAL RULE.--A CHILD MAY BE TAKEN INTO PROTECTIVE  
21    CUSTODY:

22       (1) AS PROVIDED BY 42 PA.C.S. § 6324 (RELATING TO TAKING  
23       INTO CUSTODY).

24       (2) BY A PHYSICIAN EXAMINING OR TREATING THE CHILD OR BY  
25       THE DIRECTOR, OR A PERSON SPECIFICALLY DESIGNATED IN WRITING  
26       BY THE DIRECTOR, OF ANY HOSPITAL OR OTHER MEDICAL INSTITUTION  
27       WHERE THE CHILD IS BEING TREATED IF PROTECTIVE CUSTODY IS  
28       IMMEDIATELY NECESSARY TO PROTECT THE CHILD UNDER THIS  
29       CHAPTER.

30       (3) BY A PHYSICIAN OR THE DIRECTOR, OR A PERSON

1 SPECIFICALLY DESIGNATED BY THE DIRECTOR, OF A HOSPITAL  
2 PURSUANT TO CHAPTER 65 (RELATING TO NEWBORN PROTECTION) IF  
3 THE CHILD IS A NEWBORN.

4 \* \* \*

5 (C) NOTICE OF CUSTODY.--[AN]

6 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), AN INDIVIDUAL  
7 TAKING A CHILD INTO PROTECTIVE CUSTODY UNDER THIS CHAPTER  
8 SHALL IMMEDIATELY, AND WITHIN 24 HOURS IN WRITING, NOTIFY THE  
9 PARENT, GUARDIAN OR OTHER CUSTODIAN OF THE CHILD OF THE  
10 WHEREABOUTS OF THE CHILD, UNLESS PROHIBITED BY COURT ORDER,  
11 AND THE REASONS FOR THE NEED TO TAKE THE CHILD INTO  
12 PROTECTIVE CUSTODY AND SHALL IMMEDIATELY NOTIFY THE  
13 APPROPRIATE COUNTY AGENCY IN ORDER THAT PROCEEDINGS UNDER 42  
14 PA.C.S. CH. 63 (RELATING TO JUVENILE MATTERS) MAY BE  
15 INITIATED, IF APPROPRIATE.

16 (2) IN THE CASE OF A NEWBORN TAKEN INTO PROTECTIVE  
17 CUSTODY PURSUANT TO SUBSECTION (A)(3), THE COUNTY AGENCY  
18 SHALL WITHIN 24 HOURS MAKE DILIGENT EFFORTS TO NOTIFY A  
19 PARENT, GUARDIAN, CUSTODIAN OR OTHER FAMILY MEMBER OF THE  
20 WHEREABOUTS OF THE NEWBORN, UNLESS PROHIBITED BY COURT ORDER,  
21 AND THE REASONS FOR THE NEED TO TAKE THE NEWBORN INTO  
22 PROTECTIVE CUSTODY.

23 \* \* \*

24 SECTION 4. SECTION 6316(B) OF TITLE 23 IS AMENDED AND THE  
25 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:  
26 § 6316. ADMISSION TO PRIVATE AND PUBLIC HOSPITALS.

27 \* \* \*

28 (A.1) NEWBORNS.--A NEWBORN TAKEN INTO PROTECTIVE CUSTODY  
29 PURSUANT TO SECTION 6315(A)(3) (RELATING TO TAKING CHILD INTO  
30 PROTECTIVE CUSTODY) SHALL BE ADMITTED TO, TREATED AND MAINTAINED

1 IN FACILITIES OF PUBLIC AND PRIVATE HOSPITALS ON THE BASIS OF  
2 MEDICAL NEED AND SHALL NOT BE REFUSED OR DEPRIVED IN ANY WAY OF  
3 PROPER MEDICAL TREATMENT AND CARE. ONCE A NEWBORN IS TAKEN INTO  
4 PROTECTIVE CUSTODY PURSUANT TO SECTION 6315(A)(3), THE NEWBORN  
5 SHALL BE CONSIDERED IMMEDIATELY ELIGIBLE FOR MEDICAID FOR  
6 PAYMENT OF MEDICAL SERVICES PROVIDED. UNTIL OTHERWISE PROVIDED  
7 BY COURT ORDER, THE COUNTY AGENCY SHALL ASSUME THE  
8 RESPONSIBILITY FOR MAKING DECISIONS REGARDING THE NEWBORN'S  
9 MEDICAL CARE.

10 (B) FAILURE OF HOSPITAL TO ADMIT CHILD OR NEWBORN.--THE  
11 FAILURE OF A HOSPITAL TO ADMIT AND PROPERLY TREAT AND CARE FOR A  
12 CHILD PURSUANT TO SUBSECTION (A) OR (A.1) SHALL BE CAUSE FOR THE  
13 DEPARTMENT TO ORDER IMMEDIATE ADMITTANCE, TREATMENT AND CARE BY  
14 THE HOSPITAL WHICH SHALL BE ENFORCEABLE, IF NECESSARY, BY THE  
15 PROMPT INSTITUTION OF A CIVIL ACTION BY THE DEPARTMENT. THE  
16 CHILD, THROUGH AN ATTORNEY, SHALL ALSO HAVE THE ADDITIONAL AND  
17 INDEPENDENT RIGHT TO SEEK IMMEDIATE INJUNCTIVE RELIEF AND  
18 INSTITUTE AN APPROPRIATE CIVIL ACTION FOR DAMAGES AGAINST THE  
19 HOSPITAL.

20 SECTION 5. SECTIONS 6365(A) AND 6383(A) OF TITLE 23 ARE  
21 AMENDED TO READ:

22 § 6365. SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF  
23 CHILD ABUSE.

24 (A) INSTRUCTION AND EDUCATION.--EACH COUNTY AGENCY SHALL  
25 MAKE AVAILABLE AMONG ITS SERVICES FOR THE PREVENTION AND  
26 TREATMENT OF CHILD ABUSE INSTRUCTION AND EDUCATION FOR  
27 PARENTHOOD AND PARENTING SKILLS, PROTECTIVE AND PREVENTIVE  
28 SOCIAL COUNSELING, OUTREACH AND COUNSELING SERVICES TO PREVENT  
29 INFANT ABANDONMENT, EMERGENCY CARETAKER SERVICES, EMERGENCY  
30 SHELTER CARE, EMERGENCY MEDICAL SERVICES AND THE ESTABLISHMENT

1 OF SELF-HELP GROUPS ORGANIZED FOR THE PREVENTION AND TREATMENT  
2 OF CHILD ABUSE, PART-DAY SERVICES, OUT-OF-HOME PLACEMENT  
3 SERVICES, THERAPEUTIC ACTIVITIES FOR CHILD AND FAMILY DIRECTED  
4 AT ALLEVIATING CONDITIONS THAT PRESENT A RISK TO THE SAFETY AND  
5 WELL-BEING OF A CHILD AND ANY OTHER SERVICES REQUIRED BY  
6 DEPARTMENT REGULATIONS.

7 \* \* \*

8 § 6383. EDUCATION AND TRAINING.

9 (A) DUTIES OF DEPARTMENT AND COUNTY AGENCIES.--THE  
10 DEPARTMENT AND EACH COUNTY AGENCY, BOTH JOINTLY AND  
11 INDIVIDUALLY, SHALL CONDUCT A CONTINUING PUBLICITY AND EDUCATION  
12 PROGRAM FOR THE CITIZENS OF THIS COMMONWEALTH AIMED AT THE  
13 PREVENTION OF CHILD ABUSE AND CHILD NEGLECT, INCLUDING THE  
14 PREVENTION OF INFANT ABANDONMENT, THE IDENTIFICATION OF ABUSED  
15 AND NEGLECTED CHILDREN AND THE PROVISION OF NECESSARY  
16 AMELIORATIVE SERVICES TO ABUSED AND NEGLECTED CHILDREN AND THEIR  
17 FAMILIES. THE DEPARTMENT AND EACH COUNTY AGENCY SHALL CONDUCT AN  
18 ONGOING TRAINING AND EDUCATION PROGRAM FOR LOCAL STAFF, PERSONS  
19 REQUIRED TO MAKE REPORTS AND OTHER APPROPRIATE PERSONS IN ORDER  
20 TO FAMILIARIZE THOSE PERSONS WITH THE REPORTING AND  
21 INVESTIGATIVE PROCEDURES FOR CASES OF SUSPECTED CHILD ABUSE AND  
22 THE REHABILITATIVE SERVICES THAT ARE AVAILABLE TO CHILDREN AND  
23 FAMILIES. IN ADDITION, THE DEPARTMENT SHALL, BY REGULATION,  
24 ESTABLISH A PROGRAM OF TRAINING AND CERTIFICATION FOR PERSONS  
25 CLASSIFIED AS PROTECTIVE SERVICES WORKERS. THE REGULATIONS SHALL  
26 PROVIDE FOR THE GRANDFATHERING OF ALL CURRENT PERMANENT  
27 PROTECTIVE SERVICES WORKERS AS CERTIFIED PROTECTIVE SERVICES  
28 WORKERS. UPON REQUEST BY THE COUNTY AGENCY AND APPROVAL OF THE  
29 DEPARTMENT, THE AGENCY MAY CONDUCT THE TRAINING OF THE COUNTY'S  
30 PROTECTIVE SERVICES WORKERS.

\* \* \*

SECTION 6. TITLE 23 IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 65

NEWBORN PROTECTION

SEC.

6501. SHORT TITLE OF CHAPTER.

6502. DEFINITIONS.

6503. NONLIABILITY.

6504. ACCEPTING NEWBORNS.

6505. REPORTING ACCEPTANCE OF NEWBORNS.

6506. FAILURE TO REPORT ACCEPTANCE OF NEWBORNS.

6507. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND

HOSPITALS.

6508. DUTY OF HOSPITAL.

6509. DUTIES OF DEPARTMENT.

§ 6501. SHORT TITLE OF CHAPTER.

THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE NEWBORN  
PROTECTION ACT.

§ 6502. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
CONTEXT CLEARLY INDICATES OTHERWISE:

"CHILD ABUSE." CHILD ABUSE AS DEFINED IN SECTION 6303(B)  
(RELATING TO DEFINITIONS).

"COUNTY AGENCY" OR "AGENCY." COUNTY AGENCY AS DEFINED IN  
SECTION 6303(A) (RELATING TO DEFINITIONS).

"DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE  
COMMONWEALTH.

"HEALTH CARE PROVIDER." A PERSON WHO IS LICENSED OR  
CERTIFIED BY THE LAWS OF THIS COMMONWEALTH TO ADMINISTER HEALTH

1 CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A  
2 PROFESSION. FOR PURPOSES OF ~~TAKING IMMEDIATE POSSESSION OF~~ <—  
3 ACCEPTING A NEWBORN AS PROVIDED IN SECTION 6504(A)(1) (RELATING <—  
4 TO ACCEPTING NEWBORNS) AND FOR IMMUNITY PROVIDED PURSUANT TO  
5 SECTION 6507 (RELATING TO IMMUNITY GRANTED TO HEALTH CARE  
6 PROVIDERS AND HOSPITALS) THE TERM INCLUDES ADMINISTRATIVE,  
7 MANAGERIAL AND SECURITY PERSONNEL AND ANY OTHER PERSON EMPLOYED  
8 BY A HOSPITAL.

9 "HOSPITAL." AN INSTITUTION HAVING AN ORGANIZED MEDICAL STAFF  
10 WHICH IS PRIMARILY ENGAGED IN PROVIDING TO INPATIENTS, BY OR  
11 UNDER THE SUPERVISION OF PHYSICIANS, DIAGNOSTIC AND THERAPEUTIC  
12 SERVICES OR REHABILITATION SERVICES FOR THE CARE OR  
13 REHABILITATION OF PEOPLE WHO ARE INJURED, DISABLED, PREGNANT,  
14 DISEASED, SICK OR MENTALLY ILL. THE TERM INCLUDES FACILITIES FOR  
15 THE DIAGNOSIS AND TREATMENT OF DISORDERS WITHIN THE SCOPE OF  
16 SPECIFIC MEDICAL SPECIALTIES, BUT NOT FACILITIES CARING  
17 EXCLUSIVELY FOR PEOPLE WITH MENTAL ILLNESS OR THOSE FACILITIES  
18 PRIMARILY ENGAGED IN PROVIDING REHABILITATION SERVICES OR LONG-  
19 TERM CARE.

20 "NEWBORN." A CHILD LESS THAN 28 DAYS OF AGE AS REASONABLY  
21 DETERMINED BY A PHYSICIAN.

22 § 6503. NONLIABILITY.

23 A PARENT OF A NEWBORN SHALL NOT BE CRIMINALLY LIABLE UNDER  
24 ANY PROVISION OF TITLE 18 (RELATING TO CRIMES AND OFFENSES)  
25 ~~SOLELY FOR LEAVING A NEWBORN IN THE CARE OF A HOSPITAL IF ALL OF~~ <—  
26 ~~THE FOLLOWING CRITERIA ARE MET:~~

27 ~~(1) THE PARENT EXPRESSES AN INTENT TO HAVE THE HOSPITAL~~  
28 ~~ACCEPT THE NEWBORN PURSUANT TO THIS CHAPTER. THIS INTENT MAY~~  
29 ~~BE EXPRESSED ORALLY OR THROUGH CONDUCT.~~

30 ~~(2) THERE IS NO EVIDENCE THAT THE NEWBORN IS A VICTIM OF~~



1     ~~CHILD ABUSE OR CRIMINAL CONDUCT.~~ IF THE CRITERIA SET FORTH IN <—

2     18 PA.C.S § 4306 (RELATING TO NEWBORN PROTECTION) ARE MET.

3     § 6504.   ACCEPTING NEWBORNS.

4     (A)   GENERAL RULE.--A HEALTH CARE PROVIDER AT A HOSPITAL  
5   SHALL DO ALL OF THE FOLLOWING RELATING TO A NEWBORN ACCEPTED  
6   UNDER THIS CHAPTER:

7           (1)   TAKE THE NEWBORN INTO PROTECTIVE CUSTODY AS PROVIDED  
8   IN SECTION 6315(A)(3) (RELATING TO TAKING CHILD INTO  
9   PROTECTIVE CUSTODY).

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 NEWBORN.

13          (3)   NOTIFY THE COUNTY AGENCY AND THE LOCAL MUNICIPAL  
14   POLICE DEPARTMENT OR THE PENNSYLVANIA STATE POLICE WHERE NO  
15   MUNICIPAL POLICE JURISDICTION EXISTS AS PROVIDED IN SECTION  
16   6505 (RELATING TO REPORTING ACCEPTANCE OF NEWBORNS).

17   (B)   ACCEPTING NEWBORNS.--WHEN ACCEPTING A NEWBORN PURSUANT  
18   TO THIS CHAPTER, A PARENT MAY PROVIDE A HEALTH CARE PROVIDER  
19   WITH INFORMATION ABOUT THE NEWBORN'S MEDICAL HISTORY AND ANY  
20   IDENTIFYING INFORMATION.

21   § 6505.   REPORTING ACCEPTANCE OF NEWBORNS.

22   A HEALTH CARE PROVIDER AT A HOSPITAL SHALL IN ALL CASES  
23   NOTIFY THE COUNTY AGENCY AND THE LOCAL MUNICIPAL POLICE  
24   DEPARTMENT OR THE PENNSYLVANIA STATE POLICE WHERE NO MUNICIPAL  
25   POLICE JURISDICTION EXISTS IMMEDIATELY BY TELEPHONE REGARDING A  
26   NEWBORN ACCEPTED BY A HOSPITAL UNDER THIS CHAPTER. A WRITTEN  
27   REPORT SHALL BE SUBMITTED TO THE COUNTY AGENCY AND LOCAL  
28   MUNICIPAL POLICE DEPARTMENT OR THE PENNSYLVANIA STATE POLICE  
29   WITHIN 48 HOURS AFTER THE ORAL REPORT. FOR PURPOSES OF THIS  
30   SECTION, THE TERM "HEALTH CARE PROVIDER" SHALL INCLUDE

1 ADMINISTRATIVE, MANAGERIAL AND SECURITY PERSONNEL EMPLOYED BY A  
2 HOSPITAL.

3 § 6506. FAILURE TO REPORT ACCEPTANCE OF NEWBORNS.

4 A HEALTH CARE PROVIDER AT A HOSPITAL WHO INTENTIONALLY OR  
5 KNOWINGLY FAILS TO REPORT THE ACCEPTANCE BY A HOSPITAL OF A  
6 NEWBORN AS REQUIRED BY THIS CHAPTER COMMITS A SUMMARY OFFENSE. A  
7 SECOND OR SUBSEQUENT FAILURE TO REPORT SUCH ACCEPTANCE IS A  
8 MISDEMEANOR OF THE THIRD DEGREE.

9 § 6507. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND  
10 HOSPITALS.

11 EXCEPT FOR A VIOLATION OF SECTION 6506 (RELATING TO FAILURE  
12 TO REPORT ACCEPTANCE OF NEWBORNS), NO HOSPITAL OR HEALTH CARE  
13 PROVIDER AT A HOSPITAL SHALL BE SUBJECT TO CIVIL LIABILITY OR  
14 CRIMINAL PENALTY SOLELY BY REASON OF COMPLYING WITH THE  
15 PROVISIONS OF THIS CHAPTER.

16 § 6508. DUTY OF HOSPITAL.

17 A HOSPITAL SHALL INSURE THAT ITS OFFICERS, HEALTH CARE  
18 PROVIDERS AND EMPLOYEES ARE FAMILIAR WITH THE PROVISIONS OF THIS  
19 CHAPTER, SECTION 6315(A)(3) (RELATING TO TAKING CHILD INTO  
20 PROTECTIVE CUSTODY) AND OTHER APPLICABLE PROVISIONS OF CHAPTER  
21 63 (RELATING TO CHILD PROTECTIVE SERVICES) THAT RELATE TO  
22 NEWBORN PROTECTION AND SHALL INSURE THAT THE APPROPRIATE  
23 OFFICERS, HEALTH CARE PROVIDERS, AND EMPLOYEES, AS THE CASE MAY  
24 BE, RECEIVE INFORMATION PROVIDED BY THE DEPARTMENT'S TRAINING  
25 CURRICULUM, AS ESTABLISHED UNDER SECTION 6509 (RELATING TO  
26 DUTIES OF DEPARTMENT). INFORMATION CONCERNING THIS CHAPTER,  
27 SECTION 6315(A)(3) AND OTHER APPLICABLE PROVISIONS OF CHAPTER 63  
28 THAT RELATE TO NEWBORN PROTECTION AND REGULATIONS ADOPTED BY THE  
29 DEPARTMENT SHALL BE MADE PART OF THE TRAINING AT EACH HOSPITAL.  
30 EACH HOSPITAL SHALL ADOPT A WRITTEN POLICY IN ACCORDANCE WITH

1 THE PROVISIONS OF THIS CHAPTER, SECTION 6315(A)(3) AND OTHER  
2 APPLICABLE PROVISIONS OF CHAPTER 63 THAT RELATE TO NEWBORN  
3 PROTECTION.

4 § 6509. DUTIES OF DEPARTMENT.

5 THE DEPARTMENT SHALL PROVIDE AND MAKE AVAILABLE A TRAINING  
6 CURRICULUM FOR USE BY HOSPITALS AND HEALTH CARE PROVIDERS AT  
7 HOSPITALS REGARDING THIS CHAPTER, SECTION 6315(A)(3) (RELATING  
8 TO TAKING CHILD INTO PROTECTIVE CUSTODY) AND OTHER APPLICABLE  
9 PROVISIONS OF CHAPTER 63 (RELATING TO CHILD PROTECTIVE SERVICES)  
10 THAT RELATE TO NEWBORN PROTECTION. THE DEPARTMENT SHALL  
11 PROMULGATE REGULATIONS TO IMPLEMENT THIS CHAPTER, SECTION  
12 6315(A)(3) AND OTHER APPLICABLE PROVISIONS OF CHAPTER 63 THAT  
13 RELATE TO NEWBORN PROTECTION. THE DEPARTMENT SHALL ALSO PROVIDE  
14 HEALTH CARE PROVIDERS AND HOSPITALS WITH AN INFORMATIONAL  
15 PAMPHLET REGARDING THIS CHAPTER, SECTION 6315(A)(3) AND OTHER  
16 APPLICABLE PROVISIONS OF CHAPTER 63 THAT RELATE TO NEWBORN  
17 PROTECTION WHICH MAY BE DISTRIBUTED TO THE PUBLIC. IN ADDITION,  
18 THE DEPARTMENT SHALL COMPLY WITH THE PROVISIONS REGARDING INFANT  
19 ABANDONMENT IN SECTIONS 6365 (RELATING TO SERVICES FOR  
20 PREVENTION, INVESTIGATION AND TREATMENT OF CHILD ABUSE) AND 6383  
21 (RELATING TO EDUCATION AND TRAINING). A REPORT SHALL BE MADE  
22 ANNUALLY TO THE GENERAL ASSEMBLY ON THE NUMBER AND DISPOSITION  
23 OF ~~CHILDREN TRANSFERRED~~ NEWBORNS ACCEPTED IN ACCORDANCE WITH <—  
24 THIS CHAPTER, SECTION 6315(A)(3) AND OTHER APPLICABLE PROVISIONS  
25 OF CHAPTER 63 THAT RELATE TO NEWBORN PROTECTION.

26 SECTION 7. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.