

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 654 Session of  
2001

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

AS AMENDED, COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES,  
JUNE 19, 2001

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

10 ~~Section 1. Section 4304 of Title 18 of the Pennsylvania~~ <—

11 ~~Consolidated Statutes is amended to read:~~

12 ~~§ 4304. Endangering welfare of children.~~

13 ~~(a) Offense defined. [A] Except as provided in subsection~~  
14 ~~(c), a parent, guardian, or other person supervising the welfare~~  
15 ~~of a child under 18 years of age commits an offense if he~~  
16 ~~knowingly endangers the welfare of the child by violating a duty~~  
17 ~~of care, protection or support.~~

18 ~~(b) Grading. An offense under this section constitutes a~~

~~misdemeanor of the first degree. However, where there is a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree.~~

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

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

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

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

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

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

~~(4) A safe haven shall post signs to identify itself as 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.

6401. SHORT TITLE OF CHAPTER.

6402. LEGISLATIVE FINDINGS AND INTENT.

1 6403. DEFINITIONS.

2 6404. PROHIBITION AGAINST CERTAIN PROSECUTIONS.

3 6405. ACCEPTING POSSESSION OF INFANTS.

4 6406. REPORTING POSSESSION OF INFANTS.

5 6407. FAILURE TO REPORT POSSESSION OF INFANTS.

6 6408. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND  
7 HOSPITALS.

8 6409. DUTIES OF COUNTY AGENCY AND POLICE DEPARTMENT.

9 6410. BRACELET; EFFECT.

10 6411. AVAILABILITY OF INFORMATION.

11 6412. DUTY OF HOSPITAL.

12 6413. DUTIES OF DEPARTMENT.

13 § 6401. SHORT TITLE OF CHAPTER.

14 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE INFANT  
15 PROTECTION ACT.

16 § 6402. LEGISLATIVE FINDINGS AND INTENT.

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

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

26 § 6403. DEFINITIONS.

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

30 "CHILD ABUSE." CHILD ABUSE AS DEFINED IN 23 PA.C.S. §

1 6303(B) (RELATING TO DEFINITIONS).

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

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

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

15 "HOSPITAL." AS DEFINED IN SECTION 3 OF THE ACT OF JULY 3,  
16 1985 (P.L.164, NO.45), KNOWN AS THE EMERGENCY MEDICAL SERVICES  
17 ACT.

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

21 "INFANT." A CHILD LESS THAN 28 DAYS OF AGE.

22 § 6404. PROHIBITION AGAINST CERTAIN PROSECUTIONS.

23 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), A  
24 PERSON HAVING LAWFUL CUSTODY OF AN INFANT SHALL NOT BE  
25 PROSECUTED FOR A VIOLATION OF 18 PA.C.S. § 2705 (RELATING TO  
26 RECKLESSLY ENDANGERING ANOTHER PERSON) OR 4304 (RELATING TO  
27 ENDANGERING WELFARE OF CHILDREN) OR ANY OTHER PROVISION UNDER 18  
28 PA.C.S. (RELATING TO CRIMES AND OFFENSES) SOLELY FOR LEAVING AN  
29 INFANT IN THE CARE OF A HOSPITAL WITHOUT REGARD FOR THE INFANT'S  
30 FUTURE CARE IF ALL OF THE FOLLOWING CRITERIA ARE MET:

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

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

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

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

10           (1) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL HOMICIDE).

11           (2) 18 PA.C.S. CH. 29 (RELATING TO KIDNAPPING).

12 § 6405. ACCEPTING POSSESSION OF INFANTS.

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

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

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

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

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

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

29           (B) ACCEPTING POSSESSION.--WHEN ACCEPTING POSSESSION OF AN  
30 INFANT, A HEALTH CARE PROVIDER AT A HOSPITAL MAY ASK THE PERSON

1 TRANSFERRING POSSESSION OF THE INFANT ABOUT THE INFANT'S MEDICAL  
2 HISTORY. HOWEVER, THE PERSON TRANSFERRING POSSESSION OF THE  
3 INFANT IS NOT REQUIRED TO PROVIDE ANY INFORMATION, INCLUDING THE  
4 NAME OF THE PERSON TRANSFERRING POSSESSION OF THE INFANT. A  
5 PERSON TRANSFERRING POSSESSION OF AN INFANT SHALL BE NOTIFIED OF  
6 THE PERSON'S RIGHT NOT TO DISCLOSE ANY INFORMATION REGARDING THE  
7 INFANT.

8 § 6406. REPORTING POSSESSION OF INFANTS.

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

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

17 § 6407. FAILURE TO REPORT POSSESSION OF INFANTS.

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

23 § 6408. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND  
24 HOSPITALS.

25 EXCEPT FOR A VIOLATION OF SECTION 6407 (RELATING TO FAILURE  
26 TO REPORT POSSESSION OF INFANTS), NO HOSPITAL OR HEALTH CARE  
27 PROVIDER AT A HOSPITAL SHALL BE SUBJECT TO CIVIL LIABILITY OR  
28 CRIMINAL PENALTY SOLELY BY REASON OF COMPLYING WITH THE  
29 PROVISIONS OF THIS CHAPTER.

30 § 6409. DUTIES OF COUNTY AGENCY AND POLICE DEPARTMENT.

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

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

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

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

27 § 6410. BRACELET; EFFECT.

28 POSSESSION OF AN IDENTIFICATION BRACELET CREATES A REBUTTABLE  
29 PRESUMPTION THAT THE PERSON POSSESSING THE BRACELET HAS STANDING  
30 TO PARTICIPATE IN PROCEEDINGS PURSUANT TO CHAPTER 63 (RELATING



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

10 § 6411. AVAILABILITY OF INFORMATION.

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

17 § 6412. DUTY OF HOSPITAL.

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

28 § 6413. DUTIES OF DEPARTMENT.

29 THE DEPARTMENT SHALL PROVIDE AND MAKE AVAILABLE A TRAINING  
30 CURRICULUM FOR USE BY HOSPITALS AND HEALTH CARE PROVIDERS AT

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

14 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 180 DAYS.