
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 REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2002

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.~~

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

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

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

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

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

15 ~~"County agency." A county children and youth social service~~
16 ~~agency established pursuant to section 405 of the act of June~~
17 ~~24, 1937 (P.L.2017, No.396), known as the County Institution~~
18 ~~District Law, and supervised by the Department of Public Welfare~~
19 ~~under Article IX of the act of June 13, 1967 (P.L.31, No.21),~~
20 ~~known as the Public Welfare Code.~~

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

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

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

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

28 ~~CHAPTER 64~~

29 ~~INFANT PROTECTION~~

30 ~~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~~

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

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

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

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

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

12 ~~(1) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL HOMICIDE).~~

13 ~~(2) 18 PA.C.S. CH. 29 (RELATING TO KIDNAPPING).~~

14 ~~§ 6405. ACCEPTING POSSESSION OF INFANTS.~~

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

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

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

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

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

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

1 ~~PROVISIONS OF THIS CHAPTER.~~

2 ~~§ 6409. DUTIES OF COUNTY AGENCY AND POLICE DEPARTMENT.~~

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

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

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

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

29 ~~§ 6410. BRACELET; EFFECT.~~

30 ~~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 CRIMINAL CONDUCT.

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

30 SECTION 2. SECTION 6303(A) OF TITLE 23 IS AMENDED BY ADDING

1 DEFINITIONS TO READ:

2 § 6303. DEFINITIONS.

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

6 * * *

7 "CHILD." INCLUDES A NEWBORN.

8 * * *

9 "NEWBORN." AS DEFINED IN SECTION 6502 (RELATING TO
10 DEFINITIONS).

11 * * *

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

14 § 6315. TAKING CHILD INTO PROTECTIVE CUSTODY.

15 (A) GENERAL RULE.--A CHILD MAY BE TAKEN INTO PROTECTIVE
16 CUSTODY:

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

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

25 (3) BY A PHYSICIAN OR THE DIRECTOR, OR A PERSON
26 SPECIFICALLY DESIGNATED BY THE DIRECTOR, OF A HOSPITAL
27 PURSUANT TO CHAPTER 65 (RELATING TO NEWBORN PROTECTION) IF
28 THE CHILD IS A NEWBORN.

29 * * *

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

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

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

18 * * *

19 SECTION 4. SECTION 6316(B) OF TITLE 23 IS AMENDED AND THE
20 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

21 § 6316. ADMISSION TO PRIVATE AND PUBLIC HOSPITALS.

22 * * *

23 (A.1) NEWBORNS.--A NEWBORN TAKEN INTO PROTECTIVE CUSTODY
24 PURSUANT TO SECTION 6315(A)(3) (RELATING TO TAKING CHILD INTO
25 PROTECTIVE CUSTODY) SHALL BE ADMITTED TO, TREATED AND MAINTAINED
26 IN FACILITIES OF PUBLIC AND PRIVATE HOSPITALS ON THE BASIS OF
27 MEDICAL NEED AND SHALL NOT BE REFUSED OR DEPRIVED IN ANY WAY OF
28 PROPER MEDICAL TREATMENT AND CARE. ONCE A NEWBORN IS TAKEN INTO
29 PROTECTIVE CUSTODY PURSUANT TO SECTION 6315(A)(3), THE NEWBORN
30 SHALL BE CONSIDERED IMMEDIATELY ELIGIBLE FOR MEDICAID FOR

1 PAYMENT OF MEDICAL SERVICES PROVIDED. UNTIL OTHERWISE PROVIDED
2 BY COURT ORDER, THE COUNTY AGENCY SHALL ASSUME THE
3 RESPONSIBILITY FOR MAKING DECISIONS REGARDING THE NEWBORN'S
4 MEDICAL CARE.

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

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

17 § 6365. SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF
18 CHILD ABUSE.

19 (A) INSTRUCTION AND EDUCATION.--EACH COUNTY AGENCY SHALL
20 MAKE AVAILABLE AMONG ITS SERVICES FOR THE PREVENTION AND
21 TREATMENT OF CHILD ABUSE INSTRUCTION AND EDUCATION FOR
22 PARENTHOOD AND PARENTING SKILLS, PROTECTIVE AND PREVENTIVE
23 SOCIAL COUNSELING, OUTREACH AND COUNSELING SERVICES TO PREVENT
24 INFANT ABANDONMENT, EMERGENCY CARETAKER SERVICES, EMERGENCY
25 SHELTER CARE, EMERGENCY MEDICAL SERVICES AND THE ESTABLISHMENT
26 OF SELF-HELP GROUPS ORGANIZED FOR THE PREVENTION AND TREATMENT
27 OF CHILD ABUSE, PART-DAY SERVICES, OUT-OF-HOME PLACEMENT
28 SERVICES, THERAPEUTIC ACTIVITIES FOR CHILD AND FAMILY DIRECTED
29 AT ALLEVIATING CONDITIONS THAT PRESENT A RISK TO THE SAFETY AND
30 WELL-BEING OF A CHILD AND ANY OTHER SERVICES REQUIRED BY

1 DEPARTMENT REGULATIONS.

2 * * *

3 § 6383. EDUCATION AND TRAINING.

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

26 * * *

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

28 CHAPTER 65
29 NEWBORN PROTECTION
30 SEC.

- 1 6501. SHORT TITLE OF CHAPTER.
2 6502. DEFINITIONS.
3 6503. NONLIABILITY.
4 6504. ACCEPTING NEWBORNS.
5 6505. REPORTING ACCEPTANCE OF NEWBORNS.
6 6506. FAILURE TO REPORT ACCEPTANCE OF NEWBORNS.
7 6507. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND
8 HOSPITALS.
9 6508. DUTY OF HOSPITAL.
10 6509. DUTIES OF DEPARTMENT.

11 § 6501. SHORT TITLE OF CHAPTER.

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

14 § 6502. DEFINITIONS.

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

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

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

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

24 "HEALTH CARE PROVIDER." A PERSON WHO IS LICENSED OR
25 CERTIFIED BY THE LAWS OF THIS COMMONWEALTH TO ADMINISTER HEALTH
26 CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A
27 PROFESSION. FOR PURPOSES OF TAKING IMMEDIATE POSSESSION OF A
28 NEWBORN AS PROVIDED IN SECTION 6504(A)(1) (RELATING TO ACCEPTING
29 NEWBORNS) AND FOR IMMUNITY PROVIDED PURSUANT TO SECTION 6507
30 (RELATING TO IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND

1 HOSPITALS) THE TERM INCLUDES ADMINISTRATIVE, MANAGERIAL AND
2 SECURITY PERSONNEL AND ANY OTHER PERSON EMPLOYED BY A HOSPITAL.

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

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

16 § 6503. NONLIABILITY.

17 A PARENT OF A NEWBORN SHALL NOT BE CRIMINALLY LIABLE UNDER
18 ANY PROVISION OF TITLE 18 (RELATING TO CRIMES AND OFFENSES)
19 SOLELY FOR LEAVING A NEWBORN IN THE CARE OF A HOSPITAL IF ALL OF
20 THE FOLLOWING CRITERIA ARE MET:

21 (1) THE PARENT EXPRESSES AN INTENT TO HAVE THE HOSPITAL
22 ACCEPT THE NEWBORN PURSUANT TO THIS CHAPTER. THIS INTENT MAY
23 BE EXPRESSED ORALLY OR THROUGH CONDUCT.

24 (2) THERE IS NO EVIDENCE THAT THE NEWBORN IS A VICTIM OF
25 CHILD ABUSE OR CRIMINAL CONDUCT.

26 § 6504. ACCEPTING NEWBORNS.

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

30 (1) TAKE THE NEWBORN INTO PROTECTIVE CUSTODY AS PROVIDED

1 IN SECTION 6315(A)(3) (RELATING TO TAKING CHILD INTO
2 PROTECTIVE CUSTODY).

3 (2) PERFORM A MEDICAL EVALUATION AS WELL AS PERFORM ANY
4 ACT NECESSARY TO CARE FOR AND PROTECT THE PHYSICAL HEALTH AND
5 SAFETY OF THE NEWBORN.

6 (3) NOTIFY THE COUNTY AGENCY AND THE LOCAL MUNICIPAL
7 POLICE DEPARTMENT OR THE PENNSYLVANIA STATE POLICE WHERE NO
8 MUNICIPAL POLICE JURISDICTION EXISTS AS PROVIDED IN SECTION
9 6505 (RELATING TO REPORTING ACCEPTANCE OF NEWBORNS).

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

14 § 6505. REPORTING ACCEPTANCE OF NEWBORNS.

15 A HEALTH CARE PROVIDER AT A HOSPITAL SHALL IN ALL CASES
16 NOTIFY THE COUNTY AGENCY AND THE LOCAL MUNICIPAL POLICE
17 DEPARTMENT OR THE PENNSYLVANIA STATE POLICE WHERE NO MUNICIPAL
18 POLICE JURISDICTION EXISTS IMMEDIATELY BY TELEPHONE REGARDING A
19 NEWBORN ACCEPTED BY A HOSPITAL UNDER THIS CHAPTER. A WRITTEN
20 REPORT SHALL BE SUBMITTED TO THE COUNTY AGENCY AND LOCAL
21 MUNICIPAL POLICE DEPARTMENT OR THE PENNSYLVANIA STATE POLICE
22 WITHIN 48 HOURS AFTER THE ORAL REPORT. FOR PURPOSES OF THIS
23 SECTION, THE TERM "HEALTH CARE PROVIDER" SHALL INCLUDE
24 ADMINISTRATIVE, MANAGERIAL AND SECURITY PERSONNEL EMPLOYED BY A
25 HOSPITAL.

26 § 6506. FAILURE TO REPORT ACCEPTANCE OF NEWBORNS.

27 A HEALTH CARE PROVIDER AT A HOSPITAL WHO INTENTIONALLY OR
28 KNOWINGLY FAILS TO REPORT THE ACCEPTANCE BY A HOSPITAL OF A
29 NEWBORN AS REQUIRED BY THIS CHAPTER COMMITS A SUMMARY OFFENSE. A
30 SECOND OR SUBSEQUENT FAILURE TO REPORT SUCH ACCEPTANCE IS A

1 MISDEMEANOR OF THE THIRD DEGREE.

2 § 6507. IMMUNITY GRANTED TO HEALTH CARE PROVIDERS AND
3 HOSPITALS.

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

9 § 6508. DUTY OF HOSPITAL.

10 A HOSPITAL SHALL INSURE THAT ITS OFFICERS, HEALTH CARE
11 PROVIDERS AND EMPLOYEES ARE FAMILIAR WITH THE PROVISIONS OF THIS
12 CHAPTER, SECTION 6315(A)(3) (RELATING TO TAKING CHILD INTO
13 PROTECTIVE CUSTODY) AND OTHER APPLICABLE PROVISIONS OF CHAPTER
14 63 (RELATING TO CHILD PROTECTIVE SERVICES) THAT RELATE TO
15 NEWBORN PROTECTION AND SHALL INSURE THAT THE APPROPRIATE
16 OFFICERS, HEALTH CARE PROVIDERS, AND EMPLOYEES, AS THE CASE MAY
17 BE, RECEIVE INFORMATION PROVIDED BY THE DEPARTMENT'S TRAINING
18 CURRICULUM, AS ESTABLISHED UNDER SECTION 6509 (RELATING TO
19 DUTIES OF DEPARTMENT). INFORMATION CONCERNING THIS CHAPTER,
20 SECTION 6315(A)(3) AND OTHER APPLICABLE PROVISIONS OF CHAPTER 63
21 THAT RELATE TO NEWBORN PROTECTION AND REGULATIONS ADOPTED BY THE
22 DEPARTMENT SHALL BE MADE PART OF THE TRAINING AT EACH HOSPITAL.
23 EACH HOSPITAL SHALL ADOPT A WRITTEN POLICY IN ACCORDANCE WITH
24 THE PROVISIONS OF THIS CHAPTER, SECTION 6315(A)(3) AND OTHER
25 APPLICABLE PROVISIONS OF CHAPTER 63 THAT RELATE TO NEWBORN
26 PROTECTION.

27 § 6509. DUTIES OF DEPARTMENT.

28 THE DEPARTMENT SHALL PROVIDE AND MAKE AVAILABLE A TRAINING
29 CURRICULUM FOR USE BY HOSPITALS AND HEALTH CARE PROVIDERS AT
30 HOSPITALS REGARDING THIS CHAPTER, SECTION 6315(A)(3) (RELATING

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

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