

HOUSE BILL REPORT

ESSB 5236

As Passed House - Amended:

March 6, 2002

Title: An act relating to the safety of newborn children.

Brief Description: Ensuring the health and safety of newborn infants who have been abandoned and exempting from criminal liability persons who abandon them into the custody of a qualified person.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Long, Thibaudeau, Costa, McAuliffe, Eide, Stevens, Fairley, Prentice, Franklin, Fraser, Carlson, Spanel, Regala, Hargrove, Oke and Patterson).

Brief History:

Committee Activity:

Children & Family Services: 2/12/02, 2/28/02 [DPA].

Floor Activity:

Passed House - Amended: 3/6/02, 85-8.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Eliminates criminal liability for a parent who abandons an infant, 72 hours or younger, in a hospital or fire station during the hours of operation to a qualified person.
- Creates a task force to recommend methods of implementation, ways to promote adoption, and ways of providing access to the abandoning parents' medical history

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 6 members: Representatives Tokuda, Chair; Kagi, Vice Chair; Darneille, Dickerson, Miloscia and Nixon.

Minority Report: Do not pass. Signed by 2 members: Representatives Boldt, Ranking Minority Member; and Morell.

Staff: Tracey Taylor (786-7196).

Background:

Over the years, there have been several reports of newborn children being abandoned by their parents. In some cases, the newborn was found and received prompt medical attention. Unfortunately, there are some cases where the newborn, exposed to the elements, died as the result of the abandonment.

Thirty-five states now have some type of safe haven legislation. Under current state law, the abandoning parent could face felony or gross misdemeanor charges for the reckless abandonment or endangerment of a dependent person.

Summary of Amended Bill:

A qualified person is any person who the parent transferring the newborn reasonably believes is a bona fide employee, volunteer, or medical staff member of the hospital or fire fighters, volunteer or emergency medical technician at a fire station and who represents to the parent that he or she can and will summon the appropriate resources to meet the infant's immediate needs. At the time of transfer, the qualified person will attempt to afford the opportunity for the parent to provide nonidentifying information regarding the infant and parent's medical history while maintaining the parent's anonymity. In addition, the qualified person is to provide the abandoning parent with referral information regarding adoption options, counseling, appropriate medical and emotional aftercare services, domestic violence, and legal rights.

A hospital or fire station, its employees, volunteers, and medical staff are immune from civil and criminal liability for accepting or receiving the newborn.

Child Protective Services (CPS) must be notified by a qualified person within 24 hours of receiving the abandoned infant. CPS will assume custody of the newborn within 24 hours of receipt of the notice of abandonment. The existing law regarding dependency and the termination of parental rights will apply.

A task force, convened by the secretary of the DSHS, must make recommendations regarding the implementation of the safe abandonment program. Among the topics to be considered by the task force: reasonable methods of educating the public about the need for prenatal and post-delivery health care for a newborn, ways to improve the promotion of adoption as an alternative to unsafely abandoning an infant, and methods of providing access to the medical history of the newborn and the newborn's parents. The costs associated with the task force shall be paid by the DSHS within existing funds.

The task force members shall not receive compensation and should include at least three

members of the public. The task force will submit a report of their recommendations to the Governor and the Legislature by December 1, 2002. The duties of the task force must be accomplished within the DSHS' existing resources, or, with private or other non-state funds.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This is a common sense approach to prevent babies from being abandoned in unsafe places and keeps all current law regarding dependencies and the termination of parental rights in place. If a parent feels, for whatever reason, that he or she is not fully equipped to handle the newborn, he or she can responsibly transfer the newborn to a hospital without fear of prosecution or liability. There have been too many horrible stories with tragic results about scared teenagers who give birth in secret. The promiscuity issue is decided long before the child is abandoned this bill helps the babies and begins work on other issues. "A Safe Place for Newborns" believes it has already saved two infants from being abandoned unsafely.

(With concerns) The DSHS supports the bill but is concerned that the bill does not require the transferring parent to give a clear expression of the intent to abandon the infant. Also, the bill does not address any time limit for the father to challenge the placement or adoption.

Testimony Against: None.

Testified: (In support) Senator Kohl-Welles, prime sponsor; and Julie Lotz.

(With concerns) La Verne Lamoureux, Department of Social and Health Services; and Lonnie Johns-Brown, Solutions Work Group.