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## Children & Family Services Committee

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### ESSB 5236

**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:** 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 Summary of Engrossed Substitute Bill

- Eliminates criminal liability for a parent who abandons an infant, 72 hours or younger, in a hospital 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.

**Hearing Date:** 2/12/02

**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.

In recent years many state legislatures, as well as the U.S. Congress, have considered abandoned babies– 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 Bill:

If a parent abandons a newborn, 72 hours or less, to a qualified person at the emergency department of a hospital licensed under 70.41 RCW, he or she will not face criminal liability for abandonment of a dependent person in the first, second, or third degree; reckless endangerment; or family abandonment or non-support.

A qualified person is any person that the parent transferring the newborn reasonably believes is a bona fide employee, volunteer, or medical staff member of the hospital 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 non-identifying 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, 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 the hospital 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 and arrange for the discharge of the infant from the hospital. The existing law regarding dependency and the termination of parental rights will apply.

A task force, convened by the secretary of the Department of Social and Health Services, 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 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.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.