

FEB 26 2001  
HUMAN RESOURCES

HOUSE FILE 406

BY HOFFMAN, KETTERING, RAECKER,  
SUKUP, SIEVERS, HEATON, KLEMME,  
DRAKE, HUSEMAN, JOHNSON, BARRY,  
TYRRELL, ALONS, JENKINS, WEIDMAN,  
VAN ENGELENHOVEN, HAHN, HORBACH,  
BODDICKER, HOVERSTEN, HANSEN,  
MANTERNACH, EDDIE, BOGGESS, TYMESON,  
BOAL, REKOW, ROBERTS, BROERS,  
RAYHONS, DE BOEF, METCALF, BAUDLER,  
FINCH, VAN FOSSEN, ELGIN, GIPP,  
CARROLL, JACOBS, GRUNDBERG, MILLAGE,  
BRUNKHORST, BRADLEY, GARMAN, SHEY,  
TEIG, SIEGRIST, BRAUNS, ARNOLD,  
DOLECHECK, MERTZ, TREMMEL, DOTZLER,  
O'BRIEN, and KUHN

HC 406

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the transfer of custody and termination of  
2 parental rights for certain newborn infants whose parent  
3 voluntarily surrenders physical custody at certain health  
4 facilities and providing for immunity from prosecution for  
5 child abandonment crimes for such parent, and providing an  
6 effective date.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

8  
9  
10  
11

1 Section 1. NEW SECTION. 232B.1 NEWBORN INFANT SURRENDER  
2 ACT -- DEFINITION.

3 1. This chapter may be cited as the "Iowa Newborn Infant  
4 Surrender Act".

5 2. For the purposes of this chapter, unless the context  
6 otherwise requires:

7 a. "Institutional health facility" means a hospital as  
8 defined in section 135B.1 and includes a hospital emergency  
9 room, health care facility as defined in section 135C.1,  
10 organized outpatient health facility as defined in section  
11 135.61, outpatient surgical facility as defined in section  
12 135.61, or community mental health center, or city, county, or  
13 district health department.

14 b. "Newborn infant" means a child who is, or who appears  
15 to be, four days of age or younger.

16 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT SURRENDER  
17 PROCEDURES.

18 1. A parent of a newborn infant who has not suffered  
19 bodily harm may voluntarily surrender physical custody of the  
20 newborn infant by relinquishing physical custody of the  
21 newborn infant, without expressing an intent to again assume  
22 physical custody, at an institutional health facility. For  
23 the purposes of this chapter and for any judicial proceedings  
24 associated with the newborn infant, the person who voluntarily  
25 surrenders physical custody at an institutional health  
26 facility in accordance with this section shall be presumed to  
27 be the newborn infant's parent.

28 2. a. Unless the parent surrendering physical custody of  
29 a newborn infant clearly expresses an intent to return to  
30 again assume physical custody of the newborn infant, an  
31 individual on duty at the facility at which the newborn infant  
32 was surrendered pursuant to subsection 1 shall take physical  
33 custody of the newborn infant. The individual on duty may  
34 request the parent to provide the name of the parent or  
35 parents and information on the medical history of the newborn

1 infant and the newborn infant's parent or parents. However,  
2 the parent is not required to provide the names or medical  
3 history information to comply with this section. The  
4 individual on duty may perform any act necessary to protect  
5 the physical health or safety of the newborn infant. The  
6 individual on duty and the institutional health facility in  
7 which the individual was on duty are immune from criminal or  
8 civil liability for any acts or omissions made in good faith  
9 to comply with this section.

10 b. If the custody of the newborn infant is surrendered at  
11 a hospital, the state shall reimburse the hospital for the  
12 hospital's actual expenses in providing care to the newborn  
13 infant and in performing acts necessary to protect the  
14 physical health or safety of the newborn infant. The  
15 reimbursement shall be paid from moneys appropriated for this  
16 purpose to the department of human services.

17 c. The individual on duty or other person designated by  
18 the institutional health facility at which the newborn infant  
19 was surrendered shall submit the certificate of birth report  
20 as required pursuant to section 144.14.

21 3. As soon as possible after the individual on duty  
22 assumes physical custody of a newborn infant surrendered under  
23 section 1, the individual shall notify the department of human  
24 services. The department shall take the actions immediately  
25 upon receiving the notice necessary to assume the care,  
26 control, and custody of the newborn infant. The department  
27 shall orally notify the court and the county attorney of the  
28 department's action and the circumstances surrounding the  
29 action. Within twenty-four hours of orally informing the  
30 court, the department shall notify the court and the county  
31 attorney in writing of the department's action and the  
32 circumstances surrounding the action.

33 4. Upon being notified in writing by the department under  
34 subsection 3, the county attorney shall file a petition  
35 alleging the newborn infant to be a child in need of

1 assistance in accordance with section 232.87 and a petition  
2 for termination of parental rights with respect to the newborn  
3 infant in accordance with section 232.111, subsection 2,  
4 paragraph "a". A hearing on a petition filed pursuant to this  
5 subsection shall be held at the earliest practicable time.

6 5. Reasonable efforts, as defined in section 232.102, that  
7 are made in regard to the newborn infant shall be limited to  
8 the efforts made in a timely manner to finalize a permanency  
9 plan for the newborn infant.

10 6. An individual on duty at an institutional health  
11 facility who assumes custody of a newborn infant upon the  
12 surrender of the newborn infant under subsection 1 shall be  
13 provided notice of any hearing held concerning the newborn  
14 infant at the same time notice is provided to other parties to  
15 the hearing and the individual may provide testimony at the  
16 hearing.

17 Sec. 3. NEW SECTION. 232B.3 RIGHTS OF OTHER PARENT.

18 1. If one parent surrenders physical custody of a newborn  
19 infant in accordance with section 232B.2, the other parent may  
20 file an action with the juvenile court for custody of the  
21 child. The action must be filed within thirty days after the  
22 date the physical custody of the newborn infant was  
23 surrendered.

24 2. In order to be awarded custody of the newborn infant,  
25 the person filing the action must prove all of the following  
26 by a preponderance of the evidence:

27 a. The person is the parent of the newborn infant.

28 b. The person did not consent to the surrender of custody  
29 of the newborn infant.

30 3. If a person alleging to be the other parent of a  
31 newborn infant does not file an action within the period  
32 required in subsection 1, the person is barred from filing an  
33 action for custody of the child. By operation of law and  
34 without any judicial proceedings, the person's parental rights  
35 with respect to the child are terminated.

1 Sec. 4. Section 232.111, subsection 2, paragraph a,  
2 subparagraph (3), Code 2001, is amended to read as follows:

3 (3) The child is less than twelve months of age and has  
4 been judicially determined to meet the definition of  
5 abandonment of a child or the child is a newborn infant whose  
6 parent has voluntarily surrendered physical custody of the  
7 child in accordance with chapter 232B.

8 Sec. 5. Section 232.116, subsection 1, paragraph b, Code  
9 2001, is amended to read as follows:

10 b. The court finds that there is clear and convincing  
11 evidence that the child has been abandoned or deserted or that  
12 the child is a newborn infant whose parent has voluntarily  
13 surrendered physical custody of the child in accordance with  
14 chapter 232B.

15 Sec. 6. Section 726.3, Code 2001, is amended to read as  
16 follows:

17 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

18 A person who is the father, mother, or some other person  
19 having custody of a child, or of any other person who by  
20 reason of mental or physical disability is not able to care  
21 for the person's self, who knowingly or recklessly exposes  
22 such person to a hazard or danger against which such person  
23 cannot reasonably be expected to protect such person's self or  
24 who deserts or abandons such person, knowing or having reason  
25 to believe that the person will be exposed to such hazard or  
26 danger, commits a class "C" felony. However, a parent who  
27 has, in accordance with section 232B.2, voluntarily  
28 surrendered physical custody of a newborn infant who has not  
29 suffered bodily harm shall not be prosecuted for a violation  
30 of this section involving abandonment of that newborn infant.

31 Sec. 7. Section 726.6, Code 2001, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 1A. A parent who has, in accordance with  
34 section 232B.2, voluntarily surrendered physical custody of a  
35 newborn infant who has not suffered bodily harm shall not be

1 prosecuted for a violation of this section involving  
2 abandonment of that newborn infant.

3 Sec. 8. EFFECTIVE DATE. This Act, being deemed of  
4 immediate importance, takes effect upon enactment.

5

EXPLANATION

6 This bill provides for the transfer of custody of and  
7 termination of parental rights for a newborn infant whose  
8 parent voluntarily surrenders physical custody of the newborn  
9 infant and provides for immunity from prosecution for such  
10 parent.

11 New Code section 232B.1 provides that new Code chapter 232B  
12 may be cited as the "Iowa Newborn Infant Surrender Act". The  
13 term "newborn infant" is defined as a child who is, or appears  
14 to be, four days of age or younger.

15 New Code section 232B.2 establishes the procedures for a  
16 parent to voluntarily surrender physical custody of the  
17 parent's newborn infant and relates these procedures to the  
18 juvenile justice code division on child in need of assistance  
19 proceedings. The person who surrenders custody of the newborn  
20 infant is presumed to be the child's parent. So long as a  
21 newborn infant has not suffered bodily harm, the newborn  
22 infant's parent may voluntarily surrender physical custody at  
23 an institutional health facility which includes a hospital,  
24 nursing facility, local health department, or other specified  
25 types of providers of health services.

26 An individual on duty at an institutional health facility  
27 at which a newborn infant is surrendered may act to protect  
28 the health or safety of the newborn infant. The individual on  
29 duty may request the parent to provide the name of the parent  
30 and information on the medical history of the infant and  
31 parents, however, the parent is not required to provide the  
32 name or medical history information. Immunity from civil and  
33 criminal liability is provided to the individual and the owner  
34 of the institutional health facility in which the individual  
35 was on duty for acts or omissions made in good faith to comply

1 with the bill's requirements. The individual is to notify the  
2 department of human services after assuming custody. The  
3 department is required to immediately take action to assume  
4 custody from the individual and is required to orally notify  
5 the court and the county attorney. A written notification  
6 from the department to the court and county attorney is  
7 required to follow within 24 hours.

8 Upon being notified by the department, the county attorney  
9 is required to file petitions alleging that the newborn infant  
10 is a child in need of assistance and for termination of  
11 parental rights with respect to the newborn infant. Hearings  
12 for these petitions are to be held at the earliest practicable  
13 time.

14 The existing requirement under the child in need of  
15 assistance law for the performance of reasonable efforts to  
16 prevent or eliminate the need for removal of the newborn  
17 infant is to be limited to efforts made to finalize a  
18 permanency plan for the newborn infant. The individual who  
19 received the surrender of the newborn infant is to receive  
20 notice of any hearing and may provide testimony in the  
21 hearing.

22 Provisions in Code section 232.111 and 232.116, relating to  
23 termination of parental rights petitions and grounds under the  
24 juvenile justice code, are amended to specifically include a  
25 newborn infant surrendered as provided in the bill.

26 Code section 726.3, relating to neglect or abandonment of a  
27 dependent person, and Code section 726.6, relating to child  
28 endangerment, are amended to provide that a parent who  
29 voluntarily surrenders a newborn infant as provided in the  
30 bill is not subject to prosecution under those sections for a  
31 violation involving abandonment of the newborn infant.

32 The bill takes effect upon enactment.

33

34

35