

WITHDRAWN

UNFINISHED BUSINESS CALENDAR

MAR 13 2001

4/5/01 UNFINISHED BUSINESS CALENDAR

Place On Calendar

4/11/01 *Substituted for by H.F. 555 (P. 1156)*

HOUSE FILE 593

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 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, establishing
6 confidentiality protections and a penalty, and providing an
7 effective date.

HF-593

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

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1 Section 1. NEW SECTION. 232B.1 NEWBORN SAFE HAVEN ACT --
2 DEFINITIONS.

3 1. This chapter may be cited as the "Newborn Safe Haven
4 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, fourteen 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. If the
23 newborn infant is not surrendered directly to an individual on
24 duty at the institutional health facility, the parent may take
25 other actions to be reasonably sure that an individual on duty
26 is aware that the newborn infant has been surrendered at the
27 institutional health facility. The actions may include but
28 are not limited to making telephone contact with the
29 institutional health facility or a 911 service. For the
30 purposes of this chapter and for any judicial proceedings
31 associated with the newborn infant, a rebuttable presumption
32 arises that the person who voluntarily surrenders physical
33 custody at an institutional health facility in accordance with
34 this section is the newborn infant's parent.

35 2. a. Unless the parent surrendering physical custody of

1 a newborn infant clearly expresses an intent to return to
2 again assume physical custody of the newborn infant, an
3 individual on duty at the facility at which the newborn infant
4 was surrendered pursuant to subsection 1 shall take physical
5 custody of the newborn infant. The individual on duty may
6 request the parent to provide the name of the parent or
7 parents and information on the medical history of the newborn
8 infant and the newborn infant's parent or parents. However,
9 the parent is not required to provide the names or medical
10 history information to comply with this section. The
11 individual on duty may perform any act necessary to protect
12 the physical health or safety of the newborn infant. The
13 individual on duty and the institutional health facility in
14 which the individual was on duty are immune from criminal or
15 civil liability for any acts or omissions made in good faith
16 to comply with this section.

17 b. If the custody of the newborn infant is surrendered at
18 an institutional health facility, the state shall reimburse
19 the institutional health facility for the institutional health
20 facility's actual expenses in providing care to the newborn
21 infant and in performing acts necessary to protect the
22 physical health or safety of the newborn infant. The
23 reimbursement shall be paid from moneys appropriated for this
24 purpose to the department of human services.

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

29 3. As soon as possible after the individual on duty
30 assumes physical custody of a newborn infant surrendered under
31 section 1, the individual shall notify the department of human
32 services and the department shall take the actions necessary
33 to assume the care, control, and custody of the newborn
34 infant. The department shall orally notify the juvenile court
35 and the county attorney of the department's action and the

1 circumstances surrounding the action and request an ex parte
2 order from the juvenile court ordering, in accordance with the
3 requirements of section 232.78, the department to take custody
4 of the child. Upon receiving the order, the department shall
5 take custody of the child. Within twenty-four hours of taking
6 custody of the child, the department shall notify the juvenile
7 court and the county attorney in writing of the department's
8 action and the circumstances surrounding the action.

9 4. a. Upon being notified in writing by the department
10 under subsection 3, the county attorney shall file a petition
11 alleging the newborn infant to be a child in need of
12 assistance in accordance with section 232.87. If the newborn
13 infant is adjudicated to be a child in need of assistance, the
14 juvenile court shall hold the initial permanency hearing
15 concerning the newborn infant no later than six months after
16 the entry of the dispositional order under section 232.99.
17 After any permanency hearing held regarding the newborn
18 infant, the juvenile court may order the county attorney to
19 file a petition for termination of parental rights with
20 respect to the newborn infant in accordance with section
21 232.111, subsection 2, paragraph "a". A hearing on a petition
22 filed pursuant to this subsection shall be held at the
23 earliest practicable time.

24 b. Notice of a petition filed pursuant to this subsection
25 shall be provided in accordance with the provisions of chapter
26 232 and shall be served upon any putative father registered
27 with the state registrar of vital statistics pursuant to
28 section 144.12A. Prior to holding a termination of parental
29 rights hearing with respect to the newborn infant, notice by
30 publication shall be provided as described in section 600A.6,
31 subsection 5.

32 5. Reasonable efforts, as defined in section 232.102, that
33 are made in regard to the newborn infant shall be limited to
34 the efforts made in a timely manner to finalize a permanency
35 plan for the newborn infant.

1 6. An individual on duty at an institutional health
2 facility who assumes custody of a newborn infant upon the
3 surrender of the newborn infant under subsection 1 shall be
4 provided notice of any hearing held concerning the newborn
5 infant at the same time notice is provided to other parties to
6 the hearing and the individual may provide testimony at the
7 hearing.

8 Sec. 3. NEW SECTION. 232B.3 RIGHTS OF PARENTS.

9 Either parent of a newborn infant whose physical custody
10 was surrendered in accordance with section 232B.2, may
11 intervene in the child in need of assistance or termination of
12 parental rights proceedings held regarding the newborn infant
13 and request that the juvenile court grant custody of the
14 newborn infant to the parent. The requester must show by
15 clear and convincing evidence that the requester is the parent
16 of the newborn infant. If the court determines that the
17 requester is the parent of the newborn infant and that
18 granting custody of the newborn infant to the parent is in the
19 newborn infant's best interest, the court shall issue an order
20 granting custody of the newborn infant to the parent. In
21 addition to such order, the court may order services for the
22 newborn infant and the parent as are in the best interest of
23 the newborn infant.

24 Sec. 4. NEW SECTION. 232B.4 CONFIDENTIALITY PROTECTIONS.

25 1. In addition to any other privacy protection established
26 in law, a record that is developed, acquired, or held in
27 connection with an individual's good faith effort to
28 voluntarily surrender a newborn infant in accordance with this
29 chapter and any identifying information concerning the
30 individual shall be kept confidential. Such record shall not
31 be inspected or the contents disclosed except as provided in
32 this section.

33 2. A record described in subsection 1 may be inspected and
34 the contents disclosed without court order to the following:

- 35 a. The court and professional court staff, including

1 juvenile court officers.

2 b. The newborn infant and the newborn infant's counsel.

3 c. The newborn infant's parent, guardian, custodian,
4 court-appointed special advocate, and guardian ad litem.

5 d. The county attorney and the county attorney's
6 assistants.

7 e. An agency, association, facility, or institution which
8 has custody of the newborn infant, or is legally responsible
9 for the care, treatment, or supervision of the newborn infant.

10 f. The newborn infant's foster parent or an individual
11 providing preadoptive care to the newborn infant.

12 3. Pursuant to court order a record described in
13 subsection 1 may be inspected by and the contents may be
14 disclosed to any of the following:

15 a. A person conducting bona fide research for research
16 purposes under whatever conditions the court may deem proper,
17 provided that no personal identifying data shall be disclosed
18 to such a person.

19 b. Persons who have a direct interest in a proceeding or
20 in the work of the court.

21 4. Any person who knowingly discloses, receives, or makes
22 use or permits the use of information derived directly or
23 indirectly from such a record or discloses identifying
24 information concerning such individual, except as provided by
25 this section, commits a serious misdemeanor.

26 Sec. 5. NEW SECTION. 232B.5 EDUCATIONAL AND PUBLIC
27 INFORMATION.

28 The department of human services, in consultation with the
29 Iowa department of public health and the department of
30 justice, shall develop and distribute the following:

31 1. An information card or other publication for
32 distribution by an institutional health facility to a parent
33 who surrenders physical custody of a newborn infant in
34 accordance with this chapter. The publication shall inform
35 the parent of a parent's rights under section 232B.3, explain

1 the request for medical history information under section
2 232B.2, subsection 2, and provide other information deemed
3 pertinent by the departments.

4 2. Educational materials, public information
5 announcements, and other resources to develop awareness of the
6 availability of the newborn safe haven Act, among adolescents,
7 young parents, and others who might avail themselves of the
8 Act.

9 3. Signage that may be used to identify the institutional
10 health facilities at which a newborn infant may be surrendered
11 in accordance with this chapter.

12 Sec. 6. Section 232.2, subsection 6, Code 2001, is amended
13 by adding the following new paragraph:

14 NEW PARAGRAPH. p. Who is a newborn infant whose parent
15 has voluntarily surrendered physical custody of the child in
16 accordance with chapter 232B.

17 Sec. 7. Section 232.111, subsection 2, paragraph a,
18 subparagraph (3), Code 2001, is amended to read as follows:

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

24 Sec. 8. Section 232.116, subsection 1, paragraph b, Code
25 2001, is amended to read as follows:

26 b. The court finds that there is clear and convincing
27 evidence that the child has been abandoned or deserted or that
28 the child is a newborn infant whose parent has voluntarily
29 surrendered physical custody of the child in accordance with
30 chapter 232B.

31 Sec. 9. Section 726.3, Code 2001, is amended to read as
32 follows:

33 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

34 A person who is the father, mother, or some other person
35 having custody of a child, or of any other person who by

1 reason of mental or physical disability is not able to care
2 for the person's self, who knowingly or recklessly exposes
3 such person to a hazard or danger against which such person
4 cannot reasonably be expected to protect such person's self or
5 who deserts or abandons such person, knowing or having reason
6 to believe that the person will be exposed to such hazard or
7 danger, commits a class "C" felony. However, a parent who
8 has, in accordance with section 232B.2, voluntarily
9 surrendered physical custody of a newborn infant who has not
10 suffered bodily harm, or has aided or abetted in such
11 voluntary surrender, shall not be prosecuted for a violation
12 of this section involving abandonment of that newborn infant.

13 Sec. 10. Section 726.6, Code 2001, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 1A. A parent who has, in accordance with
16 section 232B.2, voluntarily surrendered physical custody of a
17 newborn infant who has not suffered bodily harm shall not be
18 prosecuted for a violation of this section involving
19 abandonment of that newborn infant.

20 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment.

22 EXPLANATION

23 This bill provides for the transfer of custody of and
24 termination of parental rights for a newborn infant whose
25 parent voluntarily surrenders physical custody of the newborn
26 infant and provides for immunity from prosecution for such
27 parent.

28 New Code section 232B.1 provides that new Code chapter 232B
29 may be cited as the "Newborn Safe Haven Act". The term
30 "newborn infant" is defined as a child who is, or appears to
31 be, 14 days of age or younger.

32 New Code section 232B.2 establishes the procedures for a
33 parent to voluntarily surrender physical custody of the
34 parent's newborn infant and relates these procedures to the
35 juvenile justice code division on child in need of assistance

1 proceedings. For purposes of the bill and any judicial
2 proceedings, a rebuttable presumption arises that the person
3 who surrenders custody of the newborn infant is the child's
4 parent. So long as a newborn infant has not suffered bodily
5 harm, the newborn infant's parent may voluntarily surrender
6 physical custody at an institutional health facility which
7 includes a hospital, nursing or other health care facility,
8 local health department, or other specified types of providers
9 of health services. If the newborn infant is not surrendered
10 directly to an individual on duty at an institutional health
11 facility, the parent may take other actions to be reasonably
12 sure that an individual on duty is aware that the newborn
13 infant has been surrendered at the facility.

14 An individual on duty at an institutional health facility
15 at which a newborn infant is surrendered may act to protect
16 the health or safety of the newborn infant. The individual on
17 duty may request the parent to provide the name of the parent
18 and information on the medical history of the infant and
19 parents, however, the parent is not required to provide the
20 name or medical history information. Immunity from civil and
21 criminal liability is provided to the individual and the owner
22 of the institutional health facility in which the individual
23 was on duty for acts or omissions made in good faith to comply
24 with the bill's requirements. The individual is to notify the
25 department of human services after assuming custody. The
26 department is required to take action to assume custody from
27 the individual and is required to orally notify the juvenile
28 court and the county attorney. The oral notification is
29 required to include a request to the juvenile court for an ex
30 parte order for the department to take custody of the newborn
31 infant. A written notification from the department to the
32 court and county attorney is required to follow within 24
33 hours.

34 Upon being notified by the department, the county attorney
35 is required to file a petition alleging that the newborn

1 infant is a child in need of assistance. If the newborn
2 infant is determined to be a child in need of assistance, the
3 juvenile court is required to hold the initial permanency
4 hearing within six months of entry of the dispositional order.
5 After any permanency hearing, the juvenile court may order the
6 county attorney to file a petition for termination of parental
7 rights with respect to the newborn infant. Hearings for these
8 petitions are to be held at the earliest practicable time.

9 Notice for these hearings is to be provided in accordance with
10 Code chapter 232 and is to be served upon any putative father
11 registered with the state. Prior to holding a termination of
12 parental rights hearing, notice by publication is to be
13 provided as described in Code section 600.6A, which provides
14 for media publication at least once per week for two
15 consecutive weeks.

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

24 New Code section 232B.3 provides for rights of parents. A
25 parent may intervene in the child in need of assistance or
26 termination of parental rights proceeding and request that the
27 juvenile court grant custody of the newborn infant to the
28 parent. The parent must show parentage by clear and
29 convincing evidence and the court must determine that granting
30 the custody is in the newborn infant's best interest. If the
31 parent is granted custody, the court may also order services
32 as are in the best interest of the newborn infant.

33 New Code section 232B.4 provides confidentiality
34 protections for the surrender of a newborn infant in
35 accordance with the bill. Any records and any identifying

1 information concerning the individual who surrendered an
2 infant are to be kept confidential. Access to the records is
3 provided without court order to the newborn infant and others
4 involved with the newborn infant such as attorneys, foster
5 parents, and agencies providing care to the infant. A
6 violation involving knowing disclosure of confidential
7 information is a serious misdemeanor.

8 New Code section 232B.5 requires the department of human
9 services to consult with the departments of public health and
10 justice in developing and distributing information that may be
11 given to individuals who surrender a newborn infant, for
12 publicizing the bill's provisions, and for signage to identify
13 the facilities at which a newborn infant may be surrendered.

14 Provisions in Code sections 232.2, 232.111, and 232.116,
15 relating to the definition of a child in need of assistance,
16 termination of parental rights petitions, and grounds for
17 termination under the juvenile justice code, are amended to
18 specifically include a newborn infant surrendered as provided
19 in the bill.

20 Code section 726.3, relating to neglect or abandonment of a
21 dependent person, and Code section 726.6, relating to child
22 endangerment, are amended to provide that a parent who
23 voluntarily surrenders a newborn infant as provided in the
24 bill is not subject to prosecution under those sections for a
25 violation involving abandonment of the newborn infant.

26 The bill takes effect upon enactment.

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HOUSE FILE 593

H-1279

1 Amend House File 593 as follows:

2 1. Page 1, lines 18 and 19, by striking the words
3 "who has not suffered bodily harm".

4 2. Page 4, by inserting after line 7 the
5 following:

6 "7. If it is determined that a newborn infant
7 surrendered under this section has been subject to
8 child abuse, as defined in section 232.68, or a child
9 endangerment offense under section 726.6, other than
10 abandonment, the department of human services in
11 determining whether the name of the perpetrator shall
12 be placed in the central child abuse registry under
13 section 232.71D and the court in determining a
14 sentence under section 726.6, shall consider the
15 parent's action in surrendering the newborn infant
16 under this section to be a positive mitigating
17 circumstance."

By SMITH of Marshall

H-1279 FILED MARCH 21, 2001

o/o 4/11/01 (p.1158)

HOUSE FILE 593

H-1280

- 1 Amend House File 593 as follows:
- 2 1. Page 1, line 1, by striking the word "NEWBORN"
- 3 and inserting the following: "INFANT".
- 4 2. Page 1, line 3, by striking the word "Newborn"
- 5 and inserting the following: "Infant".
- 6 3. Page 1, line 14, by striking the words
- 7 "Newborn infant" and inserting the following:
- 8 "Infant".
- 9 4. Page 1, line 15, by striking the words
- 10 "fourteen days" and inserting the following: "one
- 11 year".
- 12 5. Page 1, line 16, by striking the word
- 13 "NEWBORN".
- 14 6. Page 1, line 18, by striking the words "a
- 15 newborn" and inserting the following: "an".
- 16 7. Page 1, line 20, by striking the word
- 17 "newborn".
- 18 8. Page 1, line 21, by striking the word
- 19 "newborn".
- 20 9. Page 1, line 23, by striking the word
- 21 "newborn".
- 22 10. Page 1, line 26, by striking the word
- 23 "newborn".
- 24 11. Page 1, line 31, by striking the word
- 25 "newborn".
- 26 12. Page 1, line 34, by striking the word
- 27 "newborn".
- 28 13. Page 2, line 1, by striking the words "a
- 29 newborn" and inserting the following: "an".
- 30 14. Page 2, line 2, by striking the word
- 31 "newborn".
- 32 15. Page 2, line 3, by striking the word
- 33 "newborn".
- 34 16. Page 2, line 5, by striking the word
- 35 "newborn".
- 36 17. Page 2, line 7, by striking the word
- 37 "newborn".
- 38 18. Page 2, line 8, by striking the word
- 39 "newborn".
- 40 19. Page 2, line 12, by striking the word
- 41 "newborn".
- 42 20. Page 2, line 17, by striking the word
- 43 "newborn".
- 44 21. Page 2, line 20, by striking the word
- 45 "newborn".
- 46 22. Page 2, line 22, by striking the word
- 47 "newborn".
- 48 23. Page 2, line 26, by striking the word
- 49 "newborn".
- 50 24. Page 2, line 30, by striking the words "a

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Page 2

- 1 newborn" and inserting the following: "an".
- 2 25. Page 2, line 33, by striking the word
- 3 "newborn".
- 4 26. Page 3, line 4, by striking the word "child"
- 5 and inserting the following: "infant".
- 6 27. Page 3, line 5, by striking the word "child"
- 7 and inserting the following: "infant".
- 8 28. Page 3, line 6, by striking the word "child"
- 9 and inserting the following: "infant".
- 10 29. Page 3, line 11, by striking the word
- 11 "newborn".
- 12 30. Page 3, line 12, by striking the word
- 13 "newborn".
- 14 31. Page 3, line 15, by striking the word
- 15 "newborn".
- 16 32. Page 3, line 17, by striking the word
- 17 "newborn".
- 18 33. Page 3, line 20, by striking the word
- 19 "newborn".
- 20 34. Page 3, line 29, by striking the word
- 21 "newborn".
- 22 35. Page 3, line 33, by striking the word
- 23 "newborn".
- 24 36. Page 3, line 35, by striking the word
- 25 "newborn".
- 26 37. Page 4, line 2, by striking the words "a
- 27 newborn" and inserting the following: "an".
- 28 38. Page 4, line 3, by striking the word
- 29 "newborn".
- 30 39. Page 4, line 4, by striking the word
- 31 "newborn".
- 32 40. Page 4, line 9, by striking the words "a
- 33 newborn" and inserting the following: "an".
- 34 41. Page 4, line 12, by striking the word
- 35 "newborn".
- 36 42. Page 4, line 14, by striking the word
- 37 "newborn".
- 38 43. Page 4, line 16, by striking the word
- 39 "newborn".
- 40 44. Page 4, line 17, by striking the word
- 41 "newborn".
- 42 45. Page 4, line 18, by striking the word
- 43 "newborn".
- 44 46. Page 4, line 19, by striking the word
- 45 "newborn".
- 46 47. Page 4, line 20, by striking the word
- 47 "newborn".
- 48 48. Page 4, line 22, by striking the word
- 49 "newborn".
- 50 49. Page 4, line 23, by striking the word

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Page 3

- 1 "newborn".
- 2 50. Page 4, line 28, by striking the words "a
- 3 newborn" and inserting the following: "an".
- 4 51. Page 5, by striking line 2 and inserting the
- 5 following:
- 6 "b. The infant and the infant's counsel."
- 7 52. Page 5, line 3, by striking the word
- 8 "newborn".
- 9 53. Page 5, line 8, by striking the word
- 10 "newborn".
- 11 54. Page 5, line 9, by striking the word
- 12 "newborn".
- 13 55. Page 5, line 10, by striking the word
- 14 "newborn".
- 15 56. Page 5, line 11, by striking the word
- 16 "newborn".
- 17 57. Page 5, line 33, by striking the words "a
- 18 newborn" and inserting the following: "an".
- 19 58. Page 6, line 6, by striking the word
- 20 "newborn" and inserting the following: "infant".
- 21 59. Page 6, line 10, by striking the words "a
- 22 newborn" and inserting the following: "an".
- 23 60. Page 6, line 14, by striking the words "a
- 24 newborn" and inserting the following: "an".
- 25 61. Page 6, line 15, by striking the word "child"
- 26 and inserting the following: "infant".
- 27 62. Page 6, line 21, by striking the words "a
- 28 newborn" and inserting the following: "an".
- 29 63. Page 6, line 28, by striking the words "a
- 30 newborn" and inserting the following: "an".
- 31 64. Page 7, line 9, by striking the words "a
- 32 newborn" and inserting the following: "an".
- 33 65. Page 7, line 12, by striking the word
- 34 "newborn".
- 35 66. Page 7, lines 16 and 17, by striking the
- 36 words "a newborn" and inserting the following: "an".
- 37 67. Page 7, line 19, by striking the word
- 38 "newborn".
- 39 68. Title page, line 2, by striking the word
- 40 "newborn".

By SMITH of Marshall

H-1280 FILED MARCH 21, 2001

o/o 4/11/01 (p. 1155)

HOUSE FILE 593

H-1416

1 Amend House File 593 as follows:

2 1. By striking everything after the enacting
3 clause, and inserting the following:

4 "Section 1. NEW SECTION. 232B.1 NEWBORN SAFE
5 HAVEN ACT -- DEFINITIONS.

6 1. This chapter may be cited as the "Newborn Safe
7 Haven Act".

8 2. For the purposes of this chapter, unless the
9 context otherwise requires:

10 a. "Institutional health facility" means a
11 hospital as defined in section 135B.1, including a
12 facility providing medical or health services that is
13 open twenty-four hours per day, seven days per week
14 and is a hospital emergency room, or a health care
15 facility as defined in section 135C.1.

16 b. "Newborn infant" means a child who is, or who
17 appears to be, fourteen days of age or younger.

18 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT
19 CUSTODY RELEASE PROCEDURES.

20 1. A parent of a newborn infant who has not
21 suffered bodily harm may voluntarily release custody
22 of the newborn infant by relinquishing physical
23 custody of the newborn infant, without expressing an
24 intent to again assume physical custody, at an
25 institutional health facility or by authorizing
26 another person to relinquish physical custody on the
27 parent's behalf. If physical custody of the newborn
28 infant is not relinquished directly to an individual
29 on duty at the institutional health facility, the
30 parent may take other actions to be reasonably sure
31 that an individual on duty is aware that the newborn
32 infant has been left at the institutional health
33 facility. The actions may include but are not limited
34 to making telephone contact with the institutional
35 health facility or a 911 service. For the purposes of
36 this chapter and for any judicial proceedings
37 associated with the newborn infant, a rebuttable
38 presumption arises that the person who relinquishes
39 physical custody at an institutional health facility
40 in accordance with this section is the newborn
41 infant's parent or has relinquished physical custody
42 with the parent's authorization.

43 2. a. Unless the parent or other person
44 relinquishing physical custody of a newborn infant
45 clearly expresses an intent to return to again assume
46 physical custody of the newborn infant, an individual
47 on duty at the facility at which physical custody of
48 the newborn infant was relinquished pursuant to
49 subsection 1 shall take physical custody of the
50 newborn infant. The individual on duty may request

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Page 2

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

14 b. If the physical custody of the newborn infant
15 is relinquished at an institutional health facility,
16 the state shall reimburse the institutional health
17 facility for the institutional health facility's
18 actual expenses in providing care to the newborn
19 infant and in performing acts necessary to protect the
20 physical health or safety of the newborn infant. The
21 reimbursement shall be paid from moneys appropriated
22 for this purpose to the department of human services.

23 c. The individual on duty or other person
24 designated by the institutional health facility at
25 which physical custody of the newborn infant was
26 relinquished shall submit the certificate of birth
27 report as required pursuant to section 144.14.

28 3. As soon as possible after the individual on
29 duty assumes physical custody of a newborn infant
30 released under subsection 1, the individual shall
31 notify the department of human services and the
32 department shall take the actions necessary to assume
33 the care, control, and custody of the newborn infant.
34 The department shall immediately notify the juvenile
35 court and the county attorney of the department's
36 action and the circumstances surrounding the action
37 and request an ex parte order from the juvenile court
38 ordering, in accordance with the requirements of
39 section 232.78, the department to take custody of the
40 newborn infant. Upon receiving the order, the
41 department shall take custody of the newborn infant.
42 Within twenty-four hours of taking custody of the
43 newborn infant, the department shall notify the
44 juvenile court and the county attorney in writing of
45 the department's action and the circumstances
46 surrounding the action.

47 4. a. Upon being notified in writing by the
48 department under subsection 3, the county attorney
49 shall file a petition alleging the newborn infant to
50 be a child in need of assistance in accordance with

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1 section 232.87 and a petition for termination of
2 parental rights with respect to the newborn infant in
3 accordance with section 232.111, subsection 2,
4 paragraph "a". A hearing on a child in need of
5 assistance petition filed pursuant to this subsection
6 shall be held at the earliest practicable time. A
7 hearing on a termination of parental rights petition
8 filed pursuant to this subsection shall be held no
9 later than thirty days after the day the physical
10 custody of the newborn child was relinquished in
11 accordance with subsection 1 unless the juvenile court
12 continues the hearing beyond the thirty days for good
13 cause shown.

14 b. Notice of a petition filed pursuant to this
15 subsection shall be provided to any known parent and
16 others in accordance with the provisions of chapter
17 232 and shall be served upon any putative father
18 registered with the state registrar of vital
19 statistics pursuant to section 144.12A. In addition,
20 prior to holding a termination of parental rights
21 hearing with respect to the newborn infant, notice by
22 publication shall be provided as described in section
23 600A.6, subsection 5.

24 5. Reasonable efforts, as defined in section
25 232.102, that are made in regard to the newborn infant
26 shall be limited to the efforts made in a timely
27 manner to finalize a permanency plan for the newborn
28 infant.

29 6. An individual on duty at an institutional
30 health facility who assumes custody of a newborn
31 infant upon the release of the newborn infant under
32 subsection 1 shall be provided notice of any hearing
33 held concerning the newborn infant at the same time
34 notice is provided to other parties to the hearing and
35 the individual may provide testimony at the hearing.

36 Sec. 3. NEW SECTION. 232B.3 IMMUNITY.

37 Any person authorized by the parent to assist with
38 release of custody in accordance with section 232B.2
39 by relinquishing physical custody of the newborn
40 infant or to otherwise act on the parent's behalf is
41 immune from criminal prosecution for abandonment or
42 neglect of the newborn infant under section 726.3 or
43 726.6 and civil liability for any reasonable acts or
44 omissions made in good faith in assisting with the
45 release.

46 Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.

47 Either parent of a newborn infant whose custody was
48 released in accordance with section 232B.2, may
49 intervene in the child in need of assistance or
50 termination of parental rights proceedings held

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1 regarding the newborn infant and request that the
2 juvenile court grant custody of the newborn infant to
3 the parent. The requester must show by clear and
4 convincing evidence that the requester is the parent
5 of the newborn infant. If the court determines that
6 the requester is the parent of the newborn infant and
7 that granting custody of the newborn infant to the
8 parent is in the newborn infant's best interest, the
9 court shall issue an order granting custody of the
10 newborn infant to the parent. In addition to such
11 order, the court may order services for the newborn
12 infant and the parent as are in the best interest of
13 the newborn infant.

14 Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY
15 PROTECTIONS.

16 1. In addition to any other privacy protection
17 established in law, a record that is developed,
18 acquired, or held in connection with an individual's
19 good faith effort to voluntarily release a newborn
20 infant in accordance with this chapter and any
21 identifying information concerning the individual
22 shall be kept confidential. Such record shall not be
23 inspected or the contents disclosed except as provided
24 in this section.

25 2. A record described in subsection 1 may be
26 inspected and the contents disclosed without court
27 order to the following:

28 a. The court and professional court staff,
29 including juvenile court officers.

30 b. The newborn infant and the newborn infant's
31 counsel.

32 c. The newborn infant's parent, guardian,
33 custodian, and those persons' counsel.

34 d. The newborn infant's court-appointed special
35 advocate and guardian ad litem.

36 e. The county attorney and the county attorney's
37 assistants.

38 f. An agency, association, facility, or
39 institution which has custody of the newborn infant,
40 or is legally responsible for the care, treatment, or
41 supervision of the newborn infant.

42 g. The newborn infant's foster parent or an
43 individual providing preadoptive care to the newborn
44 infant.

45 3. Pursuant to court order a record described in
46 subsection 1 may be inspected by and the contents may
47 be disclosed to any of the following:

48 a. A person conducting bona fide research for
49 research purposes under whatever conditions the court
50 may deem proper, provided that no personal identifying

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1 data shall be disclosed to such a person.

2 b. Persons who have a direct interest in a
3 proceeding or in the work of the court.

4 4. Any person who knowingly discloses, receives,
5 or makes use or permits the use of information derived
6 directly or indirectly from such a record or discloses
7 identifying information concerning such individual,
8 except as provided by this section, commits a serious
9 misdemeanor.

10 Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND
11 PUBLIC INFORMATION.

12 The department of human services, in consultation
13 with the Iowa department of public health and the
14 department of justice, shall develop and distribute
15 the following:

16 1. An information card or other publication for
17 distribution by an institutional health facility to a
18 parent who releases custody of a newborn infant in
19 accordance with this chapter. The publication shall
20 inform the parent of a parent's rights under section
21 232B.4, explain the request for medical history
22 information under section 232B.2, subsection 2, and
23 provide other information deemed pertinent by the
24 departments.

25 2. Educational materials, public information
26 announcements, and other resources to develop
27 awareness of the availability of the newborn safe
28 haven Act, among adolescents, young parents, and
29 others who might avail themselves of the Act.

30 3. Signage that may be used to identify the
31 institutional health facilities at which physical
32 custody of a newborn infant may be relinquished in
33 accordance with this chapter.

34 Sec. 7. Section 232.2, subsection 6, Code 2001, is
35 amended by adding the following new paragraph:

36 NEW PARAGRAPH. p. Who is a newborn infant whose
37 parent has voluntarily released custody of the child
38 in accordance with chapter 232B.

39 Sec. 8. Section 232.111, subsection 2, paragraph
40 a, subparagraph (3), Code 2001, is amended to read as
41 follows:

42 (3) The child is less than twelve months of age
43 and has been judicially determined to meet the
44 definition of abandonment of a child or the child is a
45 newborn infant whose parent has voluntarily released
46 custody of the child in accordance with chapter 232B.

47 Sec. 9. Section 232.116, subsection 1, Code 2001,
48 is amended by adding the following new paragraph:

49 NEW PARAGRAPH. bb. The court finds that there is
50 clear and convincing evidence that the child is a

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1 newborn infant whose parent has voluntarily released
2 custody of the child in accordance with chapter 232B.
3 Sec. 10. Section 232.117, Code 2001, is amended by
4 adding the following new subsection:

5 NEW SUBSECTION. 9. If a termination of parental
6 rights order is issued on the grounds that the child
7 is a newborn infant whose parent has voluntarily
8 released custody of the child under section 232.116,
9 subsection 1, paragraph "bb", the court shall retain
10 jurisdiction to change a guardian or custodian and to
11 allow a parent whose rights have been terminated to
12 request vacation or appeal of the termination order
13 which request must be made within thirty days of
14 issuance of the granting of the termination order.
15 The period for request for vacation or appeal by a
16 parent whose rights have been terminated shall not be
17 waived or extended and a vacation or appeal shall not
18 be granted for a request made after the expiration of
19 this period. The court shall grant the vacation
20 request only if it is in the best interest of the
21 child. The supreme court shall prescribe rules to
22 establish the period of thirty days, which shall not
23 be waived or extended, in which a parent whose
24 parental rights have been terminated may request a
25 vacation or appeal of such a termination order.

26 Sec. 11. Section 726.3, Code 2001, is amended to
27 read as follows:

28 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT
29 PERSON.

30 A person who is the father, mother, or some other
31 person having custody of a child, or of any other
32 person who by reason of mental or physical disability
33 is not able to care for the person's self, who
34 knowingly or recklessly exposes such person to a
35 hazard or danger against which such person cannot
36 reasonably be expected to protect such person's self
37 or who deserts or abandons such person, knowing or
38 having reason to believe that the person will be
39 exposed to such hazard or danger, commits a class "C"
40 felony. However, a parent or person authorized by the
41 parent who has, in accordance with section 232B.2,
42 voluntarily released custody of a newborn infant who
43 has not suffered bodily harm shall not be prosecuted
44 for a violation of this section involving abandonment
45 of that newborn infant.

46 Sec. 12. Section 726.6, Code 2001, is amended by
47 adding the following new subsection:

48 NEW SUBSECTION. 1A. A parent or person authorized
49 by the parent who has, in accordance with section
50 232B.2, voluntarily released custody of a newborn

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1 infant who has not suffered bodily harm shall not be
2 prosecuted for a violation of this section involving
3 abandonment of that newborn infant.

4 Sec. 13. EFFECTIVE DATE. This Act, being deemed
5 of immediate importance, takes effect upon enactment."

6 2. Title page, by striking lines 1 through 7 and
7 inserting the following: "An Act providing for the
8 release of custody and termination of parental rights
9 for certain newborn infants whose parent or person
10 authorized to act on the parent's behalf relinquishes
11 physical custody at certain health facilities and
12 providing certain immunity from prosecution and civil
13 liability for such parent or person, establishing
14 confidentiality protections and a penalty, and
15 providing an effective date."

By BARRY of Harrison

H-1416 FILED APRIL 2, 2001

Adopted 4/11/01 p. 1155

HOUSE FILE 593
FISCAL NOTE

A fiscal note for **House File 593** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 593 provides for the transfer of custody and termination of parental rights for a newborn infant whose parent voluntarily surrenders physical custody at certain health facilities and provides immunity from prosecution for child abandonment crimes.

ASSUMPTIONS

1. A newborn infant is a child who is or appears to be 14 days or younger.
2. If a child-in-need of assistance is determined, the initial permanency hearing shall be held within six months of entry of the dispositional order.
3. Prior to holding a termination of parental rights hearing, notice by publication is to be provided as described in Code Section 600.6A, which provides for media publication at least once per week for two consecutive weeks.
4. New Code Section 232B.3 provides that a parent may intervene in a child-in-need of assistance or a termination of parental rights proceeding with a request that the juvenile court grant custody of the newborn infant to the parents.
5. New Code Section 232B.4 provides confidentiality protection for the surrender of a newborn infant in accordance with the Bill.
6. There would be a need to file a child-in-need of assistance and a termination of parental rights proceeding.
7. A standard child-in-need of assistance case costs approximately \$3,000 in initial proceeding and \$500 per year thereafter.
8. An initial proceeding to terminate parental rights would cost approximately \$5,000.
9. Posters and literature regarding Safe Havens signage would be paid for by the Department of Human Services costing approximately \$9,000.
10. Knowingly disclosing confidential information is a serious misdemeanor.
11. Neglect or abandonment of a dependent is a Class C felony, however, a parent, in accordance with Section 232B.2, Code of Iowa, who voluntarily surrenders physical custody of an unharmed newborn infant shall not be prosecuted for the violation.
12. The State Public Defender costs for a Class C felony would be approximately \$1,200.
13. Court costs for a Class C felony range between \$2,900 to \$5,000.
14. The marginal cost of a prison inmate is \$16 per day.
15. The average length of stay for a Class C felony is 41.2 months.
16. The length of stay on supervision is 30 months at \$1.55 per day.
17. There were 21 people convicted of neglect or abandonment during FY 2000.
18. Charge, conviction, and sentencing patterns and trends will not change over the projection period.

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19. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
20. This Bill takes effect upon enactment.
21. There is approximately one newborn abandonment per year.

CORRECTIONAL IMPACT

House File 593 is expected to result in fewer convictions under Section 726.3 (neglect/abandonment), Code of Iowa. Due to insufficient information, an accurate correctional impact cannot be provided. In FY 2000, there were 21 offenders convicted of neglect or abandonment.

FISCAL IMPACT

Due to insufficient information, the fiscal impact cannot be determined. The cost associated with one case would be approximately \$26,000.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Human Services
Department of Public Health
Judicial Branch
State Public Defender

(LSB 2634hv, JDD)

FILED MARCH 19, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR