

CHAPTER 2024-213

Committee Substitute for House Bill No. 775

An act relating to surrendered infants; amending s. 383.50, F.S.; changing the term “newborn infant” to “infant”; increasing the age at which a child is considered an infant; authorizing a parent to leave an infant with medical staff or a licensed health care professional at a hospital after the delivery of the infant if the parent provides certain notification; authorizing a parent to surrender an infant by calling 911 to request that an emergency medical services provider meet the surrendering parent at a specified location; requiring the surrendering parent to stay with the infant until the emergency medical services provider arrives to take custody of the infant; amending ss. 39.01, 39.201, 63.0423, 63.167, 383.51, 827.035, and 827.10, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 383.50, Florida Statutes, is amended to read:

383.50 Treatment of surrendered ~~newborn~~ infant.—

(1) As used in this section, the term “~~newborn~~ infant” means a child who a licensed physician reasonably believes is approximately 30 7 days old or younger at the time the child is left at a hospital, an emergency medical services station, or a fire station.

(2) There is a presumption that the parent who leaves the ~~newborn~~ infant in accordance with this section intended to leave the ~~newborn~~ infant and consented to termination of parental rights.

(3) Each emergency medical services station or fire station that is staffed with full-time firefighters, emergency medical technicians, or paramedics shall accept any ~~newborn~~ infant left with a firefighter, an emergency medical technician, or a paramedic. The firefighter, emergency medical technician, or paramedic shall consider these actions as implied consent to and shall:

(a) Provide emergency medical services to the ~~newborn~~ infant to the extent that he or she is trained to provide those services; and

(b) Arrange for the immediate transportation of the ~~newborn~~ infant to the nearest hospital having emergency services.

A licensee as defined in s. 401.23, a fire department, or an employee or agent of a licensee or fire department may treat and transport an ~~a newborn~~ infant pursuant to this section. If an ~~a newborn~~ infant is placed in the physical custody of an employee or agent of a licensee or fire department, such placement is ~~shall be~~ considered implied consent for treatment and transport. A licensee, a fire department, or an employee or agent of a

licensee or fire department is immune from criminal or civil liability for acting in good faith pursuant to this section. ~~Nothing in~~ This subsection does not limit ~~limits~~ liability for negligence.

(4)(a) After the delivery of an infant in a hospital, a parent of the infant may leave the infant with medical staff or a licensed health care professional at the hospital if the parent notifies such medical staff or licensed health care professional that the parent is voluntarily surrendering the infant and does not intend to return.

(b) Each hospital of this state subject to s. 395.1041 shall, and any other hospital may, admit and provide all necessary emergency services and care, as defined in s. 395.002(9), to any ~~newborn~~ infant left with the hospital in accordance with this section. The hospital or any of its medical staff or licensed health care professionals shall consider these actions as implied consent for treatment, and a hospital accepting physical custody of an a ~~newborn~~ infant has implied consent to perform all necessary emergency services and care. The hospital or any of its medical staff or licensed health care professionals are is immune from criminal or civil liability for acting in good faith in accordance with this section. ~~Nothing in~~ This subsection does not limit ~~limits~~ liability for negligence.

(5) Except when there is actual or suspected child abuse or neglect, any parent who leaves an a ~~newborn~~ infant with a firefighter, an emergency medical technician, or a paramedic at a fire station or an emergency medical services station, or brings an a ~~newborn~~ infant to an emergency room of a hospital and expresses an intent to leave the ~~newborn~~ infant and not return, has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed unless the parent seeks to reclaim the ~~newborn~~ infant. When an infant is born in a hospital and the mother expresses intent to leave the infant and not return, upon the mother's request, the hospital or registrar shall complete the infant's birth certificate without naming the mother thereon.

(6) A parent of an a ~~newborn~~ infant left at a hospital, an emergency medical services station, or a fire station under this section may claim his or her ~~newborn~~ infant up until the court enters a judgment terminating his or her parental rights. A claim to the ~~newborn~~ infant must be made to the entity having physical or legal custody of the ~~newborn~~ infant or to the circuit court before whom proceedings involving the ~~newborn~~ infant are pending.

(7) Upon admitting an a ~~newborn~~ infant under this section, the hospital shall immediately contact a local licensed child-placing agency or alternatively contact the statewide central abuse hotline for the name of a licensed child-placing agency for purposes of transferring physical custody of the ~~newborn~~ infant. The hospital shall notify the licensed child-placing agency that an a ~~newborn~~ infant has been left with the hospital and approximately when the licensed child-placing agency can take physical custody of the infant ~~child~~. In cases where there is actual or suspected child abuse or neglect, the hospital or any of its medical staff or licensed health

care professionals shall report the actual or suspected child abuse or neglect in accordance with ss. 39.201 and 395.1023 in lieu of contacting a licensed child-placing agency.

(8) ~~An Any newborn~~ infant admitted to a hospital in accordance with this section is presumed eligible for coverage under Medicaid, subject to federal rules.

(9) ~~An A newborn~~ infant left at a hospital, an emergency medical services station, or a fire station in accordance with this section ~~may shall~~ not be deemed abandoned and subject to reporting and investigation requirements under s. 39.201 unless there is actual or suspected child abuse or until the Department of Children and Families takes physical custody of the infant child.

(10) If the parent of an infant is unable to surrender the infant in accordance with this section, the parent may call 911 to request that an emergency medical services provider meet the surrendering parent at a specified location. The surrendering parent must stay with the infant until the emergency medical services provider arrives to take custody of the infant.

(11) A criminal investigation ~~may shall~~ not be initiated solely because ~~an a newborn~~ infant is surrendered in accordance with ~~left at a hospital under~~ this section unless there is actual or suspected child abuse or neglect.

Section 2. Subsection (1) and paragraph (e) of subsection (34) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(1) “Abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this subsection, “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. A man’s acknowledgment of paternity of the child does not limit the period of time considered in determining whether the child was abandoned. The term does not include a surrendered ~~newborn~~ infant as described in s. 383.50, a “child in need of services” as defined in chapter 984, or a “family in need of services” as defined in chapter 984. The absence of a parent, legal custodian, or caregiver responsible for a child’s welfare, who is a servicemember, by reason of deployment or anticipated

deployment as defined in 50 U.S.C. s. 3938(e), may not be considered or used as a factor in determining abandonment. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

(34) "Harm" to a child's health or welfare can occur when any person:

(e) Abandons the child. Within the context of the definition of "harm," the term "abandoned the child" or "abandonment of the child" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this paragraph, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term "abandoned" does not include a surrendered ~~newborn~~ infant as described in s. 383.50, a child in need of services as defined in chapter 984, or a family in need of services as defined in chapter 984. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

Section 3. Paragraph (e) of subsection (3) of section 39.201, Florida Statutes, is amended to read:

39.201 Required reports of child abuse, abandonment, or neglect, sexual abuse of a child, and juvenile sexual abuse; required reports of death; reports involving a child who has exhibited inappropriate sexual behavior.—

(3) ADDITIONAL CIRCUMSTANCES RELATED TO REPORTS.—

(e) Surrendered ~~newborn~~ infants.—

1. The central abuse hotline must receive reports involving surrendered ~~newborn~~ infants as described in s. 383.50.

2.a. A report may not be considered a report of child abuse, abandonment, or neglect solely because the infant has been left at a hospital, emergency medical services station, or fire station under s. 383.50.

b. If the report involving a surrendered ~~newborn~~ infant does not include indications of child abuse, abandonment, or neglect other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the central abuse hotline must provide to the person making the report the name of an eligible licensed child-placing agency that is required to accept physical custody of and to

place surrendered ~~newborn~~ infants. The department shall provide names of eligible licensed child-placing agencies on a rotating basis.

3. If the report includes indications of child abuse, abandonment, or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report must be considered as a report of child abuse, abandonment, or neglect and, notwithstanding chapter 383, is subject to s. 39.395 and all other relevant provisions of this chapter.

Section 4. Subsections (4) and (10) of section 63.0423, Florida Statutes, are amended to read:

63.0423 Procedures with respect to surrendered infants.—

(4) The parent who surrenders the infant in accordance with s. 383.50 is presumed to have consented to termination of parental rights, and express consent is not required. Except when there is actual or suspected child abuse or neglect, the licensed child-placing agency may ~~shall~~ not attempt to pursue, search for, or notify that parent as provided in s. 63.088 and chapter 49. For purposes of s. 383.50 and this section, an infant who tests positive for illegal drugs, narcotic prescription drugs, alcohol, or other substances, but shows no other signs of child abuse or neglect, shall be placed in the custody of a licensed child-placing agency. Such a placement does not eliminate the reporting requirement under s. 383.50(7). When the department is contacted regarding an infant properly surrendered under this section and s. 383.50, the department shall provide instruction to contact a licensed child-placing agency and may not take custody of the infant unless reasonable efforts to contact a licensed child-placing agency to accept the infant have not been successful.

(10) Except to the extent expressly provided in this section, proceedings initiated by a licensed child-placing agency for the termination of parental rights and subsequent adoption of an infant ~~a newborn~~ left at a hospital, emergency medical services station, or fire station in accordance with s. 383.50 shall be conducted pursuant to this chapter.

Section 5. Paragraph (f) of subsection (2) of section 63.167, Florida Statutes, is amended to read:

63.167 State adoption information center.—

(2) The functions of the state adoption information center shall include:

(f) Maintaining a list of licensed child-placing agencies eligible and willing to take custody of and place ~~newborn~~ infants left at a hospital, pursuant to s. 383.50. The names and contact information for the licensed child-placing agencies on the list shall be provided on a rotating basis to the statewide central abuse hotline.

Section 6. Section 383.51, Florida Statutes, is amended to read:

383.51 Confidentiality; identification of parent leaving ~~newborn~~ infant at hospital, emergency medical services station, or fire station.—The identity of a parent who leaves an ~~a newborn~~ infant at a hospital, emergency medical services station, or fire station in accordance with s. 383.50 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The identity of a parent leaving a child shall be disclosed to a person claiming to be a parent of the ~~newborn~~ infant.

Section 7. Section 827.035, Florida Statutes, is amended to read:

827.035 ~~Newborn~~ Infants.—It ~~does shall~~ not constitute neglect of a child pursuant to s. 827.03 or contributing to the dependency of a child pursuant to s. 827.04, if a parent leaves an ~~a newborn~~ infant at a hospital, emergency medical services station, or fire station or brings an ~~a newborn~~ infant to an emergency room and expresses an intent to leave the infant and not return, in compliance with s. 383.50.

Section 8. Subsection (3) of section 827.10, Florida Statutes, is amended to read:

827.10 Unlawful desertion of a child.—

(3) This section does not apply to a person who surrenders an ~~a newborn~~ infant in compliance with s. 383.50.

Section 9. This act shall take effect July 1, 2024.

Approved by the Governor May 29, 2024.

Filed in Office Secretary of State May 29, 2024.