



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**

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November 2, 2010

ALL COUNTY INFORMATION NOTICE I-88-10

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
CHIEF PROBATION OFFICERS

SUBJECT: SAFELY SURRENDERED BABY DEFINITION, INTAKE AND DATA ENTRY

REFERENCES: HEALTH AND SAFETY CODE, SECTION 1255.7; PENAL CODE, SECTION 11165.13; ALL COUNTY INFORMATION NOTICE I-16-04; ASSEMBLY BILL 1048 (Chapter 567, 2010)

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

The purpose of this All County Information Notice (ACIN) is to clarify the definition of a safely surrendered baby (SSB), safe surrender intake procedures, safe surrender following hospital birth, SSB data entry into Child Welfare Services Case Management System (CWS/CMS), and provide an updated medical questionnaire for use by safe surrender site staff to collect medical history that may be critical to the future health of a surrendered infant.

**Safely Surrendered Baby Definition**

The Safely Surrendered Baby law (Health and Safety Code, section 1255.7) provides a safe alternative for the surrender of a newborn baby in specified circumstances. The intent of the law is to encourage safe and healthy births, provide freedom from prosecution, and maintain confidentiality for the surrendering individual. Further, the law was intended to prevent newborn harm and avoid infant deaths resulting from abandonment in unsafe locations.

An infant is considered to be safely surrendered if all the following apply:

The child:

- Is 72 hours old or younger;

- Is voluntarily surrendered by a parent or an individual with lawful custody <sup>1</sup>;
- Is surrendered to personnel on duty at a designated safe surrender site; and
- Has not suffered abuse and/or neglect. <sup>2</sup>

Characteristics unique to a safe surrender:

- Per Penal Code Section 271.5, no person safely surrendering a baby to personnel at a safe surrender site may be prosecuted for abandonment, failure to provide, or desertion.
- The parent or person safely surrendering a baby has up to 14 days from the date that child was surrendered to return and reclaim the baby by presenting the uniquely coded ID bracelet that was offered to the surrendering individual at the time of the safe surrender.
- A medical questionnaire must be offered, but is voluntary to complete.
- All identifying information that pertains to a parent or individual who surrenders a child is confidential. If this information is inadvertently provided to the child CWS agency by the safe surrender site, it must not be entered in the CWS/CMS.

### **Safe Surrender of an Infant Born in a Hospital**

A baby born in a hospital may be surrendered under the law. When this occurs, hospital staff must ensure the following:

- The birth mother, by word or action, indicates that she does not want to keep her baby;
- The birth mother is voluntarily surrendering physical custody of the child; and
- The baby is in the care of hospital personnel.

If the birth mother chooses to voluntarily relinquish her baby and begins the adoption process, then subsequently chooses safe surrender within 72 hours of birth, the baby would be considered surrendered. The intent of the safe surrender law is to ensure that the baby is safe; remaining in the care of the hospital would be considered as such. If a baby is surrendered after a hospital birth, the names of the birth mother and father must be redacted from any information provided to the CWS agency.

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<sup>1</sup> Health and Safety Code, section 1255.7(j) defines "lawful custody" as "the physical custody of a minor 72 hours old or younger accepted by a person from a parent of the minor, who the person believes in good faith is the parent of the minor, with the specific intent and promise of affecting the safe surrender of the minor."

<sup>2</sup> Per Penal Code, section 11165.13, a positive toxicology screen at the time of the delivery of an infant is not, in and of itself, a sufficient basis for reporting child abuse and/or neglect.

### **Frequently Asked Questions**

Since the inception of the SSB law, several questions have been raised regarding its interpretation, particularly when a CWS agency is determining whether an infant has been surrendered or abandoned. Answers to some common questions and information regarding the SSB law can be found at the Department's SSB homepage [www.babysafe.ca.gov](http://www.babysafe.ca.gov). The following are common scenarios that have raised questions when determining whether the situation might be considered a safe surrender as opposed to a case of abandonment or relinquishment for adoption:

- Does the birth mother need to be familiar with the SSB law in order to safely surrender her baby?
  - The statute does not state that the mother must be familiar with the law. It follows that there is not basis to exclude her right to safely surrender if she is not familiar with the law.
  - If a birth mother indicates she would like to voluntarily relinquish her baby for adoption, but subsequently decides to surrender her baby within the 72-hour timeframe, the baby must be considered safely surrendered if all other conditions are met.
  
- If the birth mother leaves the hospital premises while the baby is in care of hospital staff, but she does not verbally indicate her intent to surrender, is it still considered a safe surrender?
  - The hospital is a safe surrender site.
    - The intent of the law is to ensure that the baby is safe; remaining in the care of the hospital would be considered as such.
  - Statute simply states that physical custody must be voluntarily surrendered to personnel on duty at the safe surrender site, and it does not indicate that this voluntary surrender must be stated verbally.
  - Though she has not verbally indicated voluntary surrender of the infant, it has been implied by her action. Moreover, since the baby has been left in the care of authorized personnel at a safe surrender site, it is more consistent with statute to consider this a safe surrender rather than a case of abandonment.
  
- What if the mother leaves against medical advice?
  - Statute does address this action that is more pertinent to the safety of the mother than the safety of the child, who is in the care of authorized personnel at the hospital (i.e., safe surrender site). Depending on the circumstances and the safety of the baby, this may be considered a safe surrender.
  
- If a baby is safely surrendered but then tests positive on a toxicology screening, is it considered a case of abuse or neglect, rather than a safe surrender?

- According to Penal Code 11165.13, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect, so it follows that the case may be considered a safe surrender. However, if in addition to the positive toxicology screening other factors are present that indicate risk to the child, the Penal Code would require a report to be made.

### **Locations Approved as Safe Surrender Sites**

Official safe surrender sites fall into three categories:

- A location within a public or private hospital that is designated by that hospital to be responsible for accepting the physical custody of a safely surrendered infant.
- A location designated by the board of supervisors of a county to be responsible for accepting physical custody of a safely surrendered baby.
- A location designated by a local fire agency, upon the approval of the appropriate local governing body of the agency,

Unless a site is appropriately approved, it is not considered a safe surrender site and should not post the safe surrender logo.

### **Safe Surrender Site Responsibilities**

Personnel at a safe-surrender site shall accept physical custody of the child and ensure that a qualified person does all of the following:

- Place a coded, confidential ankle bracelet on the child;
- Provide (or make a good faith effort to provide) the parent or surrendering individual a copy of the ankle bracelet in order to reclaim the child within 14 days if s/he so chooses;
- Provide (or make a good faith effort to provide) the parent or surrendering individual a medical questionnaire, which may be declined, voluntarily completed at the time the child is surrendered or completed at a later time and returned by mail. (An envelope must be provided to the surrendering individual if s/he chooses to use the return mail option.);
- Ensure that the child undergoes a medical screening examination, and any necessary medical care is provided; and
- As soon as possible, but no later than 48 hours after accepting physical custody of a child, personnel must notify CWS of the safely surrendered baby.

### **Certificate of Finding of Unknown Child or Safely Surrendered Baby vs. Birth Certificate**

In order to maintain the confidentiality of the surrendering individual, a safely surrendered baby is issued a Certificate of Finding of Unknown Child or Safely

Surrendered Baby (California Department of Public Health Form VS 136) rather than a birth certificate. This form is used because it is filed without indicating the name of either birth parent, whereas a birth certificate must typically include the name of the mother and may contain the names of both parents.

If a birth certificate is issued for a safely surrendered baby, whether in error or prior to the surrender of the child, the birth certificate must be sealed and a Certificate of Finding of Unknown Child or Safely Surrendered Baby filed in its place. In order to facilitate this procedure, a court order to seal the birth certificate must be obtained.

If a surrendered baby has been issued a birth certificate in error, an adoption cannot be finalized until the birth certificate has been sealed and a Certificate of Finding of Unknown Child or Safely Surrendered Baby is issued in its place. The process of completing the adoption of a safely surrendered baby may be much quicker than a standard adoption since the termination of parental rights is not an issue. Accordingly, it is in the best interest of the child that the CWS agency obtains a court order as soon as it is recognized that a birth certificate has been issued in error.

#### **Update to All-County Information Notice I-16-04**

The ACIN I-16-04 stated, "If the parent(s) verbally provided their names, you may enter in their names as they have waived their privilege of confidentiality." However, this statement is not consistent with the confidentiality requirements of the SSB Law. This letter you are reading supersedes those instructions. The name of the parent/surrendering individual must remain anonymous and should be entered as "Mother Unknown," "Father Unknown" or simply, "Unknown."

Accordingly, if a parent of a safely surrender newborn reveals their name verbally or on the medical questionnaire, the name should not be entered into CWS/CMS. Health and Safety Code, Section 1255.7(d)(2) (last sentence) states, "Any personal identifying information that pertains to a parent or individual who surrenders a child shall be redacted from any medical information provided to CPS or the county agency providing child welfare services." According to this statute, the safe surrender site must not provide the CWS agency with the surrendering individual's name. CWS workers who receive reports from safe surrender sites regarding a surrendered baby should not ask for this information, nor should it be entered into the CWS/CMS database if it is inadvertently indicated on any reports provided to the agency.

#### **CWS/CMS Data Entry**

##### *Name of Parent/Guardian*

The name of the parent/guardian should not be entered into any section of CWS/CMS, including any written narratives, in the SSB "Special Projects" tab of the Referral section, or any other field. If entered in error, any identifying information should be removed to protect the anonymity of the surrendering individual.

##### *Name of Baby*

In order to uphold SSB confidentiality requirements, the name of the baby should be entered anonymously, such as Doe, Baby Girl or Doe, Baby Boy.

*Special Projects, SSB – Medical Questionnaire & ID Bracelet*

These fields default to “unknown.” However, during CDSS’ quarterly review of SSB referrals, it was found that in many cases, when one or more of the narratives discussed the medical questionnaire or the ID bracelet, the field had been left marked “unknown.” When the requested information is available, both fields must be completed accurately as they are data elements critical to tracking the effectiveness of the SSB law.

**Client Services - [Referral [Baby SSB VIII]]**

File Edit Search Action Associated Attach/Detach Window Help Toolz

Summary ID Reporter Assignment Spec Proj

Special Project Name		Start Date
1	S-Safely Surrendered Baby	10/10/2010

Special Project Name: S-Safely Surrendered Baby Start Date: 10/10/2010 End Date: 10/10/2010 County: Your County Description: "Safely Surrendered Baby" (formerly "Safe Arms for Newborns") provides for the health and safety of unwanted newborns. For these cases, CPS staff are

**Safely Surrendered Baby Information**

**Surrender Information**

Child Client: Baby Girl Doe Date: 10/10/2010 Time: 10:10am Bracelet ID: Entered Comments:

Surrendered By: Unknown Mother Relationship to Client: Mother

**Notification Information**

**Parental/Custodial**

Parent/Custodian given ankle bracelet ID information?  
 Yes  No  Attempted  Unknown

**Parent/Custodian provided medical questionnaire?**

Completed and Returned Immediately Date Questionnaire Returned:   
 Completed and Mailed Back  
 Provided/Never Returned  
 Declined  
 Unknown

**Notified Child Protective Services**

Date: 10/10/2010 Time: 10:10am

**Reclaim Information**

Attempted Reclaim By	Relationship	Date

Attempted Reclaim By:  Relationship to Client:

Date:  Time: : am Comments:

Successful Reclaim

**Safely Surrendered Baby Medical Questionnaire**

The *Safely Surrendered Baby Medical Questionnaire* (SOC 861) has been updated for use by safe surrender site staff to collect medical history that may be critical to the future health of a surrendered infant. The questionnaire is now a CDSS form, and can be accessed at <http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC861.pdf>.

- Safe surrender staff shall provide, or make good faith effort to provide, a medical questionnaire to the individual surrendering the child.
- The questionnaire may be declined, voluntarily completed at the time of the surrender, or returned to the surrender site at a later time in an envelope provided to the surrendering individual for that purpose.
- The medical questionnaire shall not require any identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child.

If you have any questions regarding this information, please contact the Child Welfare Policy and Program Development Bureau at (916) 651-6160.

Sincerely,

***Original Document Signed By:***

Linné Stout, Chief  
Child Protection and Family Support Branch

Attachment

c: County Welfare Directors Association

## “SAFELY SURRENDERED BABY” Medical Questionnaire

THANK YOU FOR CHOOSING TO GIVE THIS BABY A SAFE AND SECURE FUTURE

**NOTICE:** THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU.

Please remember that these questions will allow us to provide the best supportive care possible to the baby. If you need help answering any of the questions, please ask. If you are uncomfortable answering any of the questions, skip them and answer the rest. Any information you provide will benefit the baby.

**ALL INFORMATION IS CONFIDENTIAL AND WILL BE USED ONLY TO HELP CARE FOR THE BABY.**

1. What were the date, time and place of the baby's birth?  
Date: \_\_\_\_\_ Time: \_\_\_\_\_  a.m.  p.m. Place: \_\_\_\_\_
2. Was the baby born early (premature)? \_\_\_\_\_ Late? \_\_\_\_\_ Unknown Due Date? \_\_\_\_\_
3. Did the baby have any trouble starting to breathe?  Yes  No
4. Has the baby been breast fed?  Yes  No  
If yes, how long? \_\_\_\_\_ When was the baby last fed? \_\_\_\_\_  a.m.  p.m.
5. Has the baby been fed formula?  Yes  No  
If yes, how long? \_\_\_\_\_ When was the baby last fed? \_\_\_\_\_  a.m.  p.m.
6. Did the birth mother see a doctor during pregnancy?  Yes  No  
If yes, when did she first see the doctor? \_\_\_\_\_  
How many times did she see the doctor during pregnancy? \_\_\_\_\_
7. Was the birth attended by a physician, midwife, nurse or other health care professional?  Yes  No
8. Has a doctor seen the baby since birth?  Yes  No  
If yes, when? \_\_\_\_\_
9. Did the birth mother smoke cigarettes during the pregnancy?  Yes  No  
If yes, how often? \_\_\_\_\_
10. Did the birth mother drink alcohol during the pregnancy?  Yes  No  
If yes, how often? \_\_\_\_\_
11. Did the birth mother take over the counter or prescription medication during the pregnancy?  Yes  No  
If yes, what type? \_\_\_\_\_ How often? \_\_\_\_\_
12. Did the birth mother take recreational or "street" drugs during the pregnancy?  Yes  No  
If yes, what type? \_\_\_\_\_ How often? \_\_\_\_\_
13. Has the birth mother been pregnant before?  Yes  No  
If yes, how many times? \_\_\_\_\_  
  
Were there any problems with any of those pregnancies or births?  Yes  No  
Please explain \_\_\_\_\_
14. Race/ethnicity of the baby's parents: Mother \_\_\_\_\_ Father \_\_\_\_\_
15. Does the baby have any Native American ancestry?  Unknown  Yes  No  
If yes, what is the name of the tribe? \_\_\_\_\_ From what state? \_\_\_\_\_



**Please tell us if the birth mother, birth father, or any of their relatives  
had or now have any of the medical conditions listed below.**

TYPE OF ILLNESS	RELATIONSHIP TO THE CHILD (Mother, Father, Grandparent, Aunt, Uncle) Please state if relative is mother's or father's	AGE ILLNESS BEGAN
<input type="checkbox"/> HIV or AIDS	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Sexually Transmitted Disease What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Cancer What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Epilepsy	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Mental Illness What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> High Blood Pressure	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Heart Disease	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Diabetes	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Cystic Fibrosis	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Kidney Problems What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Hearing, vision, or speech problems What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Asthma	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Tuberculosis	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Sickle Cell Disease	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Learning delay/special education	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Allergies What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Arthritis What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	
<input type="checkbox"/> Other What kind? _____	<input type="checkbox"/> Mother's <input type="checkbox"/> Father's	

Please provide any additional information that might help us provide the baby with the best health care now or in the future. (You may use an additional page)