

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



January 12, 2001

ALL-COUNTY LETTER NO. 02-01

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

REASON FOR THIS TRANSMITTAL

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

SUBJECT: Safe Arms for Newborns Law

REFERENCE: Senate Bill 1368 (Chapter 824, Statutes of 2000)
Penal Code Section 271.5
Welfare and Institutions Code Sections 300, 309, 361.5 and 14005.24
Health and Safety Code Section 1255.7

On January 1, 2001, California became one of a dozen states to enact a new law that is intended to provide for the health and safety of unwanted newborn children. The "Safe Arms for Newborns" law (Senate Bill 1368, Chapter 824, Statutes of 2000), authored by Senator Brulte, states that "no parent or other person who has lawful custody of a minor child 72 hours old or younger may be prosecuted for child abandonment if he or she voluntarily surrenders physical custody of the child to a designated employee at a public or private hospital emergency room or other location designated by the county board of supervisors".

This law will be repealed on January 1, 2006, unless subsequent legislation extends or repeals that date.

Public or Private Hospital Responsibility

All public or private hospitals with emergency rooms, or other locations designated by the board of supervisors, must designate staff to comply with the Safe Arms for Newborns requirements.

Upon accepting a child who has been voluntarily surrendered, the person is required to place a coded, confidential ankle bracelet on the child and furnish, or make a good faith effort to furnish, the person surrendering the child with a copy of the bracelet and a medical information questionnaire. The only identifying information required to be on the medical information questionnaire is the identification code that appears on the child's ankle bracelet. The medical information questionnaire may be declined, voluntarily completed at the time the child is

surrendered, or completed at a later time and returned by mail in an envelope provided for this purpose. The person taking physical custody of the child must conduct a medical screening exam of the child and provide any necessary medical care that the child may need. Prior consent from the parent is not required in order to provide medical care to the child.

Health and Safety Code Section 1255.7 now states that no person or entity accepting a surrendered child will be subject to liability for accepting the child and taking actions believed to be required or authorized by the legislation. This provision includes criminal, civil or administrative liability. However, the law does not grant immunity from liability for personal injury or wrongful death.

Child Welfare Service Agency Responsibility

No later than 48 hours after taking custody of an abandoned child, the person accepting the child is required to notify the county agency responsible for giving child welfare services under Welfare and Institutions Code Section 16501. The county child welfare services agency is to take temporary custody of the child under Section 300 of the Welfare and Institutions Code immediately upon receiving notification that a child has been surrendered. Additionally, the county child welfare agency must immediately investigate the details of the case and file a petition according to Section 311 of the Welfare and Institutions Code with the juvenile court. The county child welfare agency must also immediately notify the California Department of Social Services of each child taken into temporary custody. Counties should follow the enclosed Data Reporting Process to satisfy the notification requirement.

This law allows for a 14-day “cooling off” period. During this time the person who surrendered the child can return to reclaim the child. The 14-day period begins on the day the child is voluntarily surrendered. Scenarios for return of the child during the 14-day period are as follows:

- If the person who voluntarily surrendered the child returns, and requests that the hospital return the child and a petition has not been filed, the hospital may, if it still has custody of the child, either return the child to the person or contact the county child welfare services agency. The hospital would contact the county child welfare agency if a health practitioner believes that the child has been the victim of abuse or neglect. It is important to note that voluntarily surrendering a child, in and of itself, is not a basis for reporting child abuse or neglect.
- If the person who voluntarily surrendered the child returns and requests that the hospital return the child and a petition has been filed, the child welfare agency is required to verify the person’s identity, conduct an assessment of the person’s circumstances and ability to parent, request that the juvenile court dismiss the petition for dependency and order the release of the child unless there is reasonable cause to believe that to do so would place the child at risk of abuse or neglect.

Legislative Reports and Data Collection Requirements

The California Department of Social Services is required to submit three reports to the Legislature on the effect of Senate Bill 1368. The reports are due on or before January 1, 2003, January 1, 2004, and January 1, 2005.

The information contained in the reports must include, but is not limited to, the following:

1. The number of children one year old or younger who are found abandoned, dead, or alive, in the State for each year in which reporting is required.
2. The number of infants by age surrendered under this law.
3. The number of medical information questionnaires that are completed.
4. The number of instances where the surrendering person seeks to reclaim custody of the child, both during and after the 14-day time period, and the outcome of these requests.
5. Whether a person seeking to reclaim custody of a child is the same person who surrendered the child.
6. The number of children surrendered under this law who show signs of neglect or abuse and the disposition of those cases.
7. The number of parents or legal guardians who were eventually located and contacted by social workers.

Attachment A contains instructions for counties on data collection using the Child Welfare Services/Case Management System.

Medical Eligibility

The California Department of Health Services will be issuing additional instructions in a separate All-County Letter. The letter will cover the process for determining the voluntarily surrendered child's eligibility for health benefits. The eligibility is to begin on the date the physical custody of the child is surrendered.

Division 31 Regulations

The California Department of Social Services will be issuing emergency regulations to clarify requirements for handling cases of abandoned newborn children. Until such time, counties are to comply with the requirements as stated in the law and this letter.

If you have any questions regarding the data reporting process, please contact the Case Management System Support Branch staff at (916) 323-9739. Questions regarding the Safe Arms for Newborns Law should be directed to the Children's Services Operations staff at (916) 445-2832.

Original Document Signed By

SYLVIA PIZZINI, Deputy Director
Children and Family
Services Division

Enclosures

c: County Welfare Directors Association

California Department of Social Services
Safe Arms for Newborns Data Collection Process

A Safe Arms for Newborns Special Project feature has been added to the Child Welfare Services/Case Management System. Counties should use the following process for recording the information on children abandoned under this law.

Step 1: In the Referral or Case Notebook of the Child Welfare Services/Case Management System, go to the, "Special Projects" page. Select the Special Projects page tab and then the (+) button in the grid to enter a new Special Project for the focus child. Click the down arrow to display the available list of Special Projects. Select "Safe Arms for Newborns." Enter the date of referral opening or case start date (when referral goes to case you will need to re-enter the special project) into the "start date." Do not enter an "end date", as the system will populate this field when appropriate.

Step 2: The child's identification bracelet number should be entered into the client notebook under ID number page, under the medical record type.

A Child Welfare Services/Case Management System Bulletin will be posted to alert all users of the instructions for identifying Infant Abandonment. If any additional interim procedures are required pursuant to these statutory requirements, counties will be notified.