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Short Title: Infant Homicide Prevention Act.

(Public)

Sponsors:

Referred to:

February 27, 2001

A BILL TO BE ENTITLED

AN ACT TO DECRIMINALIZE ABANDONMENT OF AN INFANT UNDER
CERTAIN CIRCUMSTANCES AND TO MODIFY SOME PROCEDURES
INVOLVING ABANDONED JUVENILES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-302(a) reads as rewritten:

"(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect or dependency, the director shall initiate the investigation within 72 hours following receipt of the report. When the report alleges abandonment, the director shall immediately initiate an investigation, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The investigation and evaluation shall include a visit to the place where the juvenile resides. When the report alleges abandonment, the investigation shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child. All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department."

SECTION 2. G.S. 7B-500 reads as rewritten:

"§ 7B-500. Taking a juvenile into temporary ~~eustody~~-custody; civil and criminal immunity.

1 (a) Temporary custody means the taking of physical custody and providing
2 personal care and supervision until a court order for nonsecure custody can be obtained.
3 A juvenile may be taken into temporary custody without a court order by a law
4 enforcement officer or a department of social services worker if there are reasonable
5 grounds to believe that the juvenile is abused, neglected, or dependent and that the
6 juvenile would be injured or could not be taken into custody if it were first necessary to
7 obtain a court order. If a department of social services worker takes a juvenile into
8 temporary custody under this section, the worker may arrange for the placement, care,
9 supervision, and transportation of the juvenile.

10 (b) The following individuals shall, without a court order, take into temporary
11 custody an infant under seven days of age that is voluntarily delivered to the individual
12 by the infant's parent who does not express an intent to return for the infant:

13 (1) A health care provider, as defined under G.S. 90-21.11, who is on duty
14 or at a hospital or at a local or district health department or at a
15 nonprofit community health center.

16 (2) A law enforcement officer who is on duty or at a police station or
17 sheriff's department.

18 (3) A social services worker who is on duty or at a local department of
19 social services.

20 (4) A certified emergency medical service worker who is on duty or at a
21 fire or emergency medical services station.

22 (c) An individual who takes an infant into temporary custody under subsection
23 (b) of this section shall perform any act necessary to protect the physical health and
24 well-being of the infant and shall immediately notify the department of social services
25 or a local law enforcement agency. Any individual who takes an infant into temporary
26 custody under subsection (b) of this section may inquire as to the parents' identities and
27 as to any relevant medical history, but the parent is not required to provide the
28 information. The individual shall notify the parent that the parent is not required to
29 provide the information.

30 (d) Any adult may, without a court order, take into temporary custody an infant
31 under seven days of age that is voluntarily delivered to the individual by the infant's
32 parent who does not express an intent to return for the infant. Any individual who takes
33 an infant into temporary custody under this section shall perform any act necessary to
34 protect the physical health and well-being of the infant and shall immediately notify the
35 department of social services or a local law enforcement agency. An individual who
36 takes an infant into temporary custody under this subsection may inquire as to the
37 parents' identities and as to any relevant medical history, but the parent is not required
38 to provide the information. The individual shall notify the parent that the parent is not
39 required to provide the information.

40 (e) An individual described in subsection (b) or (d) of this section is immune
41 from any civil or criminal liability that might otherwise be incurred or imposed as a
42 result of any omission or action taken pursuant to the requirements of subsection (c) or
43 (d) of this section as long as that individual was acting in good faith. The immunity

1 established by this subsection does not extend to gross negligence, wanton conduct, or
2 intentional wrongdoing that would otherwise be actionable."

3 **SECTION 3.** G.S. 7B-1111(a)(7) reads as rewritten:

4 "(a) The court may terminate the parental rights upon a finding of one or more of
5 the following:

6 ...

7 (7) The parent has willfully abandoned the juvenile for at least six
8 consecutive months immediately preceding the filing of the petition or
9 ~~motion~~motion, or the parent has voluntarily abandoned an infant
10 pursuant to G.S. 7B-500 for at least 60 consecutive days immediately
11 preceding the filing of the petition or motion."

12 **SECTION 4.** G.S. 14-318.2 is amended by adding a new subsection to read:

13 "(c) A parent who abandons an infant less than seven days of age pursuant to G.S.
14 14-322.3 shall not be prosecuted under this section for any acts or omissions related to
15 the care of that infant."

16 **SECTION 5.** G.S. 14-318.4 is amended by adding a new subsection to read:

17 "(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-
18 322.3 may be treated as a mitigating factor in sentencing for a conviction under this
19 section involving that infant."

20 **SECTION 6.** The Department of Health and Human Services, Division of
21 Public Health, shall develop recommendations for a plan to inform the public as to the
22 provisions of this act. The plan shall contain information on responsible parenting in
23 addition to information about the provisions of the act. The plans shall be targeted at
24 adolescents and young adults, and shall be developed in consultation with law
25 enforcement officials, medical professionals, and representatives of the Department of
26 Public Instruction. Not later than April 1, 2002, the Department of Health and Human
27 Services shall report its recommendations, and the projected cost for implementing its
28 recommendations, to the chairpersons of the House of Representatives Appropriations
29 Subcommittee on Health and Human Services, the Senate Appropriations Committee on
30 Health and Human Services, the Senate Appropriations Committee on Justice and
31 Public Safety, and the House Appropriations Subcommittee on Justice and Public
32 Safety.

33 **SECTION 7.** Article 40 of Chapter 14 of the General Statutes is amended by
34 adding a new section to read:

35 "**§ 14-322.3. Abandonment of an infant under seven days of age.**

36 When a parent abandons an infant less than seven days of age by voluntarily
37 delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not
38 express an intent to return for the infant, that parent shall not be prosecuted under G.S.
39 14-322 or G.S. 14-322.1."

40 **SECTION 8.** This act is effective when it becomes law and applies to acts
41 committed on or after that date.