

**Introduced by Senator Brulte**

February 23, 2001

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An act to amend Section 1255.7 of the Health and Safety Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1030, as introduced, Brulte. Child abandonment: newborns.

Existing law makes it a crime for a parent to desert a child, but provides that no parent of a child 72 hours of age or younger may be prosecuted for the act of deserting a child if he or she voluntarily surrenders physical custody of the child to any employee of a hospital. Existing law provides that if, prior to the filing of a petition in Juvenile Court, a person who has voluntarily surrendered a child as prescribed in this section requests that the hospital return the child, the hospital shall either return the child to the parent or contact a child protective agency if a health practitioner at the hospital knows or reasonably suspects that the child has been the victim of abuse or neglect.

This bill would require the hospital to make a report to specified agencies if a mandated reporter, as defined in the Child Abuse and Neglect Reporting Act, at the hospital has knowledge of, observes, or has reasonable suspicion that the surrendered child has been the victim of child abuse or neglect.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1255.7 of the Health and Safety Code
- 2 is amended to read:

1 1255.7. (a) (1) A person designated pursuant to Section  
2 271.5 of the Penal Code shall take physical custody of a minor  
3 child 72 hours old or younger pursuant to this section if the parent  
4 or other person having lawful custody of the child voluntarily  
5 surrenders physical custody of the child to that person. The person  
6 designated shall place a coded, confidential ankle bracelet on the  
7 child and provide, or make a good faith effort to provide, the parent  
8 or other person surrendering the child a copy of a unique, coded,  
9 confidential ankle bracelet identification in order to facilitate  
10 reclaiming the child pursuant to subdivision (e).

11 (2) The person designated shall provide, or make a good faith  
12 effort to provide, the parent or other person surrendering the child  
13 a medical information questionnaire, which may be declined,  
14 voluntarily filled out and returned at the time the child is  
15 surrendered, or later filled out and mailed in the envelope provided  
16 for this purpose. This medical information questionnaire shall not  
17 require any identifying information about the child or the parent  
18 or person surrendering the child, other than the identification code  
19 provided in the ankle bracelet placed on the child. Every  
20 questionnaire provided pursuant to this section shall begin with the  
21 following notice in no less than 12-point type:

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

32 (b) A person taking physical custody of a minor child pursuant  
33 to this section shall provide a medical screening examination and  
34 any necessary medical care to the minor child. Notwithstanding  
35 any other provision of law, the consent of the parent or other  
36 relative shall not be required to provide that care to the minor child.

37 (c) As soon as possible, but in no event later than 48 hours after  
38 taking custody of a child, a person who takes physical custody of  
39 a child under this section shall notify child protective services or  
40 a county agency providing child welfare services pursuant to



1 Section 16501 of the Welfare and Institutions Code, that the person  
2 has physical custody of the child pursuant to this section.

3 (d) Child protective services or the county agency providing  
4 child welfare services pursuant to Section 16501 of the Welfare  
5 and Institutions Code shall assume temporary custody of the child  
6 pursuant to Section 300 of the Welfare and Institutions Code  
7 immediately on receipt of notice under subdivision (c). Child  
8 protective services or the county agency providing child welfare  
9 services pursuant to Section 16501 of the Welfare and Institutions  
10 Code shall immediately investigate the circumstances of the case  
11 and file a petition pursuant to Section 311 of the Welfare and  
12 Institutions Code. Child protective services or the county agency  
13 providing child welfare services pursuant to Section 16501 of the  
14 Welfare and Institutions Code shall immediately notify the State  
15 Department of Social Services of each such child upon taking  
16 temporary custody of the child pursuant to Section 300 of the  
17 Welfare and Institutions Code.

18 (e) If, prior to the filing of a petition under subdivision (d), a  
19 person who has voluntarily surrendered a child pursuant to this  
20 section requests that the hospital return the child, and the hospital  
21 still has custody of the child, the hospital shall either return the  
22 child to the person or ~~contact a child protective agency if a health~~  
23 ~~practitioner at the hospital knows or reasonably suspects that the~~  
24 ~~child has been the victim of child abuse or neglect.~~ *make a report*  
25 *to an agency specified in Section 11165.9 of the Penal Code if a*  
26 *mandated reporter at the hospital, in his or her professional*  
27 *capacity or within the scope of his or her employment, has*  
28 *knowledge of, observes, or has a reasonable suspicion that the*  
29 *surrendered child has been the victim of child abuse or neglect.*  
30 The voluntary surrendering of a child pursuant to this section is not  
31 in and of itself a sufficient basis for reporting child abuse or  
32 neglect. The terms “child abuse,” ~~“child protective agency,”~~  
33 ~~“health practitioner,”~~ “neglect,” and ~~“reasonably suspects”~~  
34 *“mandated reporter,”* and *“reasonable suspicion”* shall be given  
35 the same meanings as in Article 2.5 (commencing with Section  
36 11164) of Part 4 of Title 1 of the Penal Code.

37 (f) Subsequent to the filing of a petition under subdivision (d),  
38 if within 14 days of the voluntary surrender described in this  
39 section the person who surrendered custody returns to claim  
40 physical custody of the child, the child welfare agency shall verify



1 the identity of the person, conduct an assessment of the person's  
2 circumstances and ability to parent, and request that the juvenile  
3 court dismiss the petition for dependency and order the release of  
4 the child, if the child welfare agency determines that none of the  
5 conditions described in subdivisions (a) to (d), inclusive, of  
6 Section 319 of the Welfare and Institutions Code currently exist.  
7 (g) No person or entity that accepts a surrendered child shall be  
8 subject to civil, criminal, or administrative liability for accepting  
9 the child and caring for the child in the good faith belief that action  
10 is required or authorized by this section, including, but not limited  
11 to, instances where the child is older than 72 hours or the person  
12 surrendering the child did not have lawful physical custody of the  
13 child. The provision does not confer immunity from liability for  
14 personal injury or wrongful death, including, but not limited to,  
15 injury resulting from medical malpractice.  
16 (h) This section shall be repealed on January 1, 2006, unless a  
17 later enacted statute extends or repeals that date.

