

AMENDED IN ASSEMBLY MARCH 13, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1873

Introduced by Assembly Member Torrico

January 18, 2006

An act to amend Section 1255.7 of the Health and Safety Code, and to amend Section 271.5 of the Penal Code, relating to child protection, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, as amended, Torrico. Child protection: safe surrender.

Existing law designates certain locations as safe-surrender sites for the safe surrender of newborn children who are 72 hours of age or younger.

This bill would expand the scope of those provisions to apply to children who are ~~one year of age~~ 30 days old or younger. The bill would *permit the governing body of a city to designate a safe surrender site and would also designate any fire station with a paramedic or emergency medical technician on duty at all times as a safe-surrender site. The bill would specify that a safe-surrender site and its personnel have no liability for a surrendered child prior to taking actual physical custody of the child.* The bill would also appropriate \$5,000,000 to the Department of Social Services to conduct a statewide awareness campaign and to establish and operate a 1-800 telephone number for assistance.

By imposing new duties on ~~county~~ local officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: yes.

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

1 SECTION 1. Section 1255.7 of the Health and Safety Code is
 2 amended to read:
 3 1255.7. (a) (1) For purposes of this section, “safe-surrender
 4 site” means any of the following:
 5 (A) A location designated by the board of supervisors of a
 6 county *or the governing body of a city* to be responsible for
 7 accepting physical custody of a minor child who is ~~one year of~~
 8 ~~age~~ *30 days old* or younger from a parent or individual who has
 9 lawful custody of the child and who surrenders the child pursuant
 10 to Section 271.5 of the Penal Code.
 11 (B) A location within a public or private hospital that is
 12 designated by that hospital to be responsible for accepting
 13 physical custody of a minor child who is ~~one year of age~~ *30 days*
 14 *old* or younger from a parent or individual who has lawful
 15 custody of the child and who surrenders the child pursuant to
 16 Section 271.5 of the Penal Code.
 17 (C) Any fire station *with a paramedic or emergency medical*
 18 *technician on duty at all times.*
 19 (2) For purposes of this section, “parent” means a birth parent
 20 of a minor child who is ~~one year of age~~ *30 days old* or younger.
 21 (3) For purposes of this section, “personnel” means any person
 22 who is an officer or employee of a safe-surrender site or who has
 23 staff privileges at the site.
 24 (4) A hospital, *any fire station with a paramedic or emergency*
 25 *medical technician on duty at all times*, and any safe-surrender
 26 site designated by the county board of supervisors *or the*
 27 *governing body of a city* shall post a sign utilizing a statewide
 28 logo that has been adopted by the State Department of Social
 29 Services that notifies the public of the location where a minor

1 child ~~one year of age~~ *30 days old* or younger may be safely
2 surrendered pursuant to this section.

3 (b) Any personnel on duty at a safe-surrender site shall accept
4 physical custody of a minor child ~~one year of age~~ *30 days old* or
5 younger pursuant to this section if a parent or other individual
6 having lawful custody of the child voluntarily surrenders
7 physical custody of the child to personnel who are on duty at the
8 safe-surrender site. Safe-surrender site personnel shall ensure that
9 a qualified person does all of the following:

10 (1) Places a coded, confidential ankle bracelet on the child.

11 (2) Provides, or makes a good faith effort to provide, to the
12 parent or other individual surrendering the child a copy of a
13 unique, coded, confidential ankle bracelet identification in order
14 to facilitate reclaiming the child pursuant to subdivision (f).
15 However, possession of the ankle bracelet identification, in and
16 of itself, does not establish parentage or a right to custody of the
17 child.

18 (3) Provides, or makes a good faith effort to provide, to the
19 parent or other individual surrendering the child a medical
20 information questionnaire, which may be declined, voluntarily
21 filled out and returned at the time the child is surrendered, or
22 later filled out and mailed in the envelope provided for this
23 purpose. This medical information questionnaire shall not require
24 any identifying information about the child or the parent or
25 individual surrendering the child, other than the identification
26 code provided in the ankle bracelet placed on the child. Every
27 questionnaire provided pursuant to this section shall begin with
28 the following notice in no less than 12-point type:

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

39 (c) Personnel of a safe-surrender site that has physical custody
40 of a minor child pursuant to this section shall ensure that a

1 medical screening examination and any necessary medical care is
2 provided to the minor child. Notwithstanding any other provision
3 of law, the consent of the parent or other relative shall not be
4 required to provide that care to the minor child.

5 (d) (1) As soon as possible, but in no event later than 48 hours
6 after the physical custody of a child has been accepted pursuant
7 to this section, personnel of the safe-surrender site that has
8 physical custody of the child shall notify child protective services
9 or a county agency providing child welfare services pursuant to
10 Section 16501 of the Welfare and Institutions Code, that the
11 safe-surrender site has physical custody of the child pursuant to
12 this section. In addition, any medical information pertinent to the
13 child's health, including, but not limited to, information obtained
14 pursuant to the medical information questionnaire described in
15 paragraph (3) of subdivision (b) that has been received by or is in
16 the possession of the safe-surrender site shall be provided to that
17 child protective services or county agency.

18 (2) Any personal identifying information that pertains to a
19 parent or individual who surrenders a child that is obtained
20 pursuant to the medical information questionnaire is confidential
21 and shall be exempt from disclosure by the child protective
22 services or county agency under the California Public Records
23 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
24 of Title 1 of the Government Code). Any personal identifying
25 information that pertains to a parent or individual who surrenders
26 a child shall be redacted from any medical information provided
27 to child protective services or the county agency providing child
28 welfare services.

29 (e) Child protective services or the county agency providing
30 child welfare services pursuant to Section 16501 of the Welfare
31 and Institutions Code shall assume temporary custody of the
32 child pursuant to Section 300 of the Welfare and Institutions
33 Code immediately upon receipt of notice under subdivision (d).
34 Child protective services or the county agency providing child
35 welfare services pursuant to Section 16501 of the Welfare and
36 Institutions Code shall immediately investigate the circumstances
37 of the case and file a petition pursuant to Section 311 of the
38 Welfare and Institutions Code. Child protective services or the
39 county agency providing child welfare services pursuant to
40 Section 16501 of the Welfare and Institutions Code shall

1 immediately notify the State Department of Social Services of
2 each child to whom this subdivision applies upon taking
3 temporary custody of the child pursuant to Section 300 of the
4 Welfare and Institutions Code. As soon as possible, but no later
5 than 24 hours after temporary custody is assumed, child
6 protective services or the county agency providing child welfare
7 services pursuant to Section 16501 of the Welfare and
8 Institutions Code shall report all known identifying information
9 concerning the child, except personal identifying information
10 pertaining to the parent or individual who surrendered the child,
11 to the California Missing Children Clearinghouse and to the
12 National Crime Information Center.

13 (f) If, prior to the filing of a petition under subdivision (e), a
14 parent or individual who has voluntarily surrendered a child
15 pursuant to this section requests that the safe-surrender site that
16 has physical custody of the child pursuant to this section return
17 the child and the safe-surrender site still has custody of the child,
18 personnel of the safe-surrender site shall either return the child to
19 the parent or individual or contact a child protective agency if
20 any personnel at the safe-surrender site knows or reasonably
21 suspects that the child has been the victim of child abuse or
22 neglect. The voluntary surrender of a child pursuant to this
23 section is not in and of itself a sufficient basis for reporting child
24 abuse or neglect. The terms “child abuse,” “child protective
25 agency,” “mandated reporter,” “neglect,” and “reasonably
26 suspects” shall be given the same meanings as in Article 2.5
27 (commencing with Section 11164) of Title 1 of Part 4 of the
28 Penal Code.

29 (g) Subsequent to the filing of a petition under subdivision (e),
30 if within 14 days of the voluntary surrender described in this
31 section, the parent or individual who surrendered custody returns
32 to claim physical custody of the child, the child welfare agency
33 shall verify the identity of the parent or individual, conduct an
34 assessment of his or her circumstances and ability to parent, and
35 request that the juvenile court dismiss the petition for
36 dependency and order the release of the child, if the child welfare
37 agency determines that none of the conditions described in
38 subdivisions (a) to (d), inclusive, of Section 319 of the Welfare
39 and Institutions Code currently exist.

1 (h) *A safe-surrender site, or the personnel of a safe-surrender*
 2 *site, shall not have liability of any kind for a surrendered child*
 3 *prior to taking actual physical custody of the child. A*
 4 *safe-surrender site, or personnel of the safe-surrender site, that*
 5 *accepts custody of a surrendered child pursuant to this section*
 6 *shall not be subject to civil, criminal, or administrative liability*
 7 *for accepting the child and caring for the child in the good faith*
 8 *belief that action is required or authorized by this section,*
 9 *including, but not limited to, instances where the child is older*
 10 *than ~~one year~~ 30 days old or the parent or individual surrendering*
 11 *the child did not have lawful physical custody of the child. This*
 12 *subdivision does not confer immunity from liability for personal*
 13 *injury or wrongful death, including, but not limited to, injury*
 14 *resulting from medical malpractice.*

15 (i) (1) In order to encourage assistance to persons who
 16 voluntarily surrender physical custody of a child pursuant to this
 17 section or Section 271.5 of the Penal Code, no person who,
 18 without compensation and in good faith, provides assistance for
 19 the purpose of effecting the safe surrender of a minor ~~one year of~~
 20 ~~age~~ *30 days old* or younger shall be civilly liable for injury to or
 21 death of the minor child as a result of any of his or her acts or
 22 omissions. This immunity does not apply to any act or omission
 23 constituting gross negligence, recklessness, or willful
 24 misconduct.

25 (2) For purposes of this section, “assistance” means
 26 transporting the minor child to the safe-surrender site as a person
 27 with lawful custody, or transporting or accompanying the parent
 28 or person with lawful custody at the request of that parent or
 29 person to effect the safe surrender, or performing any other act in
 30 good faith for the purpose of effecting the safe surrender of the
 31 minor.

32 (j) For purposes of this section, “lawful custody” means
 33 physical custody of a minor ~~one year of age~~ *30 days old* or
 34 younger accepted by a person from a parent of the minor, who
 35 the person believes in good faith is the parent of the minor, with
 36 the specific intent and promise of effecting the safe surrender of
 37 the minor.

38 (k) Any identifying information that pertains to a parent or
 39 individual who surrenders a child pursuant to this section, that is
 40 obtained as a result of the questionnaire described in paragraph

1 (3) of subdivision (b) or in any other manner, is confidential,
 2 shall be exempt from disclosure under the California Public
 3 Records Act (Chapter 3.5 (commencing with Section 6250) of
 4 Division 7 of Title 1 of the Government Code), and shall not be
 5 disclosed by any personnel of a safe-surrender site that accepts
 6 custody of a child pursuant to this section.

7 SEC. 2. Section 271.5 of the Penal Code is amended to read:

8 271.5. (a) No parent or other individual having lawful
 9 custody of a minor child ~~one year of age~~ *30 days old* or younger
 10 may be prosecuted for a violation of Section 270, 270.5, 271, or
 11 271a if he or she voluntarily surrenders physical custody of the
 12 child to personnel on duty at a safe-surrender site.

13 (b) For purposes of this section, “safe-surrender site” has the
 14 same meaning as defined in paragraph (1) of subdivision (a) of
 15 Section 1255.7 of the Health and Safety Code.

16 (c) (1) For purposes of this section, “lawful custody” has the
 17 same meaning as defined in subdivision (j) of Section 1255.7 of
 18 the Health and Safety Code.

19 (2) For purposes of this section, “personnel” has the same
 20 meaning as defined in paragraph (2) of subdivision (a) of Section
 21 1255.7 of the Health and Safety Code.

22 SEC. 3. The sum of five million dollars (\$5,000,000) is
 23 hereby appropriated from the General Fund to the State
 24 Department of Social Services for the purpose of supporting the
 25 safe-surrender site program as follows:

26 (a) The department shall conduct a statewide awareness
 27 campaign publicizing the existence of safe-surrender sites.

28 (b) The department shall establish and operate a 1-800
 29 telephone number for the purpose of providing education and
 30 assistance to the public regarding safe-surrender sites.

31 SEC. 4. If the Commission on State Mandates determines that
 32 this act contains costs mandated by the state, reimbursement to
 33 local agencies and school districts for those costs shall be made
 34 pursuant to Part 7 (commencing with Section 17500) of Division
 35 4 of Title 2 of the Government Code.