

ASSEMBLY BILL

No. 973

Introduced by Assembly Member Audra Strickland

February 26, 2009

An act to amend Section 305.6 of the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 973, as introduced, Audra Strickland. Minors: temporary custody.

Existing law authorizes a peace officer to take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety. However, existing law prohibits a peace officer from taking into custody, without a warrant, a newborn child who is in a hospital, who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs, who is the subject of an adoption petition and an adoption placement agreement, and whose release to the prospective adoptive parents does not pose an immediate danger to him or her.

This bill, instead of that latter provision, would prohibit a peace officer from taking into custody, without a warrant, a newborn who is the subject of a proposed adoption, before an adoption petition has been signed. This bill would also allow the Health Facility Minor Release Report to be signed by the adoptive parent's attorney or authorized representative, or by a licensed adoption agency, and allow the release of the minor to the adoptive parent's attorney, authorized representative, or a licensed adoptive agency, when it does not pose an immediate danger to the minor.

Existing law also requires the adoptive parent or parents or their representative to provide a copy of the Health Facility Minor Release

Report and a copy of the petition for adoption to the local child protective services agency or to the peace officer who is at the hospital to take the minor into custody.

This bill would allow a statement, signed by either the prospective adoptive parents or an authorized representative of the adoption agency, that the minor is the subject of a proposed adoption in lieu of a copy of the petition for adoption. This bill would also require a copy of a written statement from the prospective adoptive parents or adoption agency personnel agreeing to immediately notify local child protective services if the adoption plan is terminated.

Existing law requires the prospective adoptive parents or their representative to provide a copy of the petition for adoption and documents evidencing licensure as a foster parent.

This bill would instead require the prospective adoptive parents to submit a written statement of their intent to adopt the minor, and a written statement agreeing to notify local child protective services if adoption plan is terminated, in addition to documents evidencing licensure as a foster parent.

Existing law allows a copy of an adoption placement agreement signed by the placing birth parent or birth parents and the prospective adoptive parents to be used in place of the Health Facility Minor Release Report.

This bill would also allow a letter from a licensed adoption agency stating the minor is placed with the prospective adoptive parents for the purposes of adoption to be used in place of the Health Facility Minor Release Report.

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 305.6 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 305.6. (a) Any peace officer may, without a warrant, take into
- 4 temporary custody a minor who is in a hospital if the release of
- 5 the minor to a prospective adoptive parent poses an immediate
- 6 danger to the minor's health or safety.
- 7 (b) (1) Notwithstanding subdivision (a) and Section 305, a
- 8 peace officer may not, without a warrant, take into temporary
- 9 custody a minor who is in a hospital if all of the following
- 10 conditions exist:

1 (A) The minor is a newborn who tested positive for illegal drugs
2 or whose birth mother tested positive for illegal drugs.

3 (B) The minor is the subject of a ~~petition for~~ *proposed* adoption
4 and a Health Facility Minor Release Report, prescribed by the
5 department, has been completed by the hospital, including the
6 marking of the boxes applicable to an independent adoption or
7 agency adoption planning, and signed by the placing birth parent
8 or ~~birth parents and~~ *parents, as well as either* the prospective
9 adoptive parent or parents, *their attorney, or an authorized*
10 *representative of a licensed adoption agency*, prior to the discharge
11 of the birth parent or the minor from the hospital. Prior to signing
12 of the Health Facility Minor Release Report, the birth parent or
13 birth parents shall be given a notice written in at least 14-point
14 pica type, containing substantially the following statements:

15 (i) That the Health Facility Minor Release Report does not
16 constitute consent to adoption of the minor by the prospective
17 adoptive parent or parents, or any other prospective adoptive parent
18 or parents.

19 (ii) That the Health Facility Minor Release Report does not
20 constitute a relinquishment of parental rights for the purposes of
21 adoption.

22 (iii) That the birth parent or birth parents or any person
23 authorized by the birth parent or birth parents may reclaim the
24 minor at any time from the prospective adoptive parent or parents
25 or any other person to whom the minor was released by the
26 hospital, until an adoption placement agreement or a relinquishment
27 is signed by the birth parent or birth parents.

28 This notice shall be signed by the birth parent or birth parents
29 and attached to the Health Facility Minor Release Report.

30 (C) The release of the minor to a prospective adoptive parent
31 or ~~parents~~ *parents, their attorney, or an authorized representative*
32 *of a licensed adoption agency*, does not pose an immediate danger
33 to the minor.

34 (D) An attorney or an adoption agency has provided
35 documentation stating that he or she, or the agency, is representing
36 the prospective adoptive parent or parents for purposes of the
37 adoption. In the case of an independent adoption, as defined in
38 Section 8524 of the Family Code, the attorney or adoption agency
39 shall provide documentation stating that the prospective adoptive
40 parent or parents have been informed that the child may be eligible

1 for benefits provided pursuant to the Adoption Assistance Program,
2 as set forth in Chapter 2.1 (commencing with Section 16115) of
3 Part 4 of Division 9, only if, at the time the petition is filed, the
4 child has met the requirements to receive federal supplemental
5 security income benefits pursuant to Subchapter XVI (commencing
6 with Section 1381) of Chapter 7 of Title 42 of the United States
7 Code, as determined and documented by the federal Social Security
8 Administration.

9 (E) The prospective adoptive parent or parents or their
10 representative provides a copy of the Health Facility Minor Release
11 Report with the signed notice to the birth parent or birth parents
12 as described in subparagraph (B) and a copy of the petition for
13 adoption to the local child protective services agency or to the
14 peace officer who is at the hospital to take the minor into temporary
15 custody; attorney, or an authorized representative of a licensed
16 adoption agency, provides all of the following to the local child
17 protective services agency or to the peace officer who is at the
18 hospital to take the minor into temporary custody:

19 (i) A copy of the Health Facility Minor Release Report with the
20 signed notice to the birth parent or birth parents as described in
21 subparagraph (B).

22 (ii) A copy of the petition for adoption or a statement signed by
23 either the prospective adoptive parents or an authorized
24 representative of the adoption agency, that this child is the subject
25 of a proposed adoption.

26 (iii) A copy of a written statement that the prospective adoptive
27 parents or adoption agency personnel will immediately notify the
28 local child protective services agency if the adoption plan is
29 terminated for any reason.

30 (2) Notwithstanding Section 305 or subdivision (a) of this
31 section, a peace officer may not, without a warrant, take into
32 temporary custody a minor who is in a hospital if all of the
33 following conditions exist:

34 (A) The minor is a newborn who tested positive for illegal drugs
35 or whose birth mother tested positive for illegal drugs.

36 (B) The minor is the subject of a petition for proposed adoption
37 and a prospective adoptive parent or prospective adoptive parents
38 have been licensed or certified to act as a foster parent or foster
39 parents of the minor pending the filing or finalization of the petition
40 for adoption.

1 (C) The release of the minor to the prospective adoptive parent
2 or prospective adoptive parents does not pose an immediate danger
3 to the minor.

4 (D) The prospective adoptive parent or parents or their
5 representative provides *to the local child protective services agency*
6 *or to the peace officer who is at the hospital to take the minor into*
7 *temporary custody* a copy of the ~~petition for adoption and~~
8 documents evidencing licensure as a foster parent or foster parents
9 ~~to the local child protective services agency or to the peace officer~~
10 ~~who is at the hospital to take the minor into temporary custody~~
11 ~~parents, as well as a written statement of their intent to adopt the~~
12 ~~child, and a written statement agreeing to notify the local child~~
13 ~~protective services agency if the adoption plan is terminated for~~
14 ~~any reason.~~

15 ~~(3) If at the time the minor is released to the custody of a~~
16 ~~prospective adoptive parent or parents or their representative~~
17 ~~pursuant to paragraph (1) or (2), the petition for adoption of the~~
18 ~~minor has not been filed with the court, the petition for adoption~~
19 ~~shall be filed within 15 calendar days of the date the birth parent~~
20 ~~was released from the hospital.~~

21 (4)

22 (3) A copy of an adoption placement agreement signed by the
23 placing birth parent or birth parents and the prospective adoptive
24 parent or parents may be used in place of the Health Facility Minor
25 Release Report and notice to the birth parent or birth parents as
26 described in subparagraph (B) of paragraph (1).

27 (4) *A letter from a licensed adoption agency stating that the*
28 *minor is placed with the prospective adoptive parents for the*
29 *purposes of adoption may be used in place of the Health Facility*
30 *Minor Release Report and notice to the birth parent or birth*
31 *parents as described in subparagraph (B) of paragraph (1).*

32 (c) Nothing in this section is intended to create a duty that
33 requires law enforcement to investigate the prospective adoptive
34 parent or parents.