

**ASSEMBLY BILL**

**No. 1873**

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**Introduced by Assembly Member Torrico**

January 18, 2006

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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 introduced, 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 or younger. The bill would also designate any fire station as a safe-surrender site. 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 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 ~~either~~ any of the following:  
5 (A) A location designated by the board of supervisors of a  
6 county to be responsible for accepting physical custody of a  
7 minor child who is ~~72 hours old~~ *one year of age* or younger from  
8 a parent or individual who has lawful custody of the child and  
9 who surrenders the child pursuant to Section 271.5 of the Penal  
10 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 ~~72 hours old~~ *one year of*  
14 *age* 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.*  
18 (2) For purposes of this section, “parent” means a birth parent  
19 of a minor child who is ~~72 hours old~~ *one year of age* or younger.  
20 (3) For purposes of this section, “personnel” means any person  
21 who is an officer or employee of a safe-surrender site or who has  
22 staff privileges at the site.  
23 (4) A hospital and any safe-surrender site designated by the  
24 county board of supervisors shall post a sign utilizing a statewide  
25 logo that has been adopted by the State Department of Social  
26 Services that notifies the public of the location where a minor  
27 child ~~72 hours old~~ *one year of age* or younger may be safely  
28 surrendered pursuant to this section.  
29 (b) Any personnel on duty at a safe-surrender site shall accept  
30 physical custody of a minor child ~~72 hours old~~ *one year of age* or  
31 younger pursuant to this section if a parent or other individual  
32 having lawful custody of the child voluntarily surrenders  
33 physical custody of the child to personnel who are on duty at the  
34 safe-surrender site. Safe-surrender site personnel shall ensure that  
35 a qualified person does all of the following:

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

2 (2) Provides, or makes a good faith effort to provide, to the  
3 parent or other individual surrendering the child a copy of a  
4 unique, coded, confidential ankle bracelet identification in order  
5 to facilitate reclaiming the child pursuant to subdivision (f).  
6 However, possession of the ankle bracelet identification, in and  
7 of itself, does not establish parentage or a right to custody of the  
8 child.

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

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

30 (c) Personnel of a safe-surrender site that has physical custody  
31 of a minor child pursuant to this section shall ensure that a  
32 medical screening examination and any necessary medical care is  
33 provided to the minor child. Notwithstanding any other provision  
34 of law, the consent of the parent or other relative shall not be  
35 required to provide that care to the minor child.

36 (d) (1) As soon as possible, but in no event later than 48 hours  
37 after the physical custody of a child has been accepted pursuant  
38 to this section, personnel of the safe-surrender site that has  
39 physical custody of the child shall notify child protective services  
40 or a county agency providing child welfare services pursuant to

1 Section 16501 of the Welfare and Institutions Code, that the  
2 safe-surrender site has physical custody of the child pursuant to  
3 this section. In addition, any medical information pertinent to the  
4 child's health, including, but not limited to, information obtained  
5 pursuant to the medical information questionnaire described in  
6 paragraph (3) of subdivision (b) that has been received by or is in  
7 the possession of the safe-surrender site shall be provided to that  
8 child protective services or county agency.

9 (2) Any personal identifying information that pertains to a  
10 parent or individual who surrenders a child that is obtained  
11 pursuant to the medical information questionnaire is confidential  
12 and shall be exempt from disclosure by the child protective  
13 services or county agency under the California Public Records  
14 Act (Chapter 3.5 (commencing with Section 6250) of Division 7  
15 of Title 1 of the Government Code). Any personal identifying  
16 information that pertains to a parent or individual who surrenders  
17 a child shall be redacted from any medical information provided  
18 to child protective services or the county agency providing child  
19 welfare services.

20 (e) Child protective services or the county agency providing  
21 child welfare services pursuant to Section 16501 of the Welfare  
22 and Institutions Code shall assume temporary custody of the  
23 child pursuant to Section 300 of the Welfare and Institutions  
24 Code immediately upon receipt of notice under subdivision (d).  
25 Child protective services or the county agency providing child  
26 welfare services pursuant to Section 16501 of the Welfare and  
27 Institutions Code shall immediately investigate the circumstances  
28 of the case and file a petition pursuant to Section 311 of the  
29 Welfare and Institutions Code. Child protective services or the  
30 county agency providing child welfare services pursuant to  
31 Section 16501 of the Welfare and Institutions Code shall  
32 immediately notify the State Department of Social Services of  
33 each child to whom this subdivision applies upon taking  
34 temporary custody of the child pursuant to Section 300 of the  
35 Welfare and Institutions Code. As soon as possible, but no later  
36 than 24 hours after temporary custody is assumed, child  
37 protective services or the county agency providing child welfare  
38 services pursuant to Section 16501 of the Welfare and  
39 Institutions Code shall report all known identifying information  
40 concerning the child, except personal identifying information

1 pertaining to the parent or individual who surrendered the child,  
2 to the California Missing Children Clearinghouse and to the  
3 National Crime Information Center.

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

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

31 (h) A safe-surrender site, or personnel of the safe-surrender  
32 site, that accepts custody of a surrendered child pursuant to this  
33 section shall not be subject to civil, criminal, or administrative  
34 liability for accepting the child and caring for the child in the  
35 good faith belief that action is required or authorized by this  
36 section, including, but not limited to, instances where the child is  
37 older than ~~72 hours~~ *one year* or the parent or individual  
38 surrendering the child did not have lawful physical custody of the  
39 child. This subdivision does not confer immunity from liability

1 for personal injury or wrongful death, including, but not limited  
2 to, injury resulting from medical malpractice.

3 (i) (1) In order to encourage assistance to persons who  
4 voluntarily surrender physical custody of a child pursuant to this  
5 section or Section 271.5 of the Penal Code, no person who,  
6 without compensation and in good faith, provides assistance for  
7 the purpose of effecting the safe surrender of a minor ~~72 hours~~  
8 ~~old~~ *one year of age* or younger shall be civilly liable for injury to  
9 or death of the minor child as a result of any of his or her acts or  
10 omissions. This immunity does not apply to any act or omission  
11 constituting gross negligence, recklessness, or willful  
12 misconduct.

13 (2) For purposes of this section, “assistance” means  
14 transporting the minor child to the safe-surrender site as a person  
15 with lawful custody, or transporting or accompanying the parent  
16 or person with lawful custody at the request of that parent or  
17 person to effect the safe surrender, or performing any other act in  
18 good faith for the purpose of effecting the safe surrender of the  
19 minor.

20 (j) For purposes of this section, “lawful custody” means  
21 physical custody of a minor ~~72 hours old~~ *one year of age* or  
22 younger accepted by a person from a parent of the minor, who  
23 the person believes in good faith is the parent of the minor, with  
24 the specific intent and promise of effecting the safe surrender of  
25 the minor.

26 (k) Any identifying information that pertains to a parent or  
27 individual who surrenders a child pursuant to this section, that is  
28 obtained as a result of the questionnaire described in paragraph  
29 (3) of subdivision (b) or in any other manner, is confidential,  
30 shall be exempt from disclosure under the California Public  
31 Records Act (Chapter 3.5 (commencing with Section 6250) of  
32 Division 7 of Title 1 of the Government Code), and shall not be  
33 disclosed by any personnel of a safe-surrender site that accepts  
34 custody of a child pursuant to this section.

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

36 271.5. (a) No parent or other individual having lawful  
37 custody of a minor child ~~72 hours old~~ *one year of age* or younger  
38 may be prosecuted for a violation of Section 270, 270.5, 271, or  
39 271a if he or she voluntarily surrenders physical custody of the  
40 child to personnel on duty at a safe-surrender site.

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

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

7 (2) For purposes of this section, “personnel” has the same  
8 meaning as defined in paragraph (2) of subdivision (a) of Section  
9 1255.7 of the Health and Safety Code.

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

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

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

19 SEC. 4. If the Commission on State Mandates determines that  
20 this act contains costs mandated by the state, reimbursement to  
21 local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.