

AMENDED IN ASSEMBLY MARCH 29, 2006

AMENDED IN ASSEMBLY MARCH 13, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1873

Introduced by Assembly Member Torrico

(Coauthors: Assembly Members Dymally, Montanez, and Spitzer)

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 30 days old or younger. The bill would permit *a local fire agency upon the approval of the appropriate* the governing body of ~~a city~~ *the agency* to designate a ~~safe-surrender~~ *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~~ *toll-free* telephone number for assistance.

By imposing new duties on 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~~ *by a local fire agency upon the approval of the*
 7 *appropriate local governing body of a city* the agency to be
 8 responsible for accepting physical custody of a minor child who
 9 is 30 days old or younger from a parent or individual who has
 10 lawful custody of the child and who surrenders the child pursuant
 11 to Section 271.5 of the Penal Code.
 12 (B) A location within a public or private hospital that is
 13 designated by that hospital to be responsible for accepting
 14 physical custody of a minor child who is 30 days old or younger
 15 from a parent or individual who has lawful custody of the child
 16 and who surrenders the child pursuant to Section 271.5 of the
 17 Penal Code.
 18 ~~(C) Any fire station with a paramedic or emergency medical~~
 19 ~~technician on duty at all times.~~
 20 (2) For purposes of this section, “parent” means a birth parent
 21 of a minor child who is 30 days old or younger.
 22 (3) For purposes of this section, “personnel” means any person
 23 who is an officer or employee of a safe-surrender site or who has
 24 staff privileges at the site.

1 (4) A hospital, ~~any fire station with a paramedic or emergency~~
2 ~~medical technician on duty at all times~~, and any safe-surrender
3 site designated by the county board of supervisors or ~~the~~ *by a*
4 *local fire agency upon the approval of the appropriate local*
5 ~~governing body of a city~~ *the agency* shall post a sign utilizing a
6 statewide logo that has been adopted by the State Department of
7 Social Services that notifies the public of the location where a
8 minor child 30 days old or younger may be safely surrendered
9 pursuant to this section.

10 (b) Any personnel on duty at a safe-surrender site shall accept
11 physical custody of a minor child 30 days old or younger
12 pursuant to this section if a parent or other individual having
13 lawful custody of the child voluntarily surrenders physical
14 custody of the child to personnel who are on duty at the
15 safe-surrender site. Safe-surrender site personnel shall ensure that
16 a qualified person does all of the following:

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

18 (2) Provides, or makes a good faith effort to provide, to the
19 parent or other individual surrendering the child a copy of a
20 unique, coded, confidential ankle bracelet identification in order
21 to facilitate reclaiming the child pursuant to subdivision (f).
22 However, possession of the ankle bracelet identification, in and
23 of itself, does not establish parentage or a right to custody of the
24 child.

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

36
37 NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY
38 MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE
39 THAT WE DON'T KNOW ABOUT TODAY. SOME
40 ILLNESSES, INCLUDING CANCER, ARE BEST TREATED

1 WHEN WE KNOW ABOUT FAMILY MEDICAL
2 HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE
3 NEEDED FOR LIFESAVING TREATMENTS. TO MAKE
4 SURE THIS BABY WILL HAVE A HEALTHY FUTURE,
5 YOUR ASSISTANCE IN COMPLETING THIS
6 QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU.

7
8 (c) Personnel of a safe-surrender site that has physical custody
9 of a minor child pursuant to this section shall ensure that a
10 medical screening examination and any necessary medical care is
11 provided to the minor child. Notwithstanding any other provision
12 of law, the consent of the parent or other relative shall not be
13 required to provide that care to the minor child.

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

27 (2) Any personal identifying information that pertains to a
28 parent or individual who surrenders a child that is obtained
29 pursuant to the medical information questionnaire is confidential
30 and shall be exempt from disclosure by ~~the~~ child protective
31 services or *the* county agency under the California Public
32 Records Act (Chapter 3.5 (commencing with Section 6250) of
33 Division 7 of Title 1 of the Government Code). Any personal
34 identifying information that pertains to a parent or individual
35 who surrenders a child shall be redacted from any medical
36 information provided to child protective services or the county
37 agency providing child welfare services.

38 (e) Child protective services or the county agency providing
39 child welfare services pursuant to Section 16501 of the Welfare
40 and Institutions Code shall assume temporary custody of the

1 child pursuant to Section 300 of the Welfare and Institutions
2 Code immediately upon receipt of notice under subdivision (d).
3 Child protective services or the county agency providing child
4 welfare services pursuant to Section 16501 of the Welfare and
5 Institutions Code shall immediately investigate the circumstances
6 of the case and file a petition pursuant to Section 311 of the
7 Welfare and Institutions Code. Child protective services or the
8 county agency providing child welfare services pursuant to
9 Section 16501 of the Welfare and Institutions Code shall
10 immediately notify the State Department of Social Services of
11 each child to whom this subdivision applies upon taking
12 temporary custody of the child pursuant to Section 300 of the
13 Welfare and Institutions Code. As soon as possible, but no later
14 than 24 hours after temporary custody is assumed, child
15 protective services or the county agency providing child welfare
16 services pursuant to Section 16501 of the Welfare and
17 Institutions Code shall report all known identifying information
18 concerning the child, except personal identifying information
19 pertaining to the parent or individual who surrendered the child,
20 to the California Missing Children Clearinghouse and to the
21 National Crime Information Center.

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

38 (g) Subsequent to the filing of a petition under subdivision (e),
39 if within 14 days of the voluntary surrender described in this
40 section, the parent or individual who surrendered custody returns

1 to claim physical custody of the child, the child welfare agency
2 shall verify the identity of the parent or individual, conduct an
3 assessment of his or her circumstances and ability to parent, and
4 request that the juvenile court dismiss the petition for
5 dependency and order the release of the child, if the child welfare
6 agency determines that none of the conditions described in
7 subdivisions (a) to (d), inclusive, of Section 319 of the Welfare
8 and Institutions Code currently exist.

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

23 (i) (1) In order to encourage assistance to persons who
24 voluntarily surrender physical custody of a child pursuant to this
25 section or Section 271.5 of the Penal Code, no person who,
26 without compensation and in good faith, provides assistance for
27 the purpose of effecting the safe surrender of a minor 30 days old
28 or younger shall be civilly liable for injury to, or death of, the
29 minor child as a result of any of his or her acts or omissions. This
30 immunity does not apply to any act or omission constituting
31 gross negligence, recklessness, or willful misconduct.

32 (2) For purposes of this section, “assistance” means
33 transporting the minor child to the safe-surrender site as a person
34 with lawful custody, or transporting or accompanying the parent
35 or person with lawful custody at the request of that parent or
36 person to effect the safe surrender, or performing any other act in
37 good faith for the purpose of effecting the safe surrender of the
38 minor.

39 (j) For purposes of this section, “lawful custody” means
40 physical custody of a minor 30 days old or younger accepted by

1 a person from a parent of the minor, who the person believes in
2 good faith is the parent of the minor, with the specific intent and
3 promise of effecting the safe surrender of the minor.

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

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

14 271.5. (a) No parent or other individual having lawful
15 custody of a minor child 30 days old or younger may be
16 prosecuted for a violation of Section 270, 270.5, 271, or 271a if
17 he or she voluntarily surrenders physical custody of the child to
18 personnel on duty at a safe-surrender site.

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

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

25 (2) For purposes of this section, “personnel” has the same
26 meaning as defined in paragraph (2) of subdivision (a) of Section
27 1255.7 of the Health and Safety Code.

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

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

34 (b) The department shall establish and operate a ~~1-800~~
35 *toll-free* telephone number for the purpose of providing
36 education and assistance to the public regarding safe-surrender
37 sites.

38 SEC. 4. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O