

AMENDED IN ASSEMBLY APRIL 18, 2006

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 the agency to designate 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 toll-free telephone number for assistance, *and to publicize existing law regarding the voluntary surrender of a child at a safe-surrender site.*

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 by a local fire agency upon the approval of the
7 appropriate local governing body of the agency to be responsible
8 for accepting physical custody of a minor child who is 30 days
9 old or younger from a parent or individual who has lawful
10 custody of the child and who surrenders the child pursuant to
11 Section 271.5 of the Penal Code. *Before designating a location*
12 *as a safe-surrender site, the designatory entity is encouraged to*
13 *consult with the governing body of the city, if the site is located*
14 *in a city, and with representatives of any fire department and any*
15 *child welfare agency that may provide services to a child who is*
16 *surrendered at the site if that location is selected.*

17 (B) A location within a public or private hospital that is
18 designated by that hospital to be responsible for accepting
19 physical custody of a minor child who is 30 days old or younger
20 from a parent or individual who has lawful custody of the child
21 and who surrenders the child pursuant to Section 271.5 of the
22 Penal Code.

23 (2) For purposes of this section, “parent” means a birth parent
24 of a minor child who is 30 days old or younger.

1 (3) For purposes of this section, “personnel” means any person
2 who is an officer or employee of a safe-surrender site or who has
3 staff privileges at the site.

4 (4) A hospital and any safe-surrender site designated by the
5 county board of supervisors or by a local fire agency upon the
6 approval of the appropriate local governing body of the agency
7 shall post a sign utilizing a statewide logo that has been adopted
8 by the State Department of Social Services that notifies the
9 public of the location where a minor child 30 days old or younger
10 may be safely surrendered pursuant to this section.

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

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

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

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

37
38 NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY
39 MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE
40 THAT WE DON'T KNOW ABOUT TODAY. SOME

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

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

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

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

39 (e) Child protective services or the county agency providing
40 child welfare services pursuant to Section 16501 of the Welfare

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

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

39 (g) Subsequent to the filing of a petition under subdivision (e),
 40 if within 14 days of the voluntary surrender described in this

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

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

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

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

1 (j) For purposes of this section, “lawful custody” means
2 physical custody of a minor 30 days old or younger accepted by
3 a person from a parent of the minor, who the person believes in
4 good faith is the parent of the minor, with the specific intent and
5 promise of effecting the safe surrender of the minor.

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

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

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

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

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

27 (2) For purposes of this section, “personnel” has the same
28 meaning as defined in paragraph (2) of subdivision (a) of Section
29 1255.7 of the Health and Safety Code.

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

34 (a) The department shall conduct a statewide awareness
35 campaign publicizing the existence of *the program providing*
36 safe-surrender sites.

37 (b) The department shall establish and operate a toll-free
38 telephone number for the purpose of providing education and
39 assistance to the public regarding safe-surrender sites.

1 (c) *A portion of the money shall be used to publicize current*
2 *law regarding the voluntary surrender of a child at a*
3 *safe-surrender site.*

4 SEC. 4. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

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