

AMENDED IN ASSEMBLY MARCH 6, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 81

**Introduced by Assembly Member Torrico
(Principal coauthor: Assembly Member Garcia)
(Coauthor: ~~Assembly Member Spitzer~~ Coauthors: *Assembly
Members DeVore, Hayashi, Horton, Krekorian, Silva, Spitzer, and
Strickland*)**

December 4, 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 81, 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 *the a local fire agency, upon the approval of the appropriate local governing body of a city the agency*, 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 State Department of Social Services to conduct a statewide awareness campaign, to establish and operate a toll-free telephone number for assistance, ~~and to allocate~~

\$1,000,000 in the form of competitive grants to county social-service agencies that conduct ~~safe-surrender~~ *safe-surrender* site program outreach, *and to publicize current 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 the governing body of a city~~ *by a local fire agency upon*
 7 *the approval of the appropriate local governing body of the agency*
 8 *to be responsible for accepting physical custody of a minor child*
 9 *who is 30 days old or younger from a parent or individual who*
 10 *has lawful custody of the child and who surrenders the child*
 11 *pursuant to Section 271.5 of the Penal Code. Before designating*
 12 *a location as a safe-surrender site, the designatory entity shall*
 13 *consult with the governing body of a city, if the site is within the*
 14 *city limits 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 physical
 19 custody of a minor child who is 30 days old or younger from a
 20 parent or individual who has lawful custody of the child and who
 21 surrenders the child pursuant to Section 271.5 of the Penal Code.

1 ~~(C) Any fire station with a paramedic or emergency medical~~
2 ~~technician on duty at all times.~~

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

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

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

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

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

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

31 (3) Provides, or makes a good faith effort to provide, to the
32 parent or other individual surrendering the child a medical
33 information questionnaire, which may be declined, voluntarily
34 filled out and returned at the time the child is surrendered, or later
35 filled out and mailed in the envelope provided for this purpose.
36 This medical information questionnaire shall not require any
37 identifying information about the child or the parent or individual
38 surrendering the child, other than the identification code provided
39 in the ankle bracelet placed on the child. Every questionnaire

1 provided pursuant to this section shall begin with the following
2 notice in no less than 12-point type:

3 NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY
4 MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE
5 THAT WE DON'T KNOW ABOUT TODAY. SOME
6 ILLNESSES, INCLUDING CANCER, ARE BEST TREATED
7 WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES.
8 IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR
9 LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY
10 WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE
11 IN COMPLETING THIS QUESTIONNAIRE FULLY IS
12 ESSENTIAL. THANK YOU.

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

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

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

1 redacted from any medical information provided to child protective
2 services or the county agency providing child welfare services.

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

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

1 (g) Subsequent to the filing of a petition under subdivision (e),
2 if within 14 days of the voluntary surrender described in this
3 section, the parent or individual who surrendered custody returns
4 to claim physical custody of the child, the child welfare agency
5 shall verify the identity of the parent or individual, conduct an
6 assessment of his or her circumstances and ability to parent, and
7 request that the juvenile court dismiss the petition for dependency
8 and order the release of the child, if the child welfare agency
9 determines that none of the conditions described in subdivisions
10 (a) to (d), inclusive, of Section 319 of the Welfare and Institutions
11 Code currently exist.

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

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

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

1 (j) For purposes of this section, “lawful custody” means physical
2 custody of a minor 30 days old or younger accepted by a person
3 from a parent of the minor, who the person believes in good faith
4 is the parent of the minor, with the specific intent and promise of
5 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, shall
10 be exempt from disclosure under the California Public Records
11 Act (Chapter 3.5 (commencing with Section 6250) of Division 7
12 of Title 1 of the Government Code), and shall not be disclosed by
13 any personnel of a safe-surrender site that accepts custody of a
14 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 custody
17 of a minor child 30 days old or younger may be prosecuted for a
18 violation of Section 270, 270.5, 271, or 271a if he or she voluntarily
19 surrenders physical custody of the child to personnel on duty at a
20 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 (3) 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 hereby
31 appropriated from the General Fund to the State Department of
32 Social Services for the purpose of supporting the Safe-Surrender
33 Site Program as follows:

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

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

39 (c) The department shall allocate the sum of one million dollars
40 (\$1,000,000) in the form of competitive grants to county social

1 ~~service~~ *services* agencies that conduct ~~safe-surrender~~ *safe-surrender*
2 site program outreach.

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

6 SEC. 4. If the Commission on State Mandates determines that
7 this act contains costs mandated by the state, reimbursement to
8 local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.