

AMENDED IN SENATE AUGUST 1, 2007

AMENDED IN SENATE JULY 17, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

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)  
(Coauthors: Assembly Members DeVore, Hayashi, Horton,  
Krekorian, Silva, Spitzer, and Strickland)  
(Coauthor: Senator Romero)**

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.

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 21 days old or younger. The bill would permit a local fire agency, upon the approval of the appropriate local governing body of the agency, to designate a safe-surrender site. The bill would specify

certain circumstances in which a safe-surrender site and its personnel have no liability for a surrendered child.

*The bill would require safe-surrender site personnel to provide to the parent or other individual, as specified, who is surrendering custody of the child, with information regarding alternative options to surrender, as specified. The bill would also require, to the extent resources are available, as specified, the State Department of Social Services to conduct a statewide awareness campaign publicizing the existence of the program and to establish a toll-free telephone number for the purpose of providing education and assistance to the public regarding the program.*

By imposing new duties on local officials, the bill would impose a state-mandated local program.

The bill would require the State Department of Social Services to report to the Legislature regarding the effect of these provisions on or before January 1, 2011.

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: majority. Appropriation: no. 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 21 days old  
9 or younger from a parent or individual who has lawful custody of  
10 the child and who surrenders the child pursuant to Section 271.5  
11 of the Penal Code. Before designating a location as a safe-surrender  
12 site, the designatory entity shall consult with the governing body

1 of a city, if the site is within the city limits, and with representatives  
2 of any local fire agency and any child welfare agency that may  
3 provide services to a child who is surrendered at the site, if that  
4 location is selected.

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

10 (2) For purposes of this section, “parent” means a birth parent  
11 of a minor child who is 21 days old or younger.

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

15 (4) A hospital and any safe-surrender site designated by the  
16 county board of supervisors or by a local fire agency upon the  
17 approval of the appropriate local governing body of the agency,  
18 shall post a sign utilizing a statewide logo that has been adopted  
19 by the State Department of Social Services that notifies the public  
20 of the location where a minor child 21 days old or younger may  
21 be safely surrendered pursuant to this section.

22 (b) Any personnel on duty at a safe-surrender site shall accept  
23 physical custody of a minor child 21 days old or younger pursuant  
24 to this section if a parent or other individual having lawful custody  
25 of the child voluntarily surrenders physical custody of the child to  
26 personnel who are on duty at the safe-surrender site. Safe-surrender  
27 site personnel shall *provide to the parent or other individual having*  
28 *lawful custody of the child information regarding alternative*  
29 *options to surrender, including, but not limited to, voluntary*  
30 *relinquishment, foster care, and adoption, and, if the parent or*  
31 *other individual chooses to utilize an alternative option, shall*  
32 *provide information that to parent or other individual regarding*  
33 *appropriate resources relevant to exercising the alternative option*  
34 *or options selected. If the parent or other individual having lawful*  
35 *custody of the child chooses to continue with the safe surrender*  
36 *of the child, the safe-surrender site personnel shall ensure that a*  
37 *qualified person does all of the following:*

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

39 (2) Provides, or makes a good faith effort to provide, to the  
40 parent or other individual surrendering the child a copy of a unique,

1 coded, confidential ankle bracelet identification in order to facilitate  
2 reclaiming the child pursuant to subdivision (f). However,  
3 possession of the ankle bracelet identification, in and of itself, does  
4 not establish parentage or a right to custody of the child.

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

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

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

32 (d) (1) As soon as possible, but in no event later than 48 hours  
33 after the physical custody of a child has been accepted pursuant  
34 to this section, personnel of the safe-surrender site that has physical  
35 custody of the child shall notify child protective services or a  
36 county agency providing child welfare services pursuant to Section  
37 16501 of the Welfare and Institutions Code, that the safe-surrender  
38 site has physical custody of the child pursuant to this section. In  
39 addition, any medical information pertinent to the child's health,  
40 including, but not limited to, information obtained pursuant to the

1 medical information questionnaire described in paragraph (3) of  
2 subdivision (b) that has been received by or is in the possession  
3 of the safe-surrender site shall be provided to that child protective  
4 services or county agency.

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

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

38 (f) If, prior to the filing of a petition under subdivision (e), a  
39 parent or individual who has voluntarily surrendered a child  
40 pursuant to this section requests that the safe-surrender site that

1 has physical custody of the child pursuant to this section return  
2 the child and the safe-surrender site still has custody of the child,  
3 personnel of the safe-surrender site shall either return the child to  
4 the parent or individual or contact a child protective agency if any  
5 personnel at the safe-surrender site knows or reasonably suspects  
6 that the child has been the victim of child abuse or neglect. The  
7 voluntary surrender of a child pursuant to this section is not in and  
8 of itself a sufficient basis for reporting child abuse or neglect. The  
9 terms “child abuse,” “child protective agency,” “mandated  
10 reporter,” “neglect,” and “reasonably suspects” shall be given the  
11 same meanings as in Article 2.5 (commencing with Section 11164)  
12 of Title 1 of Part 4 of the Penal Code.

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

24 (h) A safe-surrender site, or the personnel of a safe-surrender  
25 site, shall not have liability of any kind for a surrendered child  
26 prior to taking actual physical custody of the child. A  
27 safe-surrender site, or personnel of the safe-surrender site, that  
28 accepts custody of a surrendered child pursuant to this section shall  
29 not be subject to civil, criminal, or administrative liability for  
30 accepting the child and caring for the child in the good faith belief  
31 that action is required or authorized by this section, including, but  
32 not limited to, instances where the child is older than 21 days old  
33 or the parent or individual surrendering the child did not have  
34 lawful physical custody of the child. A safe-surrender site, or the  
35 personnel of a safe-surrender site, shall not be subject to civil,  
36 criminal, or administrative liability for a surrendered child prior  
37 to the time that the site or its personnel know, or should know, that  
38 the child has been surrendered. This subdivision does not confer  
39 immunity from liability for personal injury or wrongful death,

1 including, but not limited to, injury resulting from medical  
2 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, without  
6 compensation and in good faith, provides assistance for the purpose  
7 of effecting the safe surrender of a minor 21 days old or younger  
8 shall be civilly liable for injury to, or the death of, the minor child  
9 as a result of any of his or her acts or omissions. This immunity  
10 does not apply to any act or omission constituting gross negligence,  
11 recklessness, or willful misconduct.

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

18 (j) For purposes of this section, “lawful custody” means physical  
19 custody of a minor 21 days old or younger accepted by a person  
20 from a parent of the minor, who the person believes in good faith  
21 is the parent of the minor, with the specific intent and promise of  
22 effecting the safe surrender of the minor.

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

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

33 271.5. (a) No parent or other individual having lawful custody  
34 of a minor child 21 days old or younger may be prosecuted for a  
35 violation of Section 270, 270.5, 271, or 271a if he or she voluntarily  
36 surrenders physical custody of the child to personnel on duty at a  
37 safe-surrender site.

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

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

4 (2) For purposes of this section, “personnel” has the same  
5 meaning as defined in paragraph (3) of subdivision (a) of Section  
6 1255.7 of the Health and Safety Code.

7 SEC. 3. On or before January 1, 2011, the State Department  
8 of Social Services shall report to the Legislature regarding the  
9 effect of this act, including, but not limited to, all of the following  
10 information:

11 (a) The number of children one year of age or younger who are  
12 found abandoned, dead or alive, in the state for each year in which  
13 reporting is required under this act.

14 (b) The number of infants surrendered pursuant to this act, with  
15 their approximate age.

16 (c) The number of medical history questionnaires completed in  
17 those cases.

18 (d) The number of instances in which a parent or other person  
19 having lawful custody seeks to reclaim custody of a surrendered  
20 child, both during and after the initial period following surrender,  
21 and the outcome of those cases.

22 (e) Whether a person seeking to reclaim custody is the individual  
23 who surrendered the child.

24 (f) The number of children surrendered pursuant to this act who  
25 show signs of neglect or abuse and the disposition of those cases.

26 (g) The number of parents or legal guardians eventually located  
27 and contacted by social workers.

28 SEC. 4. *To the extent resources appropriated to the State*  
29 *Department of Social Services are available for these purposes,*  
30 *the department shall do both of the following:*

31 (a) *Conduct a statewide awareness campaign publicizing the*  
32 *existence of the program providing safe-surrender sites as*  
33 *described in Section 1255.7 of the Health and Safety Code and*  
34 *related provisions of law, and any changes to the law establishing*  
35 *the program that take effect on or after January 1, 2008.*

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

1     ~~SEC. 4.~~

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

O