

HOUSE BILL NO. 29

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE CROFT

Introduced: 1/8/01

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to babies who are safely surrendered by a parent shortly after birth."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE. This Act may be known as the Safe Surrender of Babies Act of 2001.

6 * **Sec. 2.** AS 11.81 is amended by adding a new section to read:

7 **Article 4A. Prohibition on Prosecution.**

8 **Sec. 11.81.500. No prosecution for safe surrendering of newborn.** A
9 parent may not be criminally prosecuted for surrendering a child of the parent in the
10 manner described in AS 47.10.013(c).

11 * **Sec. 3.** AS 47.10.013 is amended by adding new subsections to read:

12 (c) A parent may not be criminally prosecuted for surrendering a child in the
13 manner described in this subsection although surrendering the child in the manner
14 described in this subsection constitutes abandonment for purposes of this chapter. A
15 child's parent is considered to have abandoned the child safely, and, notwithstanding

1 AS 25.20.030 and AS 47.10.120, the parent's legal duty to support the child is
2 extinguished, if

3 (1) within 72 hours after the child's birth, the parent, without
4 expressing an intent to return for the child, leaves the child in the physical custody of a
5 person who the parent reasonably believes is a peace officer, a physician or hospital
6 employee in a hospital or hospital emergency room, or a volunteer with or employee
7 of a fire station or emergency medical service who is performing activities within the
8 scope of the volunteer's or employee's fire services or emergency medical services
9 duties; and

10 (2) there is no evidence at the time of abandonment that the child has
11 been physically injured.

12 (d) A person to whom a child is abandoned safely within the meaning of (c) of
13 this section shall

14 (1) act appropriately to care for the child;

15 (2) inform the parent that the parent is not required to answer any
16 questions regarding the name or identity of the child or the parents of the child unless
17 the parent chooses to contact the department under (4) of this subsection;

18 (3) offer the parent a chance for counseling regarding the laws relating
19 to relinquishing parental rights with respect to a child under AS 25.23.180 and other
20 related legal and personal issues;

21 (4) ask the parent if the parent wishes to relinquish the parent's
22 parental rights and release the child for adoption; if the answer is affirmative, the
23 person shall contact the department so that the parent can discuss that option with the
24 department;

25 (5) inform the parent that the department will take the child into
26 emergency custody under AS 47.10.142 and that, if the parent does not request return
27 of the child from the department within 28 days, the department will seek termination
28 of the parent's parental rights to the child, and the child may be placed for adoption;

29 (6) notify the department that the child has been abandoned.

30 (e) The department may not seek to terminate the parental rights of the parent
31 of a child abandoned safely by the parent within the meaning of (c) of this section

1 until at least 28 days have elapsed since the child was abandoned under (c) of this
 2 section. If the child is returned to the parent during that 28 days or at a later time, the
 3 parent's legal duty to support the child is prospectively reinstated.

4 (f) A hospital, hospital emergency room, fire station, emergency medical
 5 service, or employees or volunteers of these entities, are not liable for civil damages
 6 for failure to discharge the duties listed in (d) of this section.

7 (g) A record regarding the surrender of a child under (c) of this section is
 8 confidential and not subject to public inspection or copying under AS 40.25.100 -
 9 40.25.220.

10 * **Sec. 4.** AS 47.10.086(a) is amended to read:

11 (a) Except as provided in **(b), (c), and (g)** [(b) AND (c)] of this section, the
 12 department shall make timely, reasonable efforts to provide family support services to
 13 the child and to the parents or guardian of the child that are designed to prevent out-of-
 14 home placement of the child or to enable the safe return of the child to the family
 15 home, when appropriate, if the child is in an out-of-home placement. The
 16 department's duty to make reasonable efforts under this subsection includes the duty to

17 (1) identify family support services that will assist the parent or
 18 guardian in remedying the conduct or conditions in the home that made the child a
 19 child in need of aid;

20 (2) actively offer the parent or guardian, and refer the parent or
 21 guardian to, the services identified under (1) of this subsection; the department shall
 22 refer the parent or guardian to community-based family support services whenever
 23 community-based services are available and desired by the parent or guardian; and

24 (3) document the department's actions that are taken under (1) and (2)
 25 of this subsection.

26 * **Sec. 5.** AS 47.10.086 is amended by adding a new subsection to read:

27 (g) The department is not required to make reasonable efforts of the type
 28 described in (a) of this section if the department took emergency custody of the child
 29 under AS 47.10.142 after the child was abandoned safely within the meaning of
 30 AS 47.10.013(c).