

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 275*
Committee Substitute Favorable 3/21/01
Committee Substitute #2 Favorable 4/19/01

Short Title: Infant Homicide Prevention Act.

(Public)

Sponsors:

Referred to:

February 27, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO DECRIMINALIZE ABANDONMENT OF AN INFANT UNDER
3 CERTAIN CIRCUMSTANCES AND TO MODIFY SOME PROCEDURES
4 INVOLVING ABANDONED JUVENILES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7B-302(a) reads as rewritten:

7 "(a) When a report of abuse, neglect, or dependency is received, the director of the
8 department of social services shall make a prompt and thorough investigation in order to
9 ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to
10 the juvenile, in order to determine whether protective services should be provided or the
11 complaint filed as a petition. When the report alleges abuse, the director shall
12 immediately, but no later than 24 hours after receipt of the report, initiate the
13 investigation. When the report alleges neglect or dependency, the director shall initiate
14 the investigation within 72 hours following receipt of the report. When the report
15 alleges abandonment, the director shall immediately initiate an investigation, take
16 appropriate steps to assume temporary custody of the juvenile, and take appropriate
17 steps to secure an order for nonsecure custody of the juvenile. The investigation and
18 evaluation shall include a visit to the place where the juvenile resides. When the report
19 alleges abandonment, the investigation shall include a request from the director to law
20 enforcement officials to investigate through the North Carolina Center for Missing
21 Persons and other national and State resources whether the juvenile is a missing child.
22 All information received by the department of social services, including the identity of
23 the reporter, shall be held in strictest confidence by the department."

24 **SECTION 2.** G.S. 7B-500 reads as rewritten:

25 "**§ 7B-500. Taking a juvenile into temporary eustody-custody; civil and criminal**
26 **immunity.**

27 (a) Temporary custody means the taking of physical custody and providing
28 personal care and supervision until a court order for nonsecure custody can be obtained.

1 A juvenile may be taken into temporary custody without a court order by a law
2 enforcement officer or a department of social services worker if there are reasonable
3 grounds to believe that the juvenile is abused, neglected, or dependent and that the
4 juvenile would be injured or could not be taken into custody if it were first necessary to
5 obtain a court order. If a department of social services worker takes a juvenile into
6 temporary custody under this section, the worker may arrange for the placement, care,
7 supervision, and transportation of the juvenile.

8 (b) The following individuals shall, without a court order, take into temporary
9 custody an infant under seven days of age that is voluntarily delivered to the individual
10 by the infant's parent who does not express an intent to return for the infant:

- 11 (1) A health care provider, as defined under G.S. 90-21.11, who is on duty
12 or at a hospital or at a local or district health department.
- 13 (2) A law enforcement officer who is on duty or at a police station or
14 sheriff's department.
- 15 (3) A social services worker who is on duty or at a local department of
16 social services.
- 17 (4) A certified emergency medical service worker who is on duty or at a
18 fire or emergency medical services station.

19 (c) An individual who takes an infant into temporary custody under subsection
20 (b) of this section shall perform any act necessary to protect the physical health and
21 well-being of the infant and shall immediately notify the department of social services
22 or a local law enforcement agency. Any individual who takes an infant into temporary
23 custody under subsection (b) of this section shall inquire as to the parents' identities and
24 as to any relevant medical history, and the parent shall provide this information, if
25 available.

26 (d) Any adult may, without a court order, take into temporary custody an infant
27 under seven days of age that is voluntarily delivered to the individual by the infant's
28 parent who does not express an intent to return for the infant. Any individual who takes
29 an infant into temporary custody under this section shall perform any act necessary to
30 protect the physical health and well-being of the infant and shall immediately notify the
31 department of social services or a local law enforcement agency. An individual who
32 takes an infant into temporary custody under this subsection shall inquire as to the
33 parents' identities and as to any relevant medical history, and the parent shall provide
34 this information, if available.

35 (e) An individual who takes an infant into temporary custody under subsection
36 (b) or (d) of this section is immune from any civil or criminal liability that might
37 otherwise be incurred or imposed as a result of any omission or action taken pursuant to
38 the requirements of subsection (b), (c), or (d) of this section as long as that individual
39 was acting in good faith. The immunity established by this subsection does not extend
40 to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be
41 actionable."

42 **SECTION 3.** G.S. 7B-1111(a)(7) reads as rewritten:

1 (a) The court may terminate the parental rights upon a finding of one or more of
2 the following:

3 ...

4 (7) The parent has willfully abandoned the juvenile for at least six
5 consecutive months immediately preceding the filing of the petition or
6 ~~motion~~-motion, or the parent has voluntarily abandoned an infant
7 pursuant to G.S. 7B-500 for at least 60 consecutive days immediately
8 preceding the filing of the petition or motion."

9 **SECTION 4.** G.S. 14-318.2 is amended by adding a new subsection to read:

10 (c) A parent who abandons an infant less than seven days of age pursuant to G.S.
11 14-322.3 shall not be prosecuted under this section for any acts or omissions related to
12 the care of that infant. The court in its discretion may determine whether or not this
13 subsection shall apply if the State proves that the parent has abandoned more than two
14 infants under seven days of age as provided in G.S. 7B-500(b) or G.S. 7B-500(d)."

15 **SECTION 5.** G.S. 14-318.4 is amended by adding a new subsection to read:

16 (c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-
17 322.3 may be treated as a mitigating factor in sentencing for a conviction under this
18 section involving that infant. The court in its discretion may determine whether or not
19 this subsection shall apply if the State proves that the parent has abandoned more than
20 two infants under seven days of age as provided in G.S. 7B-500(b) or G.S. 7B-500(d)."

21 **SECTION 6.** Article 40 of Chapter 14 of the General Statutes is amended by
22 adding a new section to read:

23 "**§ 14-322.3. Abandonment of an infant under seven days of age.**

24 When a parent abandons an infant less than seven days of age by voluntarily
25 delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not
26 express an intent to return for the infant, that parent shall not be prosecuted under G.S.
27 14-322 or G.S. 14-322.1. The court in its discretion may determine whether or not this
28 section shall apply if the State proves that the parent has abandoned more than two
29 infants less than seven days of age by voluntarily delivering the infants as provided in
30 G.S. 7B-500(b) or G.S. 7B-500(d)."

31 **SECTION 7.** This act is effective when it becomes law.