

## Article 5A.

### Safe Surrender of Infants.

#### **§ 7B-520. Purpose; limitations.**

(a) Purpose. – The purpose of this Article is to protect newborn infants by providing a safe alternative for a parent who, in a crisis or in desperation, may physically abandon or harm his or her newborn and to provide information for the parent regarding the parent's rights and alternatives.

(b) Limitations. – The provisions of this Article apply exclusively to safely surrendered infants as defined in G.S. 7B-101(19a). No person or agency shall act under the provisions of this Article if it is determined that any of the following are true:

- (1) A surrendered infant is reasonably believed to be more than 30 days old.
- (2) The infant shows signs of abuse or neglect.
- (3) There is reason to believe the individual surrendering the infant was not the infant's parent.
- (4) At the time the infant was surrendered, there was reason to believe the parent intended to return for the infant. (2023-14, s. 6.2(a).)

#### **§ 7B-521. Persons to whom infant may be surrendered.**

The following individuals shall, without a court order, take into temporary custody an infant reasonably believed to be not more than 30 days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

- (1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.
- (2) A first responder, including a law enforcement officer, a certified emergency medical services worker, or a firefighter.
- (3) A social services worker who is on duty or at a local department of social services. (2023-14, s. 6.2(a).)

#### **§ 7B-522. Duties of person taking safely surrendered infant into temporary custody.**

An individual who takes an infant into temporary custody under G.S. 7B-521 shall perform any act necessary to protect the physical health and well-being of the infant and immediately notify the department of social services in the county where the infant is surrendered. The individual may inquire as to the parents' identities, the date of birth of the infant, any relevant medical history, and the parents' marital status and may advise the parent that if the parent provides that information, it may facilitate the adoption of the child. However, the individual shall notify the parent that the parent is not required to provide the information. The individual, if practical, shall provide the surrendering parent with written information created by the Department of Health and Human Services, Division of Social Services, as set forth in G.S. 7B-528. (2023-14, s. 6.2(a).)

#### **§ 7B-523. Immunity for those receiving infant.**

An individual to whom an infant was surrendered under G.S. 7B-521 is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of any omission or action taken pursuant to the requirements of this Article as long as that individual was acting in good faith. The immunity established by this section does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. (2023-14, s. 6.2(a).)

**§ 7B-524. Confidentiality of information and records.**

(a) Except as otherwise provided in subsection (b) of this section, unless a parent consents to its release, an individual who takes an infant into temporary custody under this Article and any facility involved in the care of the infant at the time the infant is taken into temporary custody shall keep information regarding the surrendering parent's identity confidential.

(b) An individual taking an infant into temporary custody under this Article shall provide to the director of the department of social services any information known about the infant, the infant's parents, including their identity, any medical history, and the circumstances of surrender.

(c) All information about the surrendering parent's identity that is received or obtained by the department of social services shall not be disclosed except for (i) notice to local law enforcement pursuant to G.S. 7B-525(b)(3), (ii) contact with the non-surrendering parent, or (iii) as otherwise ordered by a court of this State.

(d) All information received by the department of social services related to the circumstances of the infant's safe surrender and the infant's condition shall be held in strictest confidence and shall not be disclosed except as provided in this section.

(1) The director may consult with and share information that the director determines is necessary or relevant to the case with (i) a health care provider that provided medical treatment to the safely surrendered infant before, at the time of, or after the safe surrender, (ii) a placement provider, including a foster care placement or pre-adoptive placement, for the infant, (iii) a court exercising jurisdiction over an adoption proceeding for the infant, and (iv) any agency that a court in an adoption proceeding requires to conduct a preplacement assessment, report to the court, or equivalent.

(2) A guardian ad litem appointed in a termination of parental rights proceeding resulting from the infant's safe surrender may examine and obtain written copies of the record.

(3) A district or superior court judge of this State presiding over a civil, criminal, or delinquency matter in which the department of social services is not a party may order the department to release confidential information after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. The department of social services shall surrender the requested records to the court, which shall conduct an in-camera review prior to releasing the confidential records.

(e) This section shall not apply if the department determines the juvenile is not a safely surrendered infant or is the victim of a crime. (2023-14, s. 6.2(a).)

**§ 7B-525. Social services response.**

(a) A director of a department of social services who receives a safely surrendered infant pursuant to this Article has, by virtue of the surrender, the surrendering parent's rights to legal and physical custody of the infant without obtaining a court order. A county department of social services to whom an infant has been safely surrendered may, after the notice by publication set forth in G.S. 7B-526 has been completed, apply ex parte to the district court for an order finding that the infant has been safely surrendered and confirming that the county department of social services has legal custody of the minor for the purposes of obtaining a certified copy of the child's birth certificate, a social security number, or federal and State benefits for the minor.

(b) The director of social services receiving the infant shall do the following in an expeditious manner:

- (1) Ascertain from a health care provider that the surrendered infant is, to a reasonable medical certainty, not more than 30 days old and without signs of abuse or neglect. If both conditions are not satisfied, the provisions of the Article do not apply and the director shall treat the infant as a juvenile who has been reported to be an abused, neglected, or dependent juvenile.
- (2) Make an inquiry of the person who received the infant as a safe surrender whether the surrendering parent was provided with information in accordance with G.S. 7B-526 and document the response.
- (3) Notify law enforcement of the safely surrendered infant and provide law enforcement with information necessary to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the infant is a missing child.
- (4) Contact the non-surrendering parent when their identity is known to inform the non-surrendering parent that the infant was surrendered.
- (5) Respond to any inquiry by a non-surrendering parent about whether their child was safely surrendered.
- (6) When a surrendering or non-surrendering parent seeks custody of the infant, arrange for genetic marker testing of that parent and the infant if there is uncertainty as to parentage.
- (7) After 60 days from the date of surrender, if the surrendering parent has not sought to regain custody of the infant and the infant is not placed with the non-surrendering parent, initiate a termination of parental rights for the surrendering parent under G.S. 7B-1111(a)(7).

(c) Where the non-surrendering parent's identity is known and the non-surrendering parent has been contacted and located by the director of the department of social services, the director shall place custody of the safely surrendered infant with the non-surrendering parent, and any custodial rights of the department of social services shall terminate only if all of the following apply:

- (1) There exists the rebuttable presumption the non-surrendering parent is the safely surrendered infant's parent through (i) the child's legitimation through marriage or (ii) genetic marker testing arranged by the director to establish parentage that indicates the probability of parentage is ninety-seven percent (97%) or higher.
- (2) The non-surrendering parent asserts their parental rights to their child.
- (3) The director does not have cause to suspect the infant is an abused, neglected, or dependent juvenile due to the circumstances created by the non-surrendering parent.

(d) Where the identity of the non-surrendering parent is known by the director and the director has cause to suspect the infant may be an abused, neglected, or dependent juvenile due to circumstances created by the non-surrendering parent, the director shall proceed as if there was a report of abuse, neglect, or dependency in accordance with G.S. 7B-302. The surrendering parent shall not be part of the department assessment conducted under G.S. 7B-302. If a petition alleging abuse, neglect, or dependency is filed with the district court pursuant to G.S. 7B-302, in

accordance with G.S. 7B-401.1(b), the surrendering parent shall not be a party unless the court orders otherwise or a surrendering parent comes forward to regain custody of the child.

(e) If the surrendering parent seeks to regain custody of the infant, the provision of G.S. 7B-527(a) shall apply. (2023-14, s. 6.2(a).)

**§ 7B-526. Notice by publication of the safely surrendered infant.**

(a) Within 14 days from the date of the safe surrender of an infant, the director shall provide notice by publication as specified in subsection (b) of this section that an infant has been surrendered and taken into custody by the department of social services.

(b) The notice shall be published in a newspaper qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and published in the county in which the surrender was made and in any other county that the director has reason to believe either parent may be residing. The publication shall be once a week for three successive weeks. The notice shall state each of the following:

- (1) The infant was surrendered by a person claiming to be the infant's mother or father who did not express an intent to return for the infant and that the infant was surrendered to an individual pursuant to G.S. 7B-521 by specifying (i) the profession of the individual authorized to accept the surrendered infant, (ii) the name and location of the facility at which the infant was surrendered, and (iii) the date of surrender.
- (2) The physical characteristics of the infant at the time of surrender.
- (3) The infant is now in the physical and legal custody of the department of social services in the county where the infant was surrendered.
- (4) The surrendering mother or father has the right to request the infant's return to their custody by contacting the department of social services in the county that the infant was surrendered before the department initiates an action to terminate their parental rights in district court. If the surrendering parent seeks to regain custody of the infant from the department of social services, the director shall treat the infant as a juvenile who has been reported as a neglected juvenile and requires that the director conduct an assessment, at which point, the surrendering parent's rights to have his or her identity be confidential no longer apply.
- (5) The department is making efforts to identify, locate, and contact the non-surrendering parent. The non-surrendering parent has the right to contact the department of social services to inquire about and seek custody of the infant. The department may place the infant with the non-surrendering parent, terminating the department's custodial rights to the infant, when that parent's identity and location are known and there is no cause to suspect the infant is an abused, neglected, or dependent juvenile due to circumstances created by the non-surrendering parent.
- (6) Each parent has the right to contact the department of social services in the county where the infant was surrendered.
- (7) If neither parent seeks the infant's custody from the department of social services or executes a relinquishment for adoption within 60 days of the date of the surrender, which shall be stated clearly on the notice, the department will initiate a court action to terminate both parents' parental rights. Unless the court

orders otherwise, the notice of the petition to terminate parental rights will be published in the same newspaper with the court name "In re Baby Doe."

(8) How to contact the department of social services about the safely surrendered infant and the parents' rights.

(c) If a termination of parental rights for the safely surrendered infant is commenced, an affidavit of the publisher of the notice by this section shall be filed with the court at the preliminary hearing required by G.S. 7B-1105.1. (2023-14, s. 6.2(a).)

#### **§ 7B-527. Rights of surrendering parent.**

(a) Right to Regain Custody. – Prior to the filing of a termination of parental rights petition under Article 11 of this Subchapter, a surrendering parent has the right to contact the county department of social services where the infant was surrendered and request the infant's return to his or her custody. The director shall treat any such request as a report of neglect and comply with the provisions of G.S. 7B-302.

(b) Right of Relinquishment. – The safe surrender of an infant under this Article does not preclude the surrendering parent from executing a relinquishment of their parental rights for adoption with the local department of social services which received the safely surrendered infant.

(c) Immunity. – A parent surrendering an infant pursuant to this Article is immune from any civil liability or criminal prosecution in accordance with G.S. 14-322.3 as long as the surrendering parent was acting in good faith. The immunity established by this section does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. (2023-14, s. 6.2(a).)

#### **§ 7B-528. Information to surrendering parent.**

(a) The Department of Health and Human Services, Division of Social Services, shall create printable and downloadable information about infant safe surrender and the rights of the parents. The information shall be written in a user-friendly manner and translated to commonly spoken and read languages in this State. The Division shall post the information on its website and make the information available for distribution to agencies where persons identified in G.S. 7B-521 are on duty and to other agencies that request the information.

(b) The information shall explain each of the following:

- (1) Who is a safely surrendered infant, surrendering parent, and non-surrendering parent.
- (2) The requirements for how a safe surrender of an infant may occur under this Article.
- (3) The right to have the surrendering parent's identity remain confidential with the exception of communicating with the non-surrendering parent, known medical providers who provided treatment to the infant prior to the safe surrender, law enforcement for purposes of a missing child assessment, or a court order.
- (4) The information set forth in G.S. 7B-526(b)(3) through (b)(8).
- (5) That the information contains a relevant medical history form for the infant that would assist the department of social services in obtaining any necessary medical services for the infant and in facilitating the infant's placement, including adoption. Completing the form is optional.

- (6) An explanation that services may be available to the surrendering parent and infant accompanied by contact information for the local department of social services.
- (c) The Division shall create a printable and downloadable medical history form as referred to in subsection (b) of this section, and the form must include instructions on how to complete it and where to return it. (2023-14, s. 6.2(a).)