

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1616

Short Title: Abandoned Infant Protection Act.

(Public)

Sponsors: Representatives Haire, Clary, Easterling (Primary Sponsors); Jarrell, Morris, Sherrill, Bowie, Cansler, Melton, Weiss, and West.

Referred to: Judiciary IV, if favorable, Appropriations.

May 18, 2000

A BILL TO BE ENTITLED

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

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
8 director of the department of social services shall make a prompt and thorough
9 investigation in order to ascertain the facts of the case, the extent of the abuse or neglect,
10 and the risk of harm to the juvenile, in order to determine whether protective services
11 should be provided or the complaint filed as a petition. When the report alleges abuse, the
12 director shall immediately, but no later than 24 hours after receipt of the report, initiate
13 the investigation. When the report alleges neglect or dependency, the director shall
14 initiate the investigation within 72 hours following receipt of the report. Notwithstanding
15 the previous sentence, when a report alleges abandonment, the director shall immediately
16 initiate an investigation and shall take appropriate steps to assume temporary custody of
17 the juvenile and to secure an order for nonsecure custody of the juvenile. The
18 investigation and evaluation shall include a visit to the place where the juvenile resides.
19 When the report alleges abandonment, the investigation shall include a request from the

1 director to law enforcement officials to investigate through the North Carolina Center for
2 Missing Persons and other national and state resources to ensure that the juvenile is not a
3 missing child. All information received by the department of social services, including
4 the identity of the reporter, shall be held in strictest confidence by the department."

5 Section 2. G.S. 7B-500 reads as rewritten:

6 "**§ 7B-500. Taking a juvenile into temporary ~~eustody~~; custody; civil and criminal**
7 **immunity.**

8 (a) Temporary custody means the taking of physical custody and providing
9 personal care and supervision until a court order for nonsecure custody can be obtained.
10 A juvenile may be taken into temporary custody without a court order by a law
11 enforcement officer or a department of social services worker if there are reasonable
12 grounds to believe that the juvenile is abused, neglected, or dependent and that the
13 juvenile would be injured or could not be taken into custody if it were first necessary to
14 obtain a court order. If a department of social services worker takes a juvenile into
15 temporary custody under this section, the worker may arrange for the placement, care,
16 supervision, and transportation of the juvenile.

17 (b) A law enforcement officer, a department of social services worker, a health
18 care provider as defined in G.S. 90-21.11 at a hospital or local or district health
19 department, or an emergency medical technician at a fire station shall, without a court
20 order, take into temporary custody an infant under 15 days of age that is voluntarily
21 delivered to the individual by the infant's parent who does not express an intent to return
22 for the infant. An individual who takes an infant into temporary custody under this
23 subsection shall perform any act necessary to protect the physical health and well-being
24 of the infant and shall immediately notify the department of social services. An
25 individual who takes an infant into temporary custody under this subsection may inquire
26 as to the parents' identities and as to any relevant medical history, but the parent is not
27 required to provide this information.

28 (c) Any adult may, without a court order, take into temporary custody an infant
29 under 15 days of age that is voluntarily delivered to the individual by the infant's parent
30 who does not express an intent to return for the infant. An individual who takes an infant
31 into temporary custody under this subsection shall perform any act necessary to protect
32 the physical health and well-being of the infant and shall immediately notify the
33 department of social services. An individual who takes an infant into temporary custody
34 under this subsection may inquire as to the parents' identities and as to any relevant
35 medical history, but the parent is not required to provide this information.

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

43 Section 3. G.S. 7B-1111(a) reads as rewritten:

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

3 (1) The parent has abused or neglected the juvenile. The juvenile shall be
4 deemed to be abused or neglected if the court finds the juvenile to be an
5 abused juvenile within the meaning of G.S. 7B-101 or a neglected
6 juvenile within the meaning of G.S. 7B-101.

7 (2) The parent has willfully left the juvenile in foster care or placement
8 outside the home for more than 12 months without showing to the
9 satisfaction of the court that reasonable progress under the
10 circumstances has been made within 12 months in correcting those
11 conditions which led to the removal of the juvenile. Provided, however,
12 that no parental rights shall be terminated for the sole reason that the
13 parents are unable to care for the juvenile on account of their poverty.

14 (3) The juvenile has been placed in the custody of a county department of
15 social services, a licensed child-placing agency, a child-caring
16 institution, or a foster home, and the parent, for a continuous period of
17 six months next preceding the filing of the petition, has willfully failed
18 for such period to pay a reasonable portion of the cost of care for the
19 juvenile although physically and financially able to do so.

20 (4) One parent has been awarded custody of the juvenile by judicial decree
21 or has custody by agreement of the parents, and the other parent whose
22 parental rights are sought to be terminated has for a period of one year
23 or more next preceding the filing of the petition willfully failed without
24 justification to pay for the care, support, and education of the juvenile,
25 as required by said decree or custody agreement.

26 (5) The father of a juvenile born out of wedlock has not, prior to the filing
27 of a petition to terminate parental rights:

28 a. Established paternity judicially or by affidavit which has been
29 filed in a central registry maintained by the Department of Health
30 and Human Services; provided, the court shall inquire of the
31 Department of Health and Human Services as to whether such an
32 affidavit has been so filed and shall incorporate into the case
33 record the Department's certified reply; or

34 b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or
35 filed a petition for this specific purpose; or

36 c. Legitimated the juvenile by marriage to the mother of the
37 juvenile; or

38 d. Provided substantial financial support or consistent care with
39 respect to the juvenile and mother.

40 (6) That the parent is incapable of providing for the proper care and
41 supervision of the juvenile, such that the juvenile is a dependent
42 juvenile within the meaning of G.S. 7B-101, and that there is a
43 reasonable probability that such incapability will continue for the

1 foreseeable future. Incapability under this subdivision may be the result
2 of substance abuse, mental retardation, mental illness, organic brain
3 syndrome, or any other similar cause or condition.

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

9 (8) The parent has committed murder or voluntary manslaughter of another
10 child of the parent or other child residing in the home; has aided,
11 abetted, attempted, conspired, or solicited to commit murder or
12 voluntary manslaughter of the child, another child of the parent, or other
13 child residing in the home; or has committed a felony assault that results
14 in serious bodily injury to the child, another child of the parent, or other
15 child residing in the home.

16 (9) The parental rights of the parent with respect to another child of the
17 parent have been terminated involuntarily by a court of competent
18 jurisdiction and the parent lacks the ability or willingness to establish a
19 safe home."

20 Section 4. G.S. 14-318.2 is amended by adding a new subsection to read:

21 "(c) A parent who abandons an infant less than 15 days of age pursuant to G.S. 14-
22 322.3 shall not be prosecuted under this section for any acts or omissions related to the
23 care of that infant."

24 Section 5. G.S. 14-318.4 is amended by adding a new subsection to read:

25 "(c) Abandonment of an infant less than 15 days of age pursuant to G.S. 14-322.3
26 may be treated as a mitigating factor in sentencing for a conviction under this section
27 involving that infant."

28 Section 6. Article 40 of Chapter 14 of the General Statutes is amended by
29 adding a new section to read:

30 "**§ 14-322.3. Abandonment of an infant under 15 days of age.**

31 No parent shall be prosecuted under G.S. 14-322 or G.S. 14-322.1 for abandonment of
32 an infant less than 15 days of age when that parent voluntarily delivers the infant to one
33 of the following individuals and does not express an intent to return for the infant:

34 (1) A health care provider, as defined under G.S. 90-21.11, at a hospital or
35 at a local or district health department.

36 (2) A law enforcement officer at a police station or sheriff's department.

37 (3) A social services worker at a local department of social services.

38 (4) An emergency medical technician at a fire station.

39 (5) Any other adult of suitable discretion who willingly accepts the infant."

40 Section 7. The Department of Health and Human Services, Division of Public
41 Health, shall develop a media campaign to inform the public of the provisions of this act.
42 This media campaign shall contain information on responsible parenting in addition to
43 information about the provisions of the Act. This media campaign shall be targeted at

1 adolescents and young adults. This media campaign shall be developed in consultation
2 with law enforcement officials, local departments of social services, medical personnel,
3 and school administrators.

4 Section 8. There is appropriated from the General Fund the sum of one
5 hundred fifty thousand dollars (\$150,000) for the 2000-2001 fiscal year to the
6 Department of Health and Human Services, Division of Public Health, to implement the
7 provisions of Section 7 of this act.

8 Section 9. Sections 1 through 6 of this act become effective December 1,
9 2000, and apply to acts committed on or after that date. The remainder of this act
10 becomes effective July 1, 2000.