

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 4.
PUBLIC CARE SYSTEMS.

CHAPTER 14A.
NEWBORN SAFE HAVEN.

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CHAPTER 14A. NEWBORN SAFE HAVEN.

§ 4-1451.01. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Authorized Receiving Facility" means a hospital, or other place authorized by the Mayor, by rule, to accept a newborn for surrender pursuant to this chapter.
- (2) "CFSA" means the Child and Family Services Agency.
- (3) "Newborn" means an infant whose parent refuses or is unable to assume the responsibility for the infant's care, control, and subsistence and who is surrendered by that parent and who a licensed physician or other person authorized to accept the surrender reasonably believes is 14 days old or less.
- (4) "Surrender" means to bring a newborn to an Authorized Receiving Facility during its hours of operation and to leave the newborn with personnel of the Authorized Receiving Facility.

(May 27, 2010, D.C. Law 18-158, § 101, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Sections 2 of D.C. Law 18-29 added a section to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) 'Authorized Receiving Facility' means a hospital, or other place authorized by the Mayor, by rule, to accept a newborn for surrender pursuant to this act.

"(2) 'CFSA' means the Child and Family Services Agency.

"(3) 'Newborn' means an infant that a licensed physician or other person authorized to accept the surrender reasonably believes is 7 days old or less.

"(4) 'Surrender' means to bring a newborn to an Authorized Receiving Facility during its hours of operation, and to leave the newborn with personnel of the Authorized Receiving Facility."

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 2 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 101 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

Law 18-158, the "Newborn Safe Haven Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-180, which was referred to the Committee on Human Services and the Committee on Public Safety and the Judiciary. The bill was adopted on first and second readings on January 5, 2010, and February 2, 2010, respectively. Signed by the Mayor on March 25, 2010, it was assigned Act No. 18-349 and transmitted to both Houses of Congress for its review. D.C. Law 18-158 became effective on May 27, 2010.

§ 4-1451.02. SURRENDER.

- (a) Except when there is actual or suspected child abuse or neglect, a custodial parent who is a resident of the District of Columbia may surrender a newborn in accordance with this chapter and shall have the right to remain anonymous and to leave the place of surrender at any time and shall not be pursued by any person at the time of surrender or prosecuted for the surrender of the newborn.

(b) To surrender a newborn in accordance with this chapter, and rules promulgated pursuant to this chapter, shall not, by itself, constitute a basis for a finding of abuse, neglect, or abandonment.

(c) The Authorized Receiving Facility personnel receiving the surrendered newborn shall make a reasonable effort to obtain family and medical history from the surrendering parent, including personal information such as both of the parents' identities, and shall provide to the surrendering parent information on adoption and counseling services.

(d) The Authorized Receiving Facility personnel receiving the surrender of a newborn shall file a written statement with the CFSA, on or before the time CFSA assumes physical custody of the newborn, that includes the:

- (1) Date of the surrender;
- (2) Time of the surrender;
- (3) Circumstances of the surrender; and
- (4) Personal information obtained, if any.

(May 27, 2010, D.C. Law 18-158, § 102, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Sections 3 of D.C. Law 18-29 added a section to read as follows:

"Sec. 3. Surrendering.

"(a) Except when there is actual or suspected child abuse or neglect, a parent who surrenders a newborn shall have the right to remain anonymous and to leave the place of surrendering at any time and shall not be pursued by any person at the time of surrender or prosecuted for surrendering the newborn.

"(b) Surrendering a newborn in accordance with this act, and rules promulgated pursuant to this act, shall not, by itself, constitute a basis for a finding of abuse, neglect, or abandonment of a newborn.

"(c) The Authorized Receiving Facility personnel receiving the surrendered newborn shall make a reasonable effort to obtain family and medical history from the surrendering parent, on an anonymous basis, without seeking personal information, such as the identity or address, and to provide to the surrendering parent information on adoption and counseling services.

"(d) The Authorized Receiving Facility personnel receiving the surrendered newborn shall file a written statement with the CFSA, on or before the time CFSA assumes physical custody of the newborn, that includes the date, time, and circumstances of the surrender."

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 3 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 102 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.

§ 4-1451.03. SIGNAGE.

The Mayor shall develop and post uniform signage with a toll-free number to call for further information in a conspicuous place on the exterior of each Authorized Receiving Facility that states in plain terms that a newborn may be surrendered at the facility in accordance with this chapter.

(May 27, 2010, D.C. Law 18-158, § 103, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Sections 4 of D.C. Law 18-29 added a section to read as follows:

"Sec. 4. Signage.

"An Authorized Receiving Facility shall post a sign in a conspicuous place on the exterior of the facility that states in plain terms that a newborn may be surrendered at the facility in accordance with this act."

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 4 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 103 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.

§ 4-1451.04. PLACEMENT.

(a) After the surrender of a newborn, an Authorized Receiving Facility that is not a hospital shall transport the newborn to the nearest hospital as soon as transportation can be arranged.

(b)(1) The act of surrender shall constitute implied consent for the hospital to which the newborn is surrendered or transported and the hospital's medical personnel to treat and provide care for the newborn and arrange for further placement with CFSA and, through CFSA, with a preadoptive home whenever possible.

(2) Hospital personnel shall immediately contact CFSA to report the surrender of the newborn and arrange for transport of the newborn to CFSA. The CFSA shall assume physical custody of the newborn within 23 hours of the surrender.

(May 27, 2010, D.C. Law 18-158, § 104, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Sections 5 of D.C. Law 18-29 added a section to read as follows:

"Sec. 5. Placement.

"(a) After the surrendering of a newborn, an Authorized Receiving Facility that is not a hospital shall transport the newborn to the nearest hospital as soon as transportation can be arranged.

"(b)(1) The act of surrendering shall constitute implied consent for the hospital to which the newborn is surrendered, or to which the newborn is transported, and the hospital's medical personnel and physicians, to treat and provide care for the newborn and arrange for further placement with CFSA.

"(2) Hospital personnel shall immediately contact CFSA to report the surrender of the newborn and arrange for transport of the newborn to CFSA, which shall take place within 23 hours."

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 5 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 104 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.

§ 4-1451.05. PARENTAL RIGHTS.

(a) Notwithstanding § 4-1406(b), there shall be no 72-hour waiting period prior to relinquishment of parental rights under this chapter. A relinquishment of parental rights shall take place upon surrender. Upon CFSA's receipt of the statement required by § 4-1451.02(d) and assuming physical custody, CFSA shall assume immediate care, custody, and control of the surrendered newborn.

(b) A relinquishment of parental rights under this chapter may be revoked and parental rights restored in accordance with § 4-1406(c) and (d) ; provided, that:

(1) The parent agrees to genetic testing to establish maternity or paternity;

(2) The genetic test establishes that the surrendering parent is the biological parent of the newborn; and

(3) A risk assessment is conducted to determine if a further investigation is necessary or that the family needs to be referred for support services and is so referred.

(c)(1) A relinquishment of parental rights and any revocation of the relinquishment shall be recorded and filed by CFSA in a properly sealed file in the Family Court of the Superior Court for the District of Columbia, along with a copy of the statement required by § 4-1451.02(d), within 20 days after the expiration of the 14-day revocation period in § 4-1406(c).

(2) The seal of the relinquishment file shall not be broken except for good cause shown and upon the written order of a judge.

(d)(1) No later than 90 days after surrender, CFSA shall attempt to identify, locate, and notify the non-surrendering parent by performing a missing-child search and publishing notice of the surrender of the newborn in accordance with paragraph (2) of this subsection.

(2) The notice required by paragraph (1) of this subsection shall, at a minimum, include:

(A) In regard to the surrender, the:

- (i) Place;
- (ii) Date; and
- (iii) Time;

(B) In regard to the newborn, the:

- (i) Sex;
- (ii) Race;
- (iii) Approximate age;
- (iv) Any identifying marks; and
- (v) Any other identifying information CFSA considers necessary; and

(C) A statement that the non-surrendering parent's failure to notify CFSA, or other contact as set forth in the notice, of the intent to exercise his or her parental rights and responsibilities within 20 days of publication of this notice shall be deemed to be the non-surrendering parent's irrevocable consent to the termination of all parental rights and his or her irrevocable waiver of any right to notice of, or opportunity to participate in, any termination of parental rights proceeding involving the surrendered newborn.

(3) The court may grant a petition for adoption without consent following relinquishment of parental rights and the termination of parental rights pursuant to this section and § 16-304(g).

(May 27, 2010, D.C. Law 18-158, § 105, 57 DCR 3000; Sept. 24, 2010, D.C. Law 18-230, § 601, 57 DCR 6951.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-230, in subsec. (c)(1), substituted "14-day" for "10-day".

Temporary Addition of Section

Sections 6 of D.C. Law 18-29 added a section to read as follows:

"Sec. 6. Parental rights.

"(a) Notwithstanding section 6(b) of An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 193; D.C. Official Code § 4-1406(b)) ('placement act'), there shall be no 72-hour period prior to relinquishment under this act. A relinquishment of parental rights shall take place upon surrender. Upon CFSA's receipt of the statement required by section 3(d), CFSA shall take immediate care, custody, and control of the surrendered newborn.

"(b) A relinquishment of parental rights under this act may be revoked and parental rights restored in accordance with section 6(c) and (d) of the placement act.

"(c) Within 20 days after the expiration of the 10-day revocation period provided for in section 6(c) of the placement act, CFSA shall file a form acknowledging the surrender, along with a copy of the statement required by section 3(d), with the Family Court of the Superior Court of the District of Columbia.

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 6 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 105 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.

For Law 18-230, see notes following § 4-361.

§ 4-1451.06. IMMUNITY FROM LIABILITY.

(a) An Authorized Receiving Facility and the personnel of an Authorized Receiving Facility shall be immune from civil or criminal liability for the good-faith performance of the reporting and placement responsibilities under this chapter, including liability for the failure to file a report that might otherwise be incurred or imposed on a person required to report suspected incidents of child abuse or neglect under § 4-1321.02.

(b) In any civil or criminal proceeding brought under this chapter concerning the surrender of a newborn, good faith shall be presumed unless rebutted.

(May 27, 2010, D.C. Law 18-158, § 106, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Sections 7 of D.C. Law 18-29 added a section to read as follows:

"Sec. 7. Immunity from liability.

"(a) An Authorized Receiving Facility and the personnel of an Authorized Receiving Facility shall be immune from civil or criminal liability for the good faith performance of responsibilities under this act, including liability for the failure to file a report that might otherwise be incurred or imposed on a person required to report suspected incidents of child abuse or neglect under section 2 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 5, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.02).

"(b) In any civil or criminal proceeding brought under this act concerning a surrendered newborn, good faith shall be presumed unless rebutted.

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 7 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 106 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.

§ 4-1451.07. STATUS REPORT.

The Mayor shall submit a status report by January 1, 2011, and on January 1 of each year thereafter, to the Council, which shall include the:

- (1) Number of newborns surrendered;
- (2) Services provided to surrendered newborns;
- (3) Outcome of the care provided for each surrendered newborn; and
- (4) Number and disposition of cases of surrendered newborns.

(May 27, 2010, D.C. Law 18-158, § 107, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 107 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.

§ 4-1451.08. RULES.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this chapter. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

(May 27, 2010, D.C. Law 18-158, § 108, 57 DCR 3000.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Sections 8 of D.C. Law 18-29 added a section to read as follows:

"Sec. 8. Rules.

"The Mayor shall issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day review period, the proposed rules shall be deemed approved."

Section 10(b) of D.C. Law 18-29 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 8 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-49, April 27, 2009, 56 DCR 3581).

For temporary (90 day) addition, see § 108 of Newborn Safe Haven Emergency Act of 2009 (D.C. Act 18-321, March 1, 2010, 57 DCR 1842).

Legislative History of Laws

For Law 18-158, see notes following § 4-1451.01.