

Boettger
Redwine
Harper

SSB-1148
Human Resource

SENATE FILE SF HF 355
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON REDWINE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the transfer of custody and termination of
2 parental rights for certain newborn infants whose parent
3 voluntarily surrenders physical custody at certain health
4 facilities and providing for immunity from prosecution for
5 child abandonment crimes for such parent, and providing an
6 effective date.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. NEW SECTION. 232B.1 NEWBORN INFANT SURRENDER
2 ACT -- DEFINITION.

3 1. This chapter may be cited as the "Iowa Newborn Infant
4 Surrender Act".

5 2. For the purposes of this chapter, unless the context
6 otherwise requires:

7 a. "Institutional health facility" means a hospital as
8 defined in section 135.1 and includes a hospital emergency
9 room, health care facility as defined in section 135C.1,
10 organized outpatient health facility as defined in section
11 135.61, outpatient surgical facility as defined in section
12 135.61, or community mental health center, or city, county, or
13 district health department.

14 b. "Newborn infant" means a child who is, or who appears
15 to be, four days of age or younger.

16 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT SURRENDER
17 PROCEDURES.

18 1. A parent of a newborn infant who has not suffered
19 bodily harm may voluntarily surrender physical custody of the
20 newborn infant by relinquishing physical custody of the
21 newborn infant, without expressing an intent to again assume
22 physical custody, at an institutional health facility. For
23 the purposes of this chapter and for any judicial proceedings
24 associated with the newborn infant, the person who voluntarily
25 surrenders physical custody at an institutional health
26 facility in accordance with this section shall be presumed to
27 be the newborn infant's parent.

28 2. a. Unless the parent surrendering physical custody of
29 a newborn infant clearly expresses an intent to return to
30 again assume physical custody of the newborn infant, an
31 individual on duty at the facility at which the newborn infant
32 was surrendered pursuant to subsection 1 shall take physical
33 custody of the newborn infant. The individual on duty may
34 request the parent to provide the name of the parent or
35 parents and information on the medical history of the newborn

1 infant and the newborn infant's parent or parents. However,
 2 the parent is not required to provide the names or medical
 3 history information to comply with this section. The
 4 individual on duty may perform any act necessary to protect
 5 the physical health or safety of the newborn infant. The
 6 individual on duty and the institutional health facility in
 7 which the individual was on duty are immune from criminal or
 8 civil liability for any acts or omissions made in good faith
 9 to comply with this section.

10 b. If the custody of the newborn infant is surrendered at
 11 a hospital, the state shall reimburse the hospital for the
 12 hospital's actual expenses in providing care to the newborn
 13 infant and in performing acts necessary to protect the
 14 physical health or safety of the newborn infant. The
 15 reimbursement shall be paid from moneys appropriated for this
 16 purpose to the department of human services.

17 c. The individual on duty or other person designated by
 18 the institutional health facility at which the newborn infant
 19 was surrendered shall submit the certificate of birth report
 20 as required pursuant to section 144.14.

21 3. As soon as possible after the individual on duty
 22 assumes physical custody of a newborn infant surrendered under
 23 section 1, the individual shall notify the department of human
 24 services. The department shall take the actions immediately
 25 upon receiving the notice necessary to assume the care,
 26 control, and custody of the newborn infant. The department
 27 shall orally notify the court and the county attorney of the
 28 department's action and the circumstances surrounding the
 29 action. Within twenty-four hours of orally informing the
 30 court, the department shall notify the court and the county
 31 attorney in writing of the department's action and the
 32 circumstances surrounding the action.

33 4. Upon being notified in writing by the department under
 34 subsection 3, the county attorney shall file a petition
 35 alleging the newborn infant to be a child in need of

1 assistance in accordance with section 232.87 and a petition
2 for termination of parental rights with respect to the newborn
3 infant in accordance with section 232.111, subsection 2,
4 paragraph "a". A hearing on a petition filed pursuant to this
5 subsection shall be held at the earliest practicable time.

6 5. Reasonable efforts, as defined in section 232.102, that
7 are made in regard to the newborn infant shall be limited to
8 the efforts made in a timely manner to finalize a permanency
9 plan for the newborn infant.

10 6. An individual on duty at an institutional health
11 facility who assumes custody of a newborn infant upon the
12 surrender of the newborn infant under subsection 1 shall be
13 provided notice of any hearing held concerning the newborn
14 infant at the same time notice is provided to other parties to
15 the hearing and the individual may provide testimony at the
16 hearing.

17 Sec. 3. NEW SECTION. 232B.3 RIGHTS OF OTHER PARENT.

18 1. If one parent surrenders physical custody of a newborn
19 infant in accordance with section 232B.2, the other parent may
20 file an action with the juvenile court for custody of the
21 child. The action must be filed within thirty days after the
22 date the physical custody of the newborn infant was
23 surrendered.

24 2. In order to be awarded custody of the newborn infant,
25 the person filing the action must prove all of the following
26 by a preponderance of the evidence:

27 a. The person is the parent of the newborn infant.

28 b. The person did not consent to the surrender of custody
29 of the newborn infant.

30 3. If a person alleging to be the other parent of a
31 newborn infant does not file an action within the period
32 required in subsection 1, the person is barred from filing an
33 action for custody of the child. By operation of law and
34 without any judicial proceedings, the person's parental rights
35 with respect to the child are terminated.

1 Sec. 4. Section 232.111, subsection 2, paragraph a,
2 subparagraph (3), Code 2001, is amended to read as follows:

3 (3) The child is less than twelve months of age and has
4 been judicially determined to meet the definition of
5 abandonment of a child or the child is a newborn infant whose
6 parent has voluntarily surrendered physical custody of the
7 child in accordance with chapter 232B.

8 Sec. 5. Section 232.116, subsection 1, paragraph b, Code
9 2001, is amended to read as follows:

10 b. The court finds that there is clear and convincing
11 evidence that the child has been abandoned or deserted or that
12 the child is a newborn infant whose parent has voluntarily
13 surrendered physical custody of the child in accordance with
14 chapter 232B.

15 Sec. 6. Section 726.3, Code 2001, is amended to read as
16 follows:

17 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

18 A person who is the father, mother, or some other person
19 having custody of a child, or of any other person who by
20 reason of mental or physical disability is not able to care
21 for the person's self, who knowingly or recklessly exposes
22 such person to a hazard or danger against which such person
23 cannot reasonably be expected to protect such person's self or
24 who deserts or abandons such person, knowing or having reason
25 to believe that the person will be exposed to such hazard or
26 danger, commits a class "C" felony. However, a parent who
27 has, in accordance with section 232B.2, voluntarily
28 surrendered physical custody of a newborn infant who has not
29 suffered bodily harm shall not be prosecuted for a violation
30 of this section involving abandonment of that newborn infant.

31 Sec. 7. Section 726.6, Code 2001, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 1A. A parent who has, in accordance with
34 section 232B.2, voluntarily surrendered physical custody of a
35 newborn infant who has not suffered bodily harm shall not be

1 prosecuted for a violation of this section involving
2 abandonment of that newborn infant.

3 Sec. 8. EFFECTIVE DATE. This Act, being deemed of
4 immediate importance, takes effect upon enactment.

5 EXPLANATION

6 This bill provides for the transfer of custody of and
7 termination of parental rights for a newborn infant whose
8 parent voluntarily surrenders physical custody of the newborn
9 infant and provides for immunity from prosecution for such
10 parent.

11 New Code section 232B.1 provides that new Code chapter 232B
12 may be cited as the "Iowa Newborn Infant Surrender Act". The
13 term "newborn infant" is defined as a child who is, or appears
14 to be, four days of age or younger.

15 New Code section 232B.2 establishes the procedures for a
16 parent to voluntarily surrender physical custody of the
17 parent's newborn infant and relates these procedures to the
18 juvenile justice code division on child in need of assistance
19 proceedings. The person who surrenders custody of the newborn
20 infant is presumed to be the child's parent. So long as a
21 newborn infant has not suffered bodily harm, the newborn
22 infant's parent may voluntarily surrender physical custody at
23 an institutional health facility which includes a hospital,
24 nursing facility, local health department, or other specified
25 types of providers of health services.

26 An individual on duty at an institutional health facility
27 at which a newborn infant is surrendered may act to protect
28 the health or safety of the newborn infant. The individual on
29 duty may request the parent to provide the name of the parent
30 and information on the medical history of the infant and
31 parents, however, the parent is not required to provide the
32 name or medical history information. Immunity from civil and
33 criminal liability is provided to the individual and the owner
34 of the institutional health facility in which the individual
35 was on duty for acts or omissions made in good faith to comply

1 with the bill's requirements. The individual is to notify the
 2 department of human services after assuming custody. The
 3 department is required to immediately take action to assume
 4 custody from the individual and is required to orally notify
 5 the court and the county attorney. A written notification
 6 from the department to the court and county attorney is
 7 required to follow within 24 hours.

8 Upon being notified by the department, the county attorney
 9 is required to file petitions alleging that the newborn infant
 10 is a child in need of assistance and for termination of
 11 parental rights with respect to the newborn infant. Hearings
 12 for these petitions are to be held at the earliest practicable
 13 time.

14 The existing requirement under the child in need of
 15 assistance law for the performance of reasonable efforts to
 16 prevent or eliminate the need for removal of the newborn
 17 infant is to be limited to efforts made to finalize a
 18 permanency plan for the newborn infant. The individual who
 19 received the surrender of the newborn infant is to receive
 20 notice of any hearing and may provide testimony in the
 21 hearing.

22 Provisions in Code section 232.111 and 232.116, relating to
 23 termination of parental rights petitions and grounds under the
 24 juvenile justice code, are amended to specifically include a
 25 newborn infant surrendered as provided in the bill.

26 Code section 726.3, relating to neglect or abandonment of a
 27 dependent person, and Code section 726.6, relating to child
 28 endangerment, are amended to provide that a parent who
 29 voluntarily surrenders a newborn infant as provided in the
 30 bill is not subject to prosecution under those sections for a
 31 violation involving abandonment of the newborn infant.

32 The bill takes effect upon enactment.

33
 34
 35

Substitutes for HF 543
4-12-01
(P. 1156)

REPRINTED

FILED MAR 6 01

SENATE FILE 355
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1148)

Passed Senate, Date ^(P. 874) 3-27-01 Passed House, Date ^(P. 1157) 4-11-01
Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 1

Approved April 24, 2001
Passed 4-17-01
Vote 49-0

(P. 1144)

P

A BILL FOR

1 An Act providing for the transfer of custody and termination of
2 parental rights for a newborn infant whose parent voluntarily
3 surrenders physical custody at certain health facilities and
4 providing for immunity from prosecution for child abandonment
5 crimes for such parent, establishing confidentiality
6 protections and a penalty, and providing an effective date.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 355

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. NEW SECTION. 232B.1 NEWBORN INFANT SURRENDER
2 ACT -- DEFINITION.

3 1. This chapter may be cited as the "Iowa Newborn Infant
4 Surrender Act".

5 2. For the purposes of this chapter, unless the context
6 otherwise requires:

7 a. "Institutional health facility" means a hospital as
8 defined in section 135B.1 and includes a hospital emergency
9 room, health care facility as defined in section 135C.1,
10 organized outpatient health facility as defined in section
11 135.61, outpatient surgical facility as defined in section
12 135.61, or community mental health center, or city, county, or
13 district health department.

14 b. "Newborn infant" means a child who is, or who appears
15 to be, four days of age or younger.

16 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT SURRENDER
17 PROCEDURES.

18 1. A parent of a newborn infant who has not suffered
19 bodily harm may voluntarily surrender physical custody of the
20 newborn infant by relinquishing physical custody of the
21 newborn infant, without expressing an intent to again assume
22 physical custody, at an institutional health facility. For
23 the purposes of this chapter and for any judicial proceedings
24 associated with the newborn infant, a rebuttable presumption
25 arises that the person who voluntarily surrenders physical
26 custody at an institutional health facility in accordance with
27 this section is the newborn infant's parent.

28 2. a. Unless the parent surrendering physical custody of
29 a newborn infant clearly expresses an intent to return to
30 again assume physical custody of the newborn infant, an
31 individual on duty at the facility at which the newborn infant
32 was surrendered pursuant to subsection 1 shall take physical
33 custody of the newborn infant. The individual on duty may
34 request the parent to provide the name of the parent or
35 parents and information on the medical history of the newborn

1 infant and the newborn infant's parent or parents. However,
2 the parent is not required to provide the names or medical
3 history information to comply with this section. The
4 individual on duty may perform any act necessary to protect
5 the physical health or safety of the newborn infant. The
6 individual on duty and the institutional health facility in
7 which the individual was on duty are immune from criminal or
8 civil liability for any acts or omissions made in good faith
9 to comply with this section.

10 b. If the custody of the newborn infant is surrendered at
11 an institutional health facility, the state shall reimburse
12 the institutional health facility for the institutional health
13 facility's actual expenses in providing care to the newborn
14 infant and in performing acts necessary to protect the
15 physical health or safety of the newborn infant. The
16 reimbursement shall be paid from moneys appropriated for this
17 purpose to the department of human services.

18 c. The individual on duty or other person designated by
19 the institutional health facility at which the newborn infant
20 was surrendered shall submit the certificate of birth report
21 as required pursuant to section 144.14.

22 3. As soon as possible after the individual on duty
23 assumes physical custody of a newborn infant surrendered under
24 section 1, the individual shall notify the department of human
25 services. The department shall take the actions immediately
26 upon receiving the notice necessary to assume the care,
27 control, and custody of the newborn infant. The department
28 shall orally notify the juvenile court and the county attorney
29 of the department's action and the circumstances surrounding
30 the action and request an ex parte order from the juvenile
31 court ordering, in accordance with the requirements of section
32 232.78, the department to take custody of the child. Upon
33 receiving the order, the department shall take custody of the
34 child. Within twenty-four hours of taking custody of the
35 child, the department shall notify the juvenile court and the

1 county attorney in writing of the department's action and the
2 circumstances surrounding the action.

3 4. Upon being notified in writing by the department under
4 subsection 3, the county attorney shall file a petition
5 alleging the newborn infant to be a child in need of
6 assistance in accordance with section 232.87 and a petition
7 for termination of parental rights with respect to the newborn
8 infant in accordance with section 232.111, subsection 2,
9 paragraph "a". A hearing on a petition filed pursuant to this
10 subsection shall be held at the earliest practicable time.
11 Notice of a petition filed pursuant to this subsection shall
12 be provided in accordance with the provisions of chapter 232
13 and shall be served upon any putative father registered with
14 the state registrar of vital statistics pursuant to section
15 144.12A.

16 5. Reasonable efforts, as defined in section 232.102, that
17 are made in regard to the newborn infant shall be limited to
18 the efforts made in a timely manner to finalize a permanency
19 plan for the newborn infant.

20 6. An individual on duty at an institutional health
21 facility who assumes custody of a newborn infant upon the
22 surrender of the newborn infant under subsection 1 shall be
23 provided notice of any hearing held concerning the newborn
24 infant at the same time notice is provided to other parties to
25 the hearing and the individual may provide testimony at the
26 hearing.

27 Sec. 3. NEW SECTION. 232B.3 RIGHTS OF PARENTS.

28 1. A parent who surrenders physical custody of a newborn
29 infant in accordance with section 232B.2 may, within fourteen
30 days after the date the physical custody was surrendered,
31 request the juvenile court to order the revocation of the
32 release of custody. The requester must show by clear and
33 convincing evidence that the requester is the parent of the
34 newborn infant. If the court determines that the requester is
35 the parent of the newborn infant who surrendered physical

1 custody and that return of the newborn infant to the parent is
2 in the newborn infant's best interest, the court shall order
3 revocation of the release of custody and custody of the
4 newborn infant shall be returned to the parent.

5 2. If one parent surrenders physical custody of a newborn
6 infant in accordance with section 232B.2, the other parent may
7 seek custody of the child by intervening in the child in need
8 of assistance or termination of parental rights proceeding
9 initiated pursuant to section 232B.2, subsection 4. The
10 action must be filed within fourteen days after the date the
11 physical custody of the newborn infant was surrendered.

12 3. In order to be awarded custody of the newborn infant,
13 the person filing the action must prove all of the following
14 by a preponderance of the evidence:

- 15 a. The person is the parent of the newborn infant.
- 16 b. The person did not consent to the surrender of custody
17 of the newborn infant.

18 4. If a person alleging to be the other parent of a
19 newborn infant does not file an action within the period
20 required in subsection 2, the person is barred from filing an
21 action for custody of the child. By operation of law and
22 without any judicial proceedings, the person's parental rights
23 with respect to the child are terminated.

24 Sec. 4. NEW SECTION. 232B.4 CONFIDENTIALITY PROTECTIONS.

25 1. In addition to any other privacy protection established
26 in law, a record that is developed, acquired, or held in
27 connection with an individual's good faith effort to
28 voluntarily surrender a newborn infant in accordance with this
29 chapter and any identifying information concerning the
30 individual shall be kept confidential. Such record shall not
31 be inspected or the contents disclosed except as provided in
32 this section.

33 2. A record described in subsection 1 may be inspected and
34 the contents disclosed without court order to the following:

- 35 a. The court and professional court staff, including

1 juvenile court officers.

2 b. The newborn infant and the newborn infant's counsel.

3 c. The newborn infant's parent, guardian, custodian,
4 court-appointed special advocate, and guardian ad litem.

5 d. The county attorney and the county attorney's
6 assistants.

7 e. An agency, association, facility, or institution which
8 has custody of the newborn infant, or is legally responsible
9 for the care, treatment, or supervision of the newborn infant.

10 f. The newborn infant's foster parent or an individual
11 providing preadoptive care to the newborn infant.

12 3. Pursuant to court order a record described in
13 subsection 1 may be inspected by and the contents may be
14 disclosed to any of the following:

15 a. A person conducting bona fide research for research
16 purposes under whatever conditions the court may deem proper,
17 provided that no personal identifying data shall be disclosed
18 to such a person.

19 b. Persons who have a direct interest in a proceeding or
20 in the work of the court.

21 4. Any person who knowingly discloses, receives, or makes
22 use or permits the use of information derived directly or
23 indirectly from such a record or discloses identifying
24 information concerning such individual, except as provided by
25 this section, commits a serious misdemeanor.

26 Sec. 5. NEW SECTION. 232B.5 EDUCATIONAL AND PUBLIC
27 INFORMATION.

28 The department of human services, in consultation with the
29 Iowa department of public health and the department of
30 justice, shall develop and distribute the following:

31 1. An information card or other publication for
32 distribution by an institutional health facility to a parent
33 who surrenders physical custody of a newborn infant in
34 accordance with this chapter. The publication shall inform
35 the parent of a parent's rights under section 232B.3, explain

1 the request for medical history information under section
2 232B.2, subsection 2, and provide other information deemed
3 pertinent by the departments.

4 2. Educational materials, public information
5 announcements, and other resources to develop awareness of the
6 availability of the Iowa newborn infant surrender Act among
7 adolescents, young parents, and others who might avail
8 themselves of the Act.

9 Sec. 6. Section 232.2, subsection 6, Code 2001, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. p. Who is a newborn infant whose parent
12 has voluntarily surrendered physical custody of the child in
13 accordance with chapter 232B.

14 Sec. 7. Section 232.111, subsection 2, paragraph a,
15 subparagraph (3), Code 2001, is amended to read as follows:

16 (3) The child is less than twelve months of age and has
17 been judicially determined to meet the definition of
18 abandonment of a child or the child is a newborn infant whose
19 parent has voluntarily surrendered physical custody of the
20 child in accordance with chapter 232B.

21 Sec. 8. Section 232.116, subsection 1, paragraph b, Code
22 2001, is amended to read as follows:

23 b. The court finds that there is clear and convincing
24 evidence that the child has been abandoned or deserted or that
25 the child is a newborn infant whose parent has voluntarily
26 surrendered physical custody of the child in accordance with
27 chapter 232B.

28 Sec. 9. Section 726.3, Code 2001, is amended to read as
29 follows:

30 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

31 A person who is the father, mother, or some other person
32 having custody of a child, or of any other person who by
33 reason of mental or physical disability is not able to care
34 for the person's self, who knowingly or recklessly exposes
35 such person to a hazard or danger against which such person

1 cannot reasonably be expected to protect such person's self or
2 who deserts or abandons such person, knowing or having reason
3 to believe that the person will be exposed to such hazard or
4 danger, commits a class "C" felony. However, a parent who
5 has, in accordance with section 232B.2, voluntarily
6 surrendered physical custody of a newborn infant who has not
7 suffered bodily harm shall not be prosecuted for a violation
8 of this section involving abandonment of that newborn infant.

9 Sec. 10. Section 726.6, Code 2001, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 1A. A parent who has, in accordance with
12 section 232B.2, voluntarily surrendered physical custody of a
13 newborn infant who has not suffered bodily harm shall not be
14 prosecuted for a violation of this section involving
15 abandonment of that newborn infant.

16 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
17 immediate importance, takes effect upon enactment.

18 EXPLANATION

19 This bill provides for the transfer of custody of and
20 termination of parental rights for a newborn infant whose
21 parent voluntarily surrenders physical custody of the newborn
22 infant and provides for immunity from prosecution for such
23 parent.

24 New Code section 232B.1 provides that new Code chapter 232B
25 may be cited as the "Iowa Newborn Infant Surrender Act". The
26 term "newborn infant" is defined as a child who is, or appears
27 to be, four days of age or younger.

28 New Code section 232B.2 establishes the procedures for a
29 parent to voluntarily surrender physical custody of the
30 parent's newborn infant and relates these procedures to the
31 juvenile justice code division on child in need of assistance
32 proceedings. For purposes of the bill and any judicial
33 proceedings, a rebuttable presumption arises that the person
34 who surrenders custody of the newborn infant is the child's
35 parent. So long as a newborn infant has not suffered bodily

1 harm, the newborn infant's parent may voluntarily surrender
2 physical custody at an institutional health facility which
3 includes a hospital, nursing or other health care facility,
4 local health department, or other specified types of providers
5 of health services.

6 An individual on duty at an institutional health facility
7 at which a newborn infant is surrendered may act to protect
8 the health or safety of the newborn infant. The individual on
9 duty may request the parent to provide the name of the parent
10 and information on the medical history of the infant and
11 parents, however, the parent is not required to provide the
12 name or medical history information. Immunity from civil and
13 criminal liability is provided to the individual and the owner
14 of the institutional health facility in which the individual
15 was on duty for acts or omissions made in good faith to comply
16 with the bill's requirements. The individual is to notify the
17 department of human services after assuming custody. The
18 department is required to immediately take action to assume
19 custody from the individual and is required to orally notify
20 the juvenile court and the county attorney. The oral
21 notification is required to include a request to the juvenile
22 court for an ex parte order for the department to take custody
23 of the newborn infant. A written notification from the
24 department to the court and county attorney is required to
25 follow within 24 hours.

26 Upon being notified by the department, the county attorney
27 is required to file petitions alleging that the newborn infant
28 is a child in need of assistance and for termination of
29 parental rights with respect to the newborn infant. Hearings
30 for these petitions are to be held at the earliest practicable
31 time. Notice for these hearings is to be provided in accordance
32 with Code chapter 232 and is to be served upon any putative
33 father registered with the state.

34 The existing requirement under the child in need of
35 assistance law for the performance of reasonable efforts to

1 prevent or eliminate the need for removal of the newborn
2 infant is to be limited to efforts made to finalize a
3 permanency plan for the newborn infant. The individual who
4 received the surrender of the newborn infant is to receive
5 notice of any hearing and may provide testimony in the
6 hearing.

7 New Code section 232B.3 provides for rights of parents.
8 The parent who surrenders custody of the newborn infant may
9 request that the juvenile court revoke the parent's release of
10 custody. The request must be made within 14 days of the
11 release of custody. The other parent also may file an action
12 intervening in the child in need of assistance or termination
13 of parental rights proceeding. This action must also be filed
14 within 14 days of the release of custody.

15 New Code section 232B.4 provides confidentiality
16 protections for the surrender of a newborn infant in
17 accordance with the bill. Any records and any identifying
18 information concerning the individual who surrendered an
19 infant are to be kept confidential. Access to the records is
20 provided without court order to the newborn infant and others
21 involved with the infant such as attorneys, foster parents,
22 and agencies providing care to the infant. A violation
23 involving knowing disclosure of confidential information is a
24 serious misdemeanor.

25 New Code section 232B.5 requires the department of human
26 services to consult with the departments of public health and
27 justice in developing and distributing information that may be
28 given to individuals who surrender a newborn infant and for
29 publicizing the bill's provisions.

30 Provisions in Code sections 232.2, 232.111, and 232.116,
31 relating to the definition of a child in need of assistance,
32 termination of parental rights petitions, and grounds for
33 termination under the juvenile justice code, are amended to
34 specifically include a newborn infant surrendered as provided
35 in the bill.

1 Code section 726.3, relating to neglect or abandonment of a
2 dependent person, and Code section 726.6, relating to child
3 endangerment, are amended to provide that a parent who
4 voluntarily surrenders a newborn infant as provided in the
5 bill is not subject to prosecution under those sections for a
6 violation involving abandonment of the newborn infant.

7 The bill takes effect upon enactment.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 355

S-3251

1 Amend Senate File 355 as follows:

2 1. By striking everything after the enacting
3 clause, and inserting the following:

4 "Section 1. NEW SECTION. 232B.1 NEWBORN SAFE
5 HAVEN ACT -- DEFINITIONS.

6 1. This chapter may be cited as the "Newborn Safe
7 Haven Act".

8 2. For the purposes of this chapter, unless the
9 context otherwise requires:

10 a. "Institutional health facility" means a
11 hospital as defined in section 135B.1, including a
12 facility providing medical or health services that is
13 open twenty-four hours per day, seven days per week
14 and is a hospital emergency room, or a health care
15 facility as defined in section 135C.1.

16 b. "Newborn infant" means a child who is, or who
17 appears to be, fourteen days of age or younger.

18 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT
19 CUSTODY RELEASE PROCEDURES.

20 1. A parent of a newborn infant may voluntarily
21 release custody of the newborn infant by relinquishing
22 physical custody of the newborn infant, without
23 expressing an intent to again assume physical custody,
24 at an institutional health facility or by authorizing
25 another person to relinquish physical custody on the
26 parent's behalf. If physical custody of the newborn
27 infant is not relinquished directly to an individual
28 on duty at the institutional health facility, the
29 parent may take other actions to be reasonably sure
30 that an individual on duty is aware that the newborn
31 infant has been left at the institutional health
32 facility. The actions may include but are not limited
33 to making telephone contact with the institutional
34 health facility or a 911 service. For the purposes of
35 this chapter and for any judicial proceedings
36 associated with the newborn infant, a rebuttable
37 presumption arises that the person who relinquishes
38 physical custody at an institutional health facility
39 in accordance with this section is the newborn
40 infant's parent or has relinquished physical custody
41 with the parent's authorization.

42 2. a. Unless the parent or other person
43 relinquishing physical custody of a newborn infant
44 clearly expresses an intent to return to again assume
45 physical custody of the newborn infant, an individual
46 on duty at the facility at which physical custody of
47 the newborn infant was relinquished pursuant to
48 subsection 1 shall take physical custody of the
49 newborn infant. The individual on duty may request
50 the parent or other person to provide the name of the

S-3251

S-3251

Page 2

1 parent or parents and information on the medical
2 history of the newborn infant and the newborn infant's
3 parent or parents. However, the parent or other
4 person is not required to provide the names or medical
5 history information to comply with this section. The
6 individual on duty may perform reasonable acts
7 necessary to protect the physical health or safety of
8 the newborn infant. The individual on duty and the
9 institutional health facility in which the individual
10 was on duty are immune from criminal or civil
11 liability for any acts or omissions made in good faith
12 to comply with this section.

13 b. If the physical custody of the newborn infant
14 is relinquished at an institutional health facility,
15 the state shall reimburse the institutional health
16 facility for the institutional health facility's
17 actual expenses in providing care to the newborn
18 infant and in performing acts necessary to protect the
19 physical health or safety of the newborn infant. The
20 reimbursement shall be paid from moneys appropriated
21 for this purpose to the department of human services.

22 c. The individual on duty or other person
23 designated by the institutional health facility at
24 which physical custody of the newborn infant was
25 relinquished shall submit the certificate of birth
26 report as required pursuant to section 144.14.

27 3. As soon as possible after the individual on
28 duty assumes physical custody of a newborn infant
29 released under subsection 1, the individual shall
30 notify the department of human services and the
31 department shall take the actions necessary to assume
32 the care, control, and custody of the newborn infant.
33 The department shall immediately notify the juvenile
34 court and the county attorney of the department's
35 action and the circumstances surrounding the action
36 and request an ex parte order from the juvenile court
37 ordering, in accordance with the requirements of
38 section 232.78, the department to take custody of the
39 newborn infant. Upon receiving the order, the
40 department shall take custody of the newborn infant.
41 Within twenty-four hours of taking custody of the
42 newborn infant, the department shall notify the
43 juvenile court and the county attorney in writing of
44 the department's action and the circumstances
45 surrounding the action.

46 4. a. Upon being notified in writing by the
47 department under subsection 3, the county attorney
48 shall file a petition alleging the newborn infant to
49 be a child in need of assistance in accordance with
0 section 232.87 and a petition for termination of

S-3251

S-3251

Page 3

1 parental rights with respect to the newborn infant in
2 accordance with section 232.111, subsection 2,
3 paragraph "a". A hearing on a child in need of
4 assistance petition filed pursuant to this subsection
5 shall be held at the earliest practicable time. A
6 hearing on a termination of parental rights petition
7 filed pursuant to this subsection shall be held no
8 later than thirty days after the day the physical
9 custody of the newborn child was relinquished in
10 accordance with subsection 1 unless the juvenile court
11 continues the hearing beyond the thirty days for good
12 cause shown.

13 b. Notice of a petition filed pursuant to this
14 subsection shall be provided in accordance with the
15 provisions of chapter 232 and shall be served upon any
16 putative father registered with the state registrar of
17 vital statistics pursuant to section 144.12A. Prior
18 to holding a termination of parental rights hearing
19 with respect to the newborn infant, notice by
20 publication shall be provided as described in section
21 600A.6, subsection 5.

22 5. Reasonable efforts, as defined in section
23 232.102, that are made in regard to the newborn infant
24 shall be limited to the efforts made in a timely
25 manner to finalize a permanency plan for the newborn
26 infant.

27 6. An individual on duty at an institutional
28 health facility who assumes custody of a newborn
29 infant upon the release of the newborn infant under
30 subsection 1 shall be provided notice of any hearing
31 held concerning the newborn infant at the same time
32 notice is provided to other parties to the hearing and
33 the individual may provide testimony at the hearing.

34 Sec. 3. NEW SECTION. 232B.3 IMMUNITY.

35 The parent of a newborn infant who voluntarily
36 releases custody of the newborn infant in accordance
37 with subsection 1, is immune from criminal prosecution
38 and civil liability for any act or omission made in
39 connection with the newborn infant prior to the time
40 of the voluntary release. Any other person authorized
41 by the parent to assist with such release by
42 relinquishing physical custody of the newborn infant
43 or to otherwise act on the parent's behalf is immune
44 from criminal prosecution and civil liability for any
45 reasonable acts or omissions made in good faith in
46 assisting with the release.

47 Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.

48 Either parent of a newborn infant whose custody was
49 released in accordance with section 232B.2, may
50 intervene in the child in need of assistance or

S-3251

S-3251

Page 4

1 termination of parental rights proceedings held
2 regarding the newborn infant and request that the
3 juvenile court grant custody of the newborn infant to
4 the parent. The requester must show by clear and
5 convincing evidence that the requester is the parent
6 of the newborn infant. If the court determines that
7 the requester is the parent of the newborn infant and
8 that granting custody of the newborn infant to the
9 parent is in the newborn infant's best interest, the
10 court shall issue an order granting custody of the
11 newborn infant to the parent. In addition to such
12 order, the court may order services for the newborn
13 infant and the parent as are in the best interest of
14 the newborn infant.

15 Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY
16 PROTECTIONS.

17 1. In addition to any other privacy protection
18 established in law, a record that is developed,
19 acquired, or held in connection with an individual's
20 good faith effort to voluntarily release a newborn
21 infant in accordance with this chapter and any
22 identifying information concerning the individual
23 shall be kept confidential. Such record shall not be
24 inspected or the contents disclosed except as provided
25 in this section.

26 2. A record described in subsection 1 may be
27 inspected and the contents disclosed without court
28 order to the following:

29 a. The court and professional court staff,
30 including juvenile court officers.

31 b. The newborn infant and the newborn infant's
32 counsel.

33 c. The newborn infant's parent, guardian,
34 custodian, court-appointed special advocate, and
35 guardian ad litem.

36 d. The county attorney and the county attorney's
37 assistants.

38 e. An agency, association, facility, or
39 institution which has custody of the newborn infant,
40 or is legally responsible for the care, treatment, or
41 supervision of the newborn infant.

42 f. The newborn infant's foster parent or an
43 individual providing preadoptive care to the newborn
44 infant.

45 3. Pursuant to court order a record described in
46 subsection 1 may be inspected by and the contents may
47 be disclosed to any of the following:

48 a. A person conducting bona fide research for
49 research purposes under whatever conditions the court
50 may deem proper, provided that no personal identifying

S-3251

S-3251

Page 5

1 data shall be disclosed to such a person.

2 b. Persons who have a direct interest in a
3 proceeding or in the work of the court.

4 4. Any person who knowingly discloses, receives,
5 or makes use or permits the use of information derived
6 directly or indirectly from such a record or discloses
7 identifying information concerning such individual,
8 except as provided by this section, commits a serious
9 misdemeanor.

10 Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND
11 PUBLIC INFORMATION.

12 The department of human services, in consultation
13 with the Iowa department of public health and the
14 department of justice, shall develop and distribute
15 the following:

16 1. An information card or other publication for
17 distribution by an institutional health facility to a
18 parent who releases custody of a newborn infant in
19 accordance with this chapter. The publication shall
20 inform the parent of a parent's rights under section
21 232B.4, explain the request for medical history
22 information under section 232B.2, subsection 2, and
23 provide other information deemed pertinent by the
24 departments.

25 2. Educational materials, public information
26 announcements, and other resources to develop
27 awareness of the availability of the newborn safe
28 haven Act, among adolescents, young parents, and
29 others who might avail themselves of the Act.

30 3. Signage that may be used to identify the
31 institutional health facilities at which physical
32 custody of a newborn infant may be relinquished in
33 accordance with this chapter.

34 Sec. 7. Section 232.2, subsection 6, Code 2001, is
35 amended by adding the following new paragraph:

36 NEW PARAGRAPH. p. Who is a newborn infant whose
37 parent has voluntarily released custody of the child
38 in accordance with chapter 232B.

39 Sec. 8. Section 232.102, Code 2001, is amended by
40 adding the following new subsection:

41 NEW SUBSECTION. 1B. If the court has adjudicated
42 the child to be in need of assistance based upon the
43 definition in section 232.2, subsection 6, paragraph
44 "p", for a newborn infant whose parent voluntarily
45 released custody of the child in accordance with
46 chapter 232B, the child placing agency or the
47 department to which the court transfers legal custody
48 of the child under subsection 1 shall make every
49 reasonable effort to place the child in preadoptive
50 care or other appropriate placement that is likely to

S-3251

S-3251

Page 6

1 lead to the permanent placement of the child in an
2 expedited manner.

3 Sec. 9. Section 232.111, subsection 2, paragraph
4 a, subparagraph (3), Code 2001, is amended to read as
5 follows:

6 (3) The child is less than twelve months of age
7 and has been judicially determined to meet the
8 definition of abandonment of a child or the child is a
9 newborn infant whose parent has voluntarily released
10 custody of the child in accordance with chapter 232B.

11 Sec. 10. Section 232.116, subsection 1, Code 2001,
12 is amended by adding the following new paragraph:

13 NEW PARAGRAPH. bb. The court finds that there is
14 clear and convincing evidence that the child is a
15 newborn infant whose parent has voluntarily released
16 custody of the child in accordance with chapter 232B.

17 Sec. 11. Section 232.117, Code 2001, is amended by
18 adding the following new subsection:

19 NEW SUBSECTION. 9. If a termination of parental
20 rights order is issued on the grounds that the child
21 is a newborn infant whose parent has voluntarily
22 released custody of the child under section 232.116,
23 subsection 1, paragraph "bb", the court shall retain
24 jurisdiction to change a guardian or custodian and to
25 allow a parent whose rights have been terminated or
26 any putative parent to request vacation or appeal of
27 the termination order which request must be made
28 within thirty days of issuance of the granting of the
29 termination order. The period for request for
30 vacation or appeal by a parent whose rights have been
31 terminated or by a putative parent shall not be waived
32 or extended and a vacation or appeal shall not be
33 granted for a request made after the expiration of
34 this period. The court shall grant the vacation
35 request only if it is in the best interest of the
36 child. The supreme court shall prescribe rules to
37 conclusively establish the period of thirty days,
38 which shall not be waived or extended, in which a
39 parent whose parental rights have been terminated or a
40 putative parent may request a vacation or appeal of
41 such a termination order.

42 Sec. 12. NEW SECTION. 802.10 NEWBORN SAFE HAVEN
43 ACT -- IMMUNITY.

44 The parent of a newborn infant who voluntarily
45 releases custody of the newborn infant in accordance
46 with chapter 232B, the newborn safe haven Act, has
47 immunity from criminal prosecution and civil liability
48 as provided in section 232B.3. Any other person
49 authorized by the parent to assist with such release
0 on the parent's behalf has immunity from criminal

S-3251

S-3251

Page 7

1 prosecution and civil liability as provided in section
2 232B.3.

3 Sec. 13. EFFECTIVE DATE. This Act, being deemed
4 of immediate importance, takes effect upon enactment."

5 2. Title page, by striking lines 1 through 6 and
6 inserting the following: "An Act providing for the
7 release of custody and termination of parental rights
8 for certain newborn infants whose parent or person
9 authorized to act on the parent's behalf relinquishes
10 physical custody at certain health facilities and
11 providing for immunity from prosecution and civil
12 liability for such parent or person, establishing
13 confidentiality protections and a penalty, and
14 providing an effective date."

By NANCY BOETTGER

S-3251 FILED MARCH 27, 2001

WITHDRAWN

(p. 874)

**SENATE FILE 355
FISCAL NOTE**

The estimate for **Senate File 355** is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 355 provides for the transfer of custody and termination of parental rights for a newborn infant whose parent voluntarily surrenders physical custody.

ASSUMPTIONS

1. There would be a need to file a child-in-need of assistance and a termination of parental rights proceeding.
2. A standard child-in-need of assistance case costs approximately \$3,000 in initial proceeding and \$500 per year thereafter.
3. An initial proceeding to terminate parental rights would cost approximately \$5,000.
4. Posters and literature regarding Safe Havens signage would be paid for by the Department of Human Services costing approximately \$9,000.
5. Knowingly disclosing confidential information is a serious misdemeanor.
6. Neglect or abandonment of a dependent is a Class C felony, however, a parent, in accordance with Section 232B.2, Code of Iowa, who voluntarily surrenders physical custody of an unharmed newborn infant shall not be prosecuted for the violation.
7. The State Public Defender's costs for a Class C felony are \$1,200.
8. Court costs for a Class C felony range between \$2,900 to \$5,000.
9. The marginal cost of a prison inmate is \$16 per day.
10. The average length of stay for a Class C felony is 41.2 months.
11. The length of stay on supervision is 30 months at \$1.55 per day.
12. There were 21 people convicted of neglect or abandonment during FY 2000.
13. Charge, conviction, and sentencing patterns and trends will not change over the projections period.
14. Prisoner length of stay, revocation rates and other corrections policies and practices will not change over the projections period.
15. The law will become effective July 1, 2001. A lag effect of six months is assumed.
16. There is approximately one newborn abandonment per year.

CORRECTIONAL IMPACT

Senate File 355 is expected to result in fewer convictions under Section 726.3 (neglect/abandonment), Code of Iowa. Due to insufficient information, an accurate correctional impact cannot be provided. In FY 2000, there were 21 offenders convicted of neglect or abandonment.

FISCAL IMPACT

-2-

Due to insufficient information, the fiscal impact cannot be determined. The cost associated with one case would be approximately \$26,000.

SOURCES

Criminal and Juvenile Justice Planning Division, Department of Human Rights
Department of Human Services
Department of Public Health
Judicial Branch
State Public Defender

(LSB 2634SV, JDD)

FILED MARCH 12, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 355

S-3271

1 Amend Senate File 355 as follows:

2 1. By striking everything after the enacting
3 clause, and inserting the following:

4 "Section 1. NEW SECTION. 232B.1 NEWBORN SAFE
5 HAVEN ACT -- DEFINITIONS.

6 1. This chapter may be cited as the "Newborn Safe
7 Haven Act".

8 2. For the purposes of this chapter, unless the
9 context otherwise requires:

10 a. "Institutional health facility" means a
11 hospital as defined in section 135B.1, including a
12 facility providing medical or health services that is
13 open twenty-four hours per day, seven days per week
14 and is a hospital emergency room, or a health care
15 facility as defined in section 135C.1.

16 b. "Newborn infant" means a child who is, or who
17 appears to be, fourteen days of age or younger.

18 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT
19 CUSTODY RELEASE PROCEDURES.

20 1. A parent of a newborn infant who has not
21 suffered bodily harm may voluntarily release custody
22 of the newborn infant by relinquishing physical
23 custody of the newborn infant, without expressing an
24 intent to again assume physical custody, at an
25 institutional health facility or by authorizing
26 another person to relinquish physical custody on the
27 parent's behalf. If physical custody of the newborn
28 infant is not relinquished directly to an individual
29 on duty at the institutional health facility, the
30 parent may take other actions to be reasonably sure
31 that an individual on duty is aware that the newborn
32 infant has been left at the institutional health
33 facility. The actions may include but are not limited
34 to making telephone contact with the institutional
35 health facility or a 911 service. For the purposes of
36 this chapter and for any judicial proceedings
37 associated with the newborn infant, a rebuttable
38 presumption arises that the person who relinquishes
39 physical custody at an institutional health facility
40 in accordance with this section is the newborn
41 infant's parent or has relinquished physical custody
42 with the parent's authorization.

43 2. a. Unless the parent or other person
44 relinquishing physical custody of a newborn infant
45 clearly expresses an intent to return to again assume
46 physical custody of the newborn infant, an individual
47 on duty at the facility at which physical custody of
48 the newborn infant was relinquished pursuant to
49 subsection 1 shall take physical custody of the
50 newborn infant. The individual on duty may request

S-3271

-1-

S-3271

Page 2

1 the parent or other person to provide the name of the
2 parent or parents and information on the medical
3 history of the newborn infant and the newborn infant's
4 parent or parents. However, the parent or other
5 person is not required to provide the names or medical
6 history information to comply with this section. The
7 individual on duty may perform reasonable acts
8 necessary to protect the physical health or safety of
9 the newborn infant. The individual on duty and the
10 institutional health facility in which the individual
11 was on duty are immune from criminal or civil
12 liability for any acts or omissions made in good faith
13 to comply with this section.

14 b. If the physical custody of the newborn infant
15 is relinquished at an institutional health facility,
16 the state shall reimburse the institutional health
17 facility for the institutional health facility's
18 actual expenses in providing care to the newborn
19 infant and in performing acts necessary to protect the
20 physical health or safety of the newborn infant. The
21 reimbursement shall be paid from moneys appropriated
22 for this purpose to the department of human services.

23 c. The individual on duty or other person
24 designated by the institutional health facility at
25 which physical custody of the newborn infant was
26 relinquished shall submit the certificate of birth
27 report as required pursuant to section 144.14.

28 3. As soon as possible after the individual on
29 duty assumes physical custody of a newborn infant
30 released under subsection 1, the individual shall
31 notify the department of human services and the
32 department shall take the actions necessary to assume
33 the care, control, and custody of the newborn infant.
34 The department shall immediately notify the juvenile
35 court and the county attorney of the department's
36 action and the circumstances surrounding the action
37 and request an ex parte order from the juvenile court
38 ordering, in accordance with the requirements of
39 section 232.78, the department to take custody of the
40 newborn infant. Upon receiving the order, the
41 department shall take custody of the newborn infant.
42 Within twenty-four hours of taking custody of the
43 newborn infant, the department shall notify the
44 juvenile court and the county attorney in writing of
45 the department's action and the circumstances
46 surrounding the action.

47 4. a. Upon being notified in writing by the
48 department under subsection 3, the county attorney
49 shall file a petition alleging the newborn infant to
50 be a child in need of assistance in accordance with

S-3271

-2-

S-3271

Page 3

1 section 232.87 and a petition for termination of
2 parental rights with respect to the newborn infant in
3 accordance with section 232.111, subsection 2,
4 paragraph "a". A hearing on a child in need of
5 assistance petition filed pursuant to this subsection
6 shall be held at the earliest practicable time. A
7 hearing on a termination of parental rights petition
8 filed pursuant to this subsection shall be held no
9 later than thirty days after the day the physical
10 custody of the newborn child was relinquished in
11 accordance with subsection 1 unless the juvenile court
12 continues the hearing beyond the thirty days for good
13 cause shown.

14 b. Notice of a petition filed pursuant to this
15 subsection shall be provided to any known parent and
16 others in accordance with the provisions of chapter
17 232 and shall be served upon any putative father
18 registered with the state registrar of vital
19 statistics pursuant to section 144.12A. In addition,
20 prior to holding a termination of parental rights
21 hearing with respect to the newborn infant, notice by
22 publication shall be provided as described in section
23 600A.6, subsection 5.

24 5. Reasonable efforts, as defined in section
25 232.102, that are made in regard to the newborn infant
26 shall be limited to the efforts made in a timely
27 manner to finalize a permanency plan for the newborn
28 infant.

29 6. An individual on duty at an institutional
30 health facility who assumes custody of a newborn
31 infant upon the release of the newborn infant under
32 subsection 1 shall be provided notice of any hearing
33 held concerning the newborn infant at the same time
34 notice is provided to other parties to the hearing and
35 the individual may provide testimony at the hearing.

36 Sec. 3. NEW SECTION. 232B.3 IMMUNITY.

37 Any person authorized by the parent to assist with
38 release of custody in accordance with section 232B.2
39 by relinquishing physical custody of the newborn
40 infant or to otherwise act on the parent's behalf is
41 immune from criminal prosecution for abandonment or
42 neglect of the newborn infant under section 726.3 or
43 726.6 and civil liability for any reasonable acts or
44 omissions made in good faith in assisting with the
45 release.

46 Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.

47 Either parent of a newborn infant whose custody was
48 released in accordance with section 232B.2, may
49 intervene in the child in need of assistance or
50 termination of parental rights proceedings held

S-3271

S-3271

Page 4

1 regarding the newborn infant and request that the
2 juvenile court grant custody of the newborn infant to
3 the parent. The requester must show by clear and
4 convincing evidence that the requester is the parent
5 of the newborn infant. If the court determines that
6 the requester is the parent of the newborn infant and
7 that granting custody of the newborn infant to the
8 parent is in the newborn infant's best interest, the
9 court shall issue an order granting custody of the
10 newborn infant to the parent. In addition to such
11 order, the court may order services for the newborn
12 infant and the parent as are in the best interest of
13 the newborn infant.

14 Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY
15 PROTECTIONS.

16 1. In addition to any other privacy protection
17 established in law, a record that is developed,
18 acquired, or held in connection with an individual's
19 good faith effort to voluntarily release a newborn
20 infant in accordance with this chapter and any
21 identifying information concerning the individual
22 shall be kept confidential. Such record shall not be
23 inspected or the contents disclosed except as provided
24 in this section.

25 2. A record described in subsection 1 may be
26 inspected and the contents disclosed without court
27 order to the following:

28 a. The court and professional court staff,
29 including juvenile court officers.

30 b. The newborn infant and the newborn infant's
31 counsel.

32 c. The newborn infant's parent, guardian,
33 custodian, and those persons' counsel.

34 d. The newborn infant's court-appointed special
35 advocate and guardian ad litem.

36 e. The county attorney and the county attorney's
37 assistants.

38 f. An agency, association, facility, or
39 institution which has custody of the newborn infant,
40 or is legally responsible for the care, treatment, or
41 supervision of the newborn infant.

42 g. The newborn infant's foster parent or an
43 individual providing preadoptive care to the newborn
44 infant.

45 3. Pursuant to court order a record described in
46 subsection 1 may be inspected by and the contents may
47 be disclosed to any of the following:

48 a. A person conducting bona fide research for
49 research purposes under whatever conditions the court
50 may deem proper, provided that no personal identifying

S-3271

-4-

S-3271

Page 5

1 data shall be disclosed to such a person.

2 b. Persons who have a direct interest in a
3 proceeding or in the work of the court.

4 4. Any person who knowingly discloses, receives,
5 or makes use or permits the use of information derived
6 directly or indirectly from such a record or discloses
7 identifying information concerning such individual,
8 except as provided by this section, commits a serious
9 misdemeanor.

10 Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND
11 PUBLIC INFORMATION.

12 The department of human services, in consultation
13 with the Iowa department of public health and the
14 department of justice, shall develop and distribute
15 the following:

16 1. An information card or other publication for
17 distribution by an institutional health facility to a
18 parent who releases custody of a newborn infant in
19 accordance with this chapter. The publication shall
20 inform the parent of a parent's rights under section
21 232B.4, explain the request for medical history
22 information under section 232B.2, subsection 2, and
23 provide other information deemed pertinent by the
24 departments.

25 2. Educational materials, public information
26 announcements, and other resources to develop
27 awareness of the availability of the newborn safe
28 haven Act, among adolescents, young parents, and
29 others who might avail themselves of the Act.

30 3. Signage that may be used to identify the
31 institutional health facilities at which physical
32 custody of a newborn infant may be relinquished in
33 accordance with this chapter.

34 Sec. 7. Section 232.2, subsection 6, Code 2001, is
35 amended by adding the following new paragraph:

36 NEW PARAGRAPH. p. Who is a newborn infant whose
37 parent has voluntarily released custody of the child
38 in accordance with chapter 232B.

39 Sec. 8. Section 232.111, subsection 2, paragraph
40 a, subparagraph (3), Code 2001, is amended to read as
41 follows:

42 (3) The child is less than twelve months of age
43 and has been judicially determined to meet the
44 definition of abandonment of a child or the child is a
45 newborn infant whose parent has voluntarily released
46 custody of the child in accordance with chapter 232B.

47 Sec. 9. Section 232.116, subsection 1, Code 2001,
48 is amended by adding the following new paragraph:

49 NEW PARAGRAPH. bb. The court finds that there is
50 clear and convincing evidence that the child is a

S-3271

-5-

S-3271

Page 6

1 newborn infant whose parent has voluntarily released
2 custody of the child in accordance with chapter 232B.
3 Sec. 10. Section 232.117, Code 2001, is amended by
4 adding the following new subsection:

5 NEW SUBSECTION. 9. If a termination of parental
6 rights order is issued on the grounds that the child
7 is a newborn infant whose parent has voluntarily
8 released custody of the child under section 232.116,
9 subsection 1, paragraph "bb", the court shall retain
10 jurisdiction to change a guardian or custodian and to
11 allow a parent whose rights have been terminated to
12 request vacation or appeal of the termination order
13 which request must be made within thirty days of
14 issuance of the granting of the termination order.
15 The period for request for vacation or appeal by a
16 parent whose rights have been terminated shall not be
17 waived or extended and a vacation or appeal shall not
18 be granted for a request made after the expiration of
19 this period. The court shall grant the vacation
20 request only if it is in the best interest of the
21 child. The supreme court shall prescribe rules to
22 establish the period of thirty days, which shall not
23 be waived or extended, in which a parent whose
24 parental rights have been terminated may request a
25 vacation or appeal of such a termination order.

26 Sec. 11. Section 726.3, Code 2001, is amended to
27 read as follows:

28 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT
29 PERSON.

30 A person who is the father, mother, or some other
31 person having custody of a child, or of any other
32 person who by reason of mental or physical disability
33 is not able to care for the person's self, who
34 knowingly or recklessly exposes such person to a
35 hazard or danger against which such person cannot
36 reasonably be expected to protect such person's self
37 or who deserts or abandons such person, knowing or
38 having reason to believe that the person will be
39 exposed to such hazard or danger, commits a class "C"
40 felony. However, a parent or person authorized by the
41 parent who has, in accordance with section 232B.2,
42 voluntarily released custody of a newborn infant who
43 has not suffered bodily harm shall not be prosecuted
44 for a violation of this section involving abandonment
45 of that newborn infant.

46 Sec. 12. Section 726.6, Code 2001, is amended by
47 adding the following new subsection:

48 NEW SUBSECTION. 1A. A parent or person authorized
49 by the parent who has, in accordance with section
50 232B.2, voluntarily released custody of a newborn

S-3271

-6-

S-3271

Page 7

1 infant who has not suffered bodily harm shall not be
2 prosecuted for a violation of this section involving
3 abandonment of that newborn infant.

4 Sec. 13. EFFECTIVE DATE. This Act, being deemed
5 of immediate importance, takes effect upon enactment."

6 2. Title page, by striking lines 1 through 6 and
7 inserting the following: "An Act providing for the
8 release of custody and termination of parental rights
9 for certain newborn infants whose parent or person
10 authorized to act on the parent's behalf relinquishes
11 physical custody at certain health facilities and
12 providing certain immunity from prosecution and civil
13 liability for such parent or person, establishing
14 confidentiality protections and a penalty, and
15 providing an effective date."

By NANCY BOETTGER

S-3271 FILED MARCH 27, 2001

ADOPTED

(P. 874)

SENATE FILE 355

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 1148)

(AS AMENDED AND PASSED BY THE SENATE MARCH 27, 2001)

ALL New Language by the Senate

Passed Senate, Date ^{P. 1144} 4-17-02 Passed House, Date 4-11-01 (p. 1157)
Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 1
Approved April 24, 2001

A BILL FOR

1 An Act providing for the release of custody and termination of
2 parental rights for certain newborn infants whose parent or
3 person authorized to act on the parent's behalf relinquishes
4 physical custody at certain health facilities and providing
5 certain immunity from prosecution and civil liability for such
6 parent or person, establishing confidentiality protections and
7 a penalty, and providing an effective date.

S.F. 355

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

9
10
11
12
13
14
15
16
17
18
19

1 Section 1. NEW SECTION. 232B.1 NEWBORN SAFE HAVEN ACT --
2 DEFINITIONS.

3 1. This chapter may be cited as the "Newborn Safe Haven
4 Act".

5 2. For the purposes of this chapter, unless the context
6 otherwise requires:

7 a. "Institutional health facility" means a hospital as
8 defined in section 135B.1, including a facility providing
9 medical or health services that is open twenty-four hours per
10 day, seven days per week and is a hospital emergency room, or
11 a health care facility as defined in section 135C.1.

12 b. "Newborn infant" means a child who is, or who appears
13 to be, fourteen days of age or younger.

14 Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT CUSTODY
15 RELEASE PROCEDURES.

16 1. A parent of a newborn infant who has not suffered
17 bodily harm may voluntarily release custody of the newborn
18 infant by relinquishing physical custody of the newborn
19 infant, without expressing an intent to again assume physical
20 custody, at an institutional health facility or by authorizing
21 another person to relinquish physical custody on the parent's
22 behalf. If physical custody of the newborn infant is not
23 relinquished directly to an individual on duty at the
24 institutional health facility, the parent may take other
25 actions to be reasonably sure that an individual on duty is
26 aware that the newborn infant has been left at the
27 institutional health facility. The actions may include but
28 are not limited to making telephone contact with the
29 institutional health facility or a 911 service. For the
30 purposes of this chapter and for any judicial proceedings
31 associated with the newborn infant, a rebuttable presumption
32 arises that the person who relinquishes physical custody at an
33 institutional health facility in accordance with this section
34 is the newborn infant's parent or has relinquished physical
35 custody with the parent's authorization.

1 2. a. Unless the parent or other person relinquishing
2 physical custody of a newborn infant clearly expresses an
3 intent to return to again assume physical custody of the
4 newborn infant, an individual on duty at the facility at which
5 physical custody of the newborn infant was relinquished
6 pursuant to subsection 1 shall take physical custody of the
7 newborn infant. The individual on duty may request the parent
8 or other person to provide the name of the parent or parents
9 and information on the medical history of the newborn infant
10 and the newborn infant's parent or parents. However, the
11 parent or other person is not required to provide the names or
12 medical history information to comply with this section. The
13 individual on duty may perform reasonable acts necessary to
14 protect the physical health or safety of the newborn infant.
15 The individual on duty and the institutional health facility
16 in which the individual was on duty are immune from criminal
17 or civil liability for any acts or omissions made in good
18 faith to comply with this section.

19 b. If the physical custody of the newborn infant is
20 relinquished at an institutional health facility, the state
21 shall reimburse the institutional health facility for the
22 institutional health facility's actual expenses in providing
23 care to the newborn infant and in performing acts necessary to
24 protect the physical health or safety of the newborn infant.
25 The reimbursement shall be paid from moneys appropriated for
26 this purpose to the department of human services.

27 c. The individual on duty or other person designated by
28 the institutional health facility at which physical custody of
29 the newborn infant was relinquished shall submit the
30 certificate of birth report as required pursuant to section
31 144.14.

32 3. As soon as possible after the individual on duty
33 assumes physical custody of a newborn infant released under
34 subsection 1, the individual shall notify the department of
35 human services and the department shall take the actions

1 necessary to assume the care, control, and custody of the
2 newborn infant. The department shall immediately notify the
3 juvenile court and the county attorney of the department's
4 action and the circumstances surrounding the action and
5 request an ex parte order from the juvenile court ordering, in
6 accordance with the requirements of section 232.78, the
7 department to take custody of the newborn infant. Upon
8 receiving the order, the department shall take custody of the
9 newborn infant. Within twenty-four hours of taking custody of
10 the newborn infant, the department shall notify the juvenile
11 court and the county attorney in writing of the department's
12 action and the circumstances surrounding the action.

13 4. a. Upon being notified in writing by the department
14 under subsection 3, the county attorney shall file a petition
15 alleging the newborn infant to be a child in need of
16 assistance in accordance with section 232.87 and a petition
17 for termination of parental rights with respect to the newborn
18 infant in accordance with section 232.111, subsection 2,
19 paragraph "a". A hearing on a child in need of assistance
20 petition filed pursuant to this subsection shall be held at
21 the earliest practicable time. A hearing on a termination of
22 parental rights petition filed pursuant to this subsection
23 shall be held no later than thirty days after the day the
24 physical custody of the newborn child was relinquished in
25 accordance with subsection 1 unless the juvenile court
26 continues the hearing beyond the thirty days for good cause
27 shown.

28 b. Notice of a petition filed pursuant to this subsection
29 shall be provided to any known parent and others in accordance
30 with the provisions of chapter 232 and shall be served upon
31 any putative father registered with the state registrar of
32 vital statistics pursuant to section 144.12A. In addition,
33 prior to holding a termination of parental rights hearing with
34 respect to the newborn infant, notice by publication shall be
35 provided as described in section 600A.6, subsection 5.

1 5. Reasonable efforts, as defined in section 232.102, that
2 are made in regard to the newborn infant shall be limited to
3 the efforts made in a timely manner to finalize a permanency
4 plan for the newborn infant.

5 6. An individual on duty at an institutional health
6 facility who assumes custody of a newborn infant upon the
7 release of the newborn infant under subsection 1 shall be
8 provided notice of any hearing held concerning the newborn
9 infant at the same time notice is provided to other parties to
10 the hearing and the individual may provide testimony at the
11 hearing.

12 Sec. 3. NEW SECTION. 232B.3 IMMUNITY.

13 Any person authorized by the parent to assist with release
14 of custody in accordance with section 232B.2 by relinquishing
15 physical custody of the newborn infant or to otherwise act on
16 the parent's behalf is immune from criminal prosecution for
17 abandonment or neglect of the newborn infant under section
18 726.3 or 726.6 and civil liability for any reasonable acts or
19 omissions made in good faith in assisting with the release.

20 Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.

21 Either parent of a newborn infant whose custody was
22 released in accordance with section 232B.2, may intervene in
23 the child in need of assistance or termination of parental
24 rights proceedings held regarding the newborn infant and
25 request that the juvenile court grant custody of the newborn
26 infant to the parent. The requester must show by clear and
27 convincing evidence that the requester is the parent of the
28 newborn infant. If the court determines that the requester is
29 the parent of the newborn infant and that granting custody of
30 the newborn infant to the parent is in the newborn infant's
31 best interest, the court shall issue an order granting custody
32 of the newborn infant to the parent. In addition to such
33 order, the court may order services for the newborn infant and
34 the parent as are in the best interest of the newborn infant.

5 Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY PROTECTIONS.

1 1. In addition to any other privacy protection established
2 in law, a record that is developed, acquired, or held in
3 connection with an individual's good faith effort to
4 voluntarily release a newborn infant in accordance with this
5 chapter and any identifying information concerning the
6 individual shall be kept confidential. Such record shall not
7 be inspected or the contents disclosed except as provided in
8 this section.

9 2. A record described in subsection 1 may be inspected and
10 the contents disclosed without court order to the following:

11 a. The court and professional court staff, including
12 juvenile court officers.

13 b. The newborn infant and the newborn infant's counsel.

14 c. The newborn infant's parent, guardian, custodian, and
15 those persons' counsel.

16 d. The newborn infant's court-appointed special advocate
17 and guardian ad litem.

18 e. The county attorney and the county attorney's
19 assistants.

20 f. An agency, association, facility, or institution which
21 has custody of the newborn infant, or is legally responsible
22 for the care, treatment, or supervision of the newborn infant.

23 g. The newborn infant's foster parent or an individual
24 providing preadoptive care to the newborn infant.

25 3. Pursuant to court order a record described in
26 subsection 1 may be inspected by and the contents may be
27 disclosed to any of the following:

28 a. A person conducting bona fide research for research
29 purposes under whatever conditions the court may deem proper,
30 provided that no personal identifying data shall be disclosed
31 to such a person.

32 b. Persons who have a direct interest in a proceeding or
33 in the work of the court.

34 4. Any person who knowingly discloses, receives, or makes
35 use or permits the use of information derived directly or

1 indirectly from such a record or discloses identifying
2 information concerning such individual, except as provided by
3 this section, commits a serious misdemeanor.

4 Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND PUBLIC
5 INFORMATION.

6 The department of human services, in consultation with the
7 Iowa department of public health and the department of
8 justice, shall develop and distribute the following:

9 1. An information card or other publication for
10 distribution by an institutional health facility to a parent
11 who releases custody of a newborn infant in accordance with
12 this chapter. The publication shall inform the parent of a
13 parent's rights under section 232B.4, explain the request for
14 medical history information under section 232B.2, subsection
15 2, and provide other information deemed pertinent by the
16 departments.

17 2. Educational materials, public information
18 announcements, and other resources to develop awareness of the
19 availability of the newborn safe haven Act, among adolescents,
20 young parents, and others who might avail themselves of the
21 Act.

22 3. Signage that may be used to identify the institutional
23 health facilities at which physical custody of a newborn
24 infant may be relinquished in accordance with this chapter.

25 Sec. 7. Section 232.2, subsection 6, Code 2001, is amended
26 by adding the following new paragraph:

27 NEW PARAGRAPH. p. Who is a newborn infant whose parent
28 has voluntarily released custody of the child in accordance
29 with chapter 232B.

30 Sec. 8. Section 232.111, subsection 2, paragraph a,
31 subparagraph (3), Code 2001, is amended to read as follows:

32 (3) The child is less than twelve months of age and has
33 been judicially determined to meet the definition of
34 abandonment of a child or the child is a newborn infant whose
35 parent has voluntarily released custody of the child in

1 accordance with chapter 232B.

2 Sec. 9. Section 232.116, subsection 1, Code 2001, is
3 amended by adding the following new paragraph:

4 NEW PARAGRAPH. bb. The court finds that there is clear
5 and convincing evidence that the child is a newborn infant
6 whose parent has voluntarily released custody of the child in
7 accordance with chapter 232B.

8 Sec. 10. Section 232.117, Code 2001, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 9. If a termination of parental rights
11 order is issued on the grounds that the child is a newborn
12 infant whose parent has voluntarily released custody of the
13 child under section 232.116, subsection 1, paragraph "bb", the
14 court shall retain jurisdiction to change a guardian or
15 custodian and to allow a parent whose rights have been
16 terminated to request vacation or appeal of the termination
17 order which request must be made within thirty days of
18 issuance of the granting of the termination order. The period
19 for request for vacation or appeal by a parent whose rights
20 have been terminated shall not be waived or extended and a
21 vacation or appeal shall not be granted for a request made
22 after the expiration of this period. The court shall grant
23 the vacation request only if it is in the best interest of the
24 child. The supreme court shall prescribe rules to establish
25 the period of thirty days, which shall not be waived or
26 extended, in which a parent whose parental rights have been
27 terminated may request a vacation or appeal of such a
28 termination order.

29 Sec. 11. Section 726.3, Code 2001, is amended to read as
30 follows:

31 726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

32 A person who is the father, mother, or some other person
33 having custody of a child, or of any other person who by
34 reason of mental or physical disability is not able to care
35 for the person's self, who knowingly or recklessly exposes

1 such person to a hazard or danger against which such person
2 cannot reasonably be expected to protect such person's self or
3 who deserts or abandons such person, knowing or having reason
4 to believe that the person will be exposed to such hazard or
5 danger, commits a class "C" felony. However, a parent or
6 person authorized by the parent who has, in accordance with
7 section 232B.2, voluntarily released custody of a newborn
8 infant who has not suffered bodily harm shall not be
9 prosecuted for a violation of this section involving
10 abandonment of that newborn infant.

11 Sec. 12. Section 726.6, Code 2001, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 1A. A parent or person authorized by the
14 parent who has, in accordance with section 232B.2, voluntarily
15 released custody of a newborn infant who has not suffered
16 bodily harm shall not be prosecuted for a violation of this
17 section involving abandonment of that newborn infant.

18 Sec. 13. EFFECTIVE DATE. This Act, being deemed of
19 immediate importance, takes effect upon enactment.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

SENATE FILE 355

H-1455

1 Amend Senate File 355, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 6, by inserting after line 24 the
4 following:

5 "4. Materials that encourage the parent to
6 consider placing the child for adoption. The
7 materials shall inform the parent of the process of
8 adoption and its benefits, including the requirements
9 for confidentiality in the adoption process, the
10 importance of adoption to individuals and to society
11 in general, and the state's interest in encouraging
12 parents to choose the option of childbirth followed by
13 adoption rather than abortion."

By EICHHORN of Hamilton

H-1455 FILED APRIL 9, 2001

w/d 4-11-01 (p.1156)

SENATE FILE 355

H-1369

1 Amend Senate File 355, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, lines 16 and 17, by striking the words
4 "who has not suffered bodily harm".

5 2. Page 4, by inserting after line 11 the
6 following:

7 "7. If it is determined that custody of a newborn
8 infant has been released under this section and that
9 the newborn infant has been subject to child abuse, as
10 defined in section 232.68, or a child endangerment
11 offense under section 726.6, other than abandonment,
12 the department of human services in determining
13 whether the name of the perpetrator shall be placed in
14 the central child abuse registry under section 232.71D
15 and the court in determining a sentence under section
16 726.6, shall consider the parent's action in releasing
17 custody of the newborn infant under this section to be
18 a positive mitigating circumstance."

By SMITH of Marshall

H-1369 FILED MARCH 28, 2001

w/d 4-11-01 (p. 1156)

SENATE FILE 355

H-1370

1 Amend Senate File 355, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 13, by striking the words
4 "fourteen days" and inserting the following: "one
5 year".

By SMITH of Marshall

H-1370 FILED MARCH 28, 2001

Last 4-11-01 (p. 1156)

SENATE FILE 355

H-1412

1 Amend Senate File 355, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, lines 16 and 17, by striking the words
4 "who has not suffered bodily harm".

5 2. Page 8, line 8, by striking the words "who has
6 not suffered bodily harm".

7 3. Page 8, by striking lines 15 through 17, and
8 inserting the following: "released custody of a
9 newborn infant shall not be prosecuted for a violation
10 of subsection 1, paragraph "f", relating to
11 abandonment."

By TREMMEL of Wapello
BARRY of Harrison
ATTEBERRY of Delaware
BOAL of Polk
REYNOLDS of Van Buren
TYMESON of Madison

BODDICKER of Cedar
SMITH of Marshall
BROERS of Cerro Gordo
KREIMAN of Davis
HOVERSTEN of Woodbury
ROBERTS of Carroll

H-1412 FILED APRIL 2, 2001

Adopted 4-11-01 (p. 1157)

HOUSE AMENDMENT TO
SENATE FILE 355

S-3347

1 Amend Senate File 355, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, lines 16 and 17, by striking the words
4 "who has not suffered bodily harm".
5 2. Page 8, line 8, by striking the words "who has
6 not suffered bodily harm".
7 3. Page 8, by striking lines 15 through 17, and
8 inserting the following: "released custody of a
9 newborn infant shall not be prosecuted for a violation
10 of subsection 1, paragraph "f", relating to
11 abandonment."

RECEIVED FROM THE HOUSE

S-3347 FILED APRIL 12, 2001

4.17-02

Senate Concurred (p.1144)

SENATE FILE 355

AN ACT

PROVIDING FOR THE RELEASE OF CUSTODY AND TERMINATION OF PARENTAL RIGHTS FOR CERTAIN NEWBORN INFANTS WHOSE PARENT OR PERSON AUTHORIZED TO ACT ON THE PARENT'S BEHALF RELINQUISHES PHYSICAL CUSTODY AT CERTAIN HEALTH FACILITIES AND PROVIDING CERTAIN IMMUNITY FROM PROSECUTION AND CIVIL LIABILITY FOR SUCH PARENT OR PERSON, ESTABLISHING CONFIDENTIALITY PROTECTIONS AND A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 232B.1 NEWBORN SAFE HAVEN ACT -- DEFINITIONS.

1. This chapter may be cited as the "Newborn Safe Haven Act".

2. For the purposes of this chapter, unless the context otherwise requires:

a. "Institutional health facility" means a hospital as defined in section 135B.1, including a facility providing medical or health services that is open twenty-four hours per day, seven days per week and is a hospital emergency room, or a health care facility as defined in section 135C.1.

b. "Newborn infant" means a child who is, or who appears to be, fourteen days of age or younger.

Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT CUSTODY RELEASE PROCEDURES.

1. A parent of a newborn infant may voluntarily release custody of the newborn infant by relinquishing physical custody of the newborn infant, without expressing an intent to again assume physical custody, at an institutional health facility or by authorizing another person to relinquish physical custody on the parent's behalf. If physical custody of the newborn infant is not relinquished directly to an individual on duty at the institutional health facility, the parent may take other actions to be reasonably sure that an individual on duty is aware that the newborn infant has been left at the institutional health facility. The actions may include but are not limited to making telephone contact with the institutional health facility or a 911 service. For the purposes of this chapter and for any judicial proceedings associated with the newborn infant, a rebuttable presumption arises that the person who relinquishes physical custody at an institutional health facility in accordance with this section is the newborn infant's parent or has relinquished physical custody with the parent's authorization.

2. a. Unless the parent or other person relinquishing physical custody of a newborn infant clearly expresses an intent to return to again assume physical custody of the newborn infant, an individual on duty at the facility at which physical custody of the newborn infant was relinquished pursuant to subsection 1 shall take physical custody of the newborn infant. The individual on duty may request the parent or other person to provide the name of the parent or parents and information on the medical history of the newborn infant and the newborn infant's parent or parents. However, the parent or other person is not required to provide the names or medical history information to comply with this section. The individual on duty may perform reasonable acts necessary to protect the physical health or safety of the newborn infant. The individual on duty and the institutional health facility in which the individual was on duty are immune from criminal

or civil liability for any acts or omissions made in good faith to comply with this section.

b. If the physical custody of the newborn infant is relinquished at an institutional health facility, the state shall reimburse the institutional health facility for the institutional health facility's actual expenses in providing care to the newborn infant and in performing acts necessary to protect the physical health or safety of the newborn infant. The reimbursement shall be paid from moneys appropriated for this purpose to the department of human services.

c. The individual on duty or other person designated by the institutional health facility at which physical custody of the newborn infant was relinquished shall submit the certificate of birth report as required pursuant to section 144.14.

3. As soon as possible after the individual on duty assumes physical custody of a newborn infant released under subsection 1, the individual shall notify the department of human services and the department shall take the actions necessary to assume the care, control, and custody of the newborn infant. The department shall immediately notify the juvenile court and the county attorney of the department's action and the circumstances surrounding the action and request an ex parte order from the juvenile court ordering, in accordance with the requirements of section 232.78, the department to take custody of the newborn infant. Upon receiving the order, the department shall take custody of the newborn infant. Within twenty-four hours of taking custody of the newborn infant, the department shall notify the juvenile court and the county attorney in writing of the department's action and the circumstances surrounding the action.

4. a. Upon being notified in writing by the department under subsection 3, the county attorney shall file a petition alleging the newborn infant to be a child in need of assistance in accordance with section 232.87 and a petition

for termination of parental rights with respect to the newborn infant in accordance with section 232.111, subsection 2, paragraph "a". A hearing on a child in need of assistance petition filed pursuant to this subsection shall be held at the earliest practicable time. A hearing on a termination of parental rights petition filed pursuant to this subsection shall be held no later than thirty days after the day the physical custody of the newborn child was relinquished in accordance with subsection 1 unless the juvenile court continues the hearing beyond the thirty days for good cause shown.

b. Notice of a petition filed pursuant to this subsection shall be provided to any known parent and others in accordance with the provisions of chapter 232 and shall be served upon any putative father registered with the state registrar of vital statistics pursuant to section 144.12A. In addition, prior to holding a termination of parental rights hearing with respect to the newborn infant, notice by publication shall be provided as described in section 600A.6, subsection 5.

5. Reasonable efforts, as defined in section 232.102, that are made in regard to the newborn infant shall be limited to the efforts made in a timely manner to finalize a permanency plan for the newborn infant.

6. An individual on duty at an institutional health facility who assumes custody of a newborn infant upon the release of the newborn infant under subsection 1 shall be provided notice of any hearing held concerning the newborn infant at the same time notice is provided to other parties to the hearing and the individual may provide testimony at the hearing.

Sec. 3. NEW SECTION. 232B.3 IMMUNITY.

Any person authorized by the parent to assist with release of custody in accordance with section 232B.2 by relinquishing physical custody of the newborn infant or to otherwise act on the parent's behalf is immune from criminal prosecution for

abandonment or neglect of the newborn infant under section 726.3 or 726.6 and civil liability for any reasonable acts or omissions made in good faith in assisting with the release.

Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.

Either parent of a newborn infant whose custody was released in accordance with section 232B.2, may intervene in the child in need of assistance or termination of parental rights proceedings held regarding the newborn infant and request that the juvenile court grant custody of the newborn infant to the parent. The requester must show by clear and convincing evidence that the requester is the parent of the newborn infant. If the court determines that the requester is the parent of the newborn infant and that granting custody of the newborn infant to the parent is in the newborn infant's best interest, the court shall issue an order granting custody of the newborn infant to the parent. In addition to such order, the court may order services for the newborn infant and the parent as are in the best interest of the newborn infant.

Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY PROTECTIONS.

1. In addition to any other privacy protection established in law, a record that is developed, acquired, or held in connection with an individual's good faith effort to voluntarily release a newborn infant in accordance with this chapter and any identifying information concerning the individual shall be kept confidential. Such record shall not be inspected or the contents disclosed except as provided in this section.

2. A record described in subsection 1 may be inspected and the contents disclosed without court order to the following:

- a. The court and professional court staff, including juvenile court officers.
- b. The newborn infant and the newborn infant's counsel.
- c. The newborn infant's parent, guardian, custodian, and those persons' counsel.

d. The newborn infant's court-appointed special advocate and guardian ad litem.

e. The county attorney and the county attorney's assistants.

f. An agency, association, facility, or institution which has custody of the newborn infant, or is legally responsible for the care, treatment, or supervision of the newborn infant.

g. The newborn infant's foster parent or an individual providing preadoptive care to the newborn infant.

3. Pursuant to court order a record described in subsection 1 may be inspected by and the contents may be disclosed to any of the following:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

4. Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from such a record or discloses identifying information concerning such individual, except as provided by this section, commits a serious misdemeanor.

Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND PUBLIC INFORMATION.

The department of human services, in consultation with the Iowa department of public health and the department of justice, shall develop and distribute the following:

1. An information card or other publication for distribution by an institutional health facility to a parent who releases custody of a newborn infant in accordance with this chapter. The publication shall inform the parent of a parent's rights under section 232B.4, explain the request for medical history information under section 232B.2, subsection 2, and provide other information deemed pertinent by the departments.

2. Educational materials, public information announcements, and other resources to develop awareness of the availability of the newborn safe haven Act, among adolescents, young parents, and others who might avail themselves of the Act.

3. Signage that may be used to identify the institutional health facilities at which physical custody of a newborn infant may be relinquished in accordance with this chapter.

Sec. 7. Section 232.2, subsection 6, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. Who is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 8. Section 232.111, subsection 2, paragraph a, subparagraph (3), Code 2001, is amended to read as follows:

(3) The child is less than twelve months of age and has been judicially determined to meet the definition of abandonment of a child or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 9. Section 232.116, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. bb. The court finds that there is clear and convincing evidence that the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 10. Section 232.117, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If a termination of parental rights order is issued on the grounds that the child is a newborn infant whose parent has voluntarily released custody of the child under section 232.116, subsection 1, paragraph "bb", the court shall retain jurisdiction to change a guardian or custodian and to allow a parent whose rights have been terminated to request vacation or appeal of the termination

order which request must be made within thirty days of issuance of the granting of the termination order. The period for request for vacation or appeal by a parent whose rights have been terminated shall not be waived or extended and a vacation or appeal shall not be granted for a request made after the expiration of this period. The court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish the period of thirty days, which shall not be waived or extended, in which a parent whose parental rights have been terminated may request a vacation or appeal of such a termination order.

Sec. 11. Section 726.3, Code 2001, is amended to read as follows:

726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

A person who is the father, mother, or some other person having custody of a child, or of any other person who by reason of mental or physical disability is not able to care for the person's self, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect such person's self or who deserts or abandons such person, knowing or having reason to believe that the person will be exposed to such hazard or danger, commits a class "C" felony. However, a parent or person authorized by the parent who has, in accordance with section 232B.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of this section involving abandonment of that newborn infant.

Sec. 12. Section 726.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A parent or person authorized by the parent who has, in accordance with section 232B.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of subsection 1, paragraph "f", relating to abandonment.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 355, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 24, 2001

THOMAS J. VILSACK
Governor