

LAW

1. WHEN DID THIS LAW TAKE EFFECT?

January 1, 2001.

2. IN GENERAL, WHAT DOES THE LAW PROVIDE?

This law allows the anonymous surrender of a newborn, from birth to 72 hours of age, to an emergency service provider.

3. WHO IS AN EMERGENCY SERVICE PROVIDER (ESP)?

An ESP is defined as a uniformed or otherwise identified employee or contractor of a fire department, hospital or police station when such an individual is inside the premises and on-duty. Emergency service provider also includes a paramedic or an emergency medical technician when either of those individuals is responding to a 9-1-1 emergency call.

- ✓ A hospital means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL333.20101 to 333.22260.
- ✓ Fire department means an organized fire department as that term is defined in Section 1 of the fire prevention code 1941 PA 207, MCL29.1.
- ✓ Police station means a police station as that term is defined in section 43 of the Michigan vehicle code, 1949 PA 300 MCL 257.43.
- ✓ Emergency Medical Technician means an individual as defined in article 17 of the public health code, 1978 PA 368, MCL 333.20904.
- ✓ Paramedic means an individual as defined in article 17 of the public health code, 1978 PA 368, MCL 333.20908.

4. EMERGENCY MEDICAL SERVICE (EMS) AGENCIES WERE NOT MENTIONED IN THE ORIGINAL LAW. WHEN WAS EMS ADDED AND WHO DOES IT INCLUDE?

In December of 2006, PA 488 was enacted with an effective date of January 1, 2007. The definition of an ESP was expanded to include a paramedic or an emergency medical technician when either of those individuals responds to a 9-1-1 emergency call placed by the surrendering parent(s).

5. DOES THE LAW AUTHORIZE APPROPRIATIONS SO THE ESP, PHYSICIANS AND OTHER CAREGIVERS ARE PAID FOR SERVICES RENDERED PURSUANT TO THIS LAW?

There were no appropriations made specifically to compensate the ESP for services rendered.

6. WHAT IF THE NEWBORN IS FOUND ABANDONED ON THE HOSPITAL, FIRE DEPARTMENT OR POLICE STATION PREMISES?

Follow the policy on child abuse and/or neglect, reporting to the local office of DHS' Children's Protective Services and appropriate law enforcement.

7. WHAT IF THE PERSON(S) SURRENDERING THE NEWBORN LEAVES WITHOUT PROVIDING ANY ADDITIONAL INFORMATION?

Whether or not the parent(s) provides information has no legal impact on the parent(s). Emergency service providers are obligated to ask, but the parent(s) is not obligated to provide the information.

8. IS IT LEGALLY RISKY FOR A PARENT(S) TO SURRENDER A NEWBORN TO AN ESP?

It is the intent of this legislation that if a parent(s) surrendered the newborn to an ESP and no abuse and/or neglect is present, neither a criminal investigation nor a Children's Protective Services Investigation would be initiated solely on the basis of the newborn being surrendered to an ESP.

9. WHAT IF SOMEONE OTHER THAN A PARENT SURRENDERS THE NEWBORN?

The law states the parent(s) must surrender the newborn to a uniformed or otherwise identified employee or contractor of a fire department, hospital or police station who is on duty and inside the premises. The parent(s) may also place a 9-1-1 emergency call and surrender the newborn to a paramedic or EMT. If the person surrendering the newborn is not the biological parent, the ESP shall retain temporary protective custody of the child and immediately contact law enforcement who will conduct an investigation to determine if the child has been abducted, abandoned, or involved in other criminal activities. The local office of DHS Children's Protective Services shall be contacted if the child needs to be placed in foster care pending the completion of law enforcement's investigation.

10. HOW WILL THE NON-SURRENDERING PARENT KNOW ABOUT THE BIRTH AND THE SURRENDER OF THE BABY?

Statute requires that a reasonable attempt to identify the non-surrendering parent must be made; therefore, the emergency service provider will ask for the identity of the non-surrendering parent at the time of the newborn's surrender. The statute further requires that the child placing agency make a reasonable effort to identify, locate and provide notice of the surrender of the newborn to the non-surrendering parent. If the name and address of that parent is unknown, the child placing agency shall provide notice of the surrender of the newborn by publication in a newspaper of general circulation in the county where the newborn was surrendered.

11. WHAT CIRCUIT COURT, FAMILY DIVISION DOES THE SURRENDERING PARENT(S) FILE FOR CUSTODY IF, AFTER SURRENDER, THEY WISH TO DO SO?

- ✓ The county in which the newborn is located, if the parent(s) has located the newborn, or
- ✓ The county in which the ESP is located, if the parent(s) has not located the newborn but knows the location of the ESP to whom the newborn was surrendered, or
- ✓ The county in which the parent(s) is located, if the parent(s) has not located the newborn and does not know the location of the ESP to whom the newborn was surrendered.

12. WHERE CAN I GET MORE INFORMATION ABOUT THE SAFE DELIVERY LAW?

The following acts are available for review at www.michigan.gov/safedelivery under the heading: Laws.

- Act No. 232, PA 2000 (SB 1052, 1999-2000)
- Act No. 233, PA 2000 (SB 1053, 1999-2000)
- Act No. 234, PA 2000 (SB 1187, 1999-2000)
- Act No. 235, PA 2000 (HB 5543, 1999-2000)
- Act No. 688, PA 2002 (HB 5995, 2002-2003)
- Act No. 245, PA 2003 (SB 710, 2002-2003)
- Act No. 488, PA 2006 (SB 1292, 2005-2006)
- Act No. 348, PA 2010 (SB 1118, 2009-2010)
- Act No. 349, PA 2010 (SB 1119, 2009-2010)

ESP ROLES AND RESPONSIBILITIES

13. I AM AN ESP, ARE THERE OPERATING GUIDELINES AVAILABLE FOR REVIEW?

In 2000, the Michigan Association of Fire Chiefs and the Fire Marshal Division of the Department of State Police developed and distributed a model Standard Operating Guideline (SOG) to all fire departments. The Michigan Department of State Police developed policy on the Safe Delivery of Newborns law that is available to law enforcement agencies upon request. The Michigan Health and Hospital Association has also developed policy on the Safe Delivery of Newborns law which is available to hospitals by calling: 517-703-8601. A *Response and Resource Handbook* has been developed for emergency service providers that includes the tools and information necessary to ensure a successful surrender of a newborn. A limited supply are available in hard copy or it can be downloaded from the DHS Web site at www.michigan.gov/safedelivery. To order a hard copy complete the order form at the DHS Web site.

14. IS IT LEGALLY RISKY FOR AN ESP TO ACCEPT THESE SURRENDERED NEWBORNS?

No. Unless the staff acts with gross negligence or engages in willful or wanton misconduct, their actions in accepting or transferring a newborn are immune from civil liability.

15. EFFECTIVE JANUARY 1, 2007 THE DEFINITION OF AN EMERGENCY SERVICE PROVIDER WAS CHANGED TO INCLUDE A PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN (EMT) WHO RESPONDS TO A 9-1-1 EMERGENCY CALL, WHAT DOES THIS MEAN?

A parent(s) may choose to anonymously surrender an unharmed newborn no more than 72 hours old by placing a 9-1-1 emergency call from any location in Michigan. The intent of this change was to include emergency ambulance crews as an ESP when they are dispatched by 9-1-1 in response to a parent(s) request to surrender a newborn from a specific location.

16. IF FIRE AND POLICE DEPARTMENT PERSONNEL ARE DISPATCHED TO RESPOND TO A 9-1-1 CALL AND DISCOVER A PARENT(S) WHO WANTS TO SURRENDER A NEWBORN, WILL FIRE OR POLICE PERSONNEL BE ABLE TO ACCEPT TEMPORARY PROTECTIVE CUSTODY OF THE NEWBORN?

Only a licensed paramedic or EMT is covered by the statute to accept temporary protective custody of a surrendered newborn in response to a 9-1-1 emergency call from the parent(s).

17. WHAT IF A PARENT(S) FLAGS DOWN AN EMERGENCY MEDICAL SERVICES (EMS) VEHICLE IN THE FIELD THAT IS NOT RESPONDING TO A 9-1-1 CALL FROM THE PARENT(S) AND ATTEMPTS TO SURRENDER A NEWBORN?

The law requires the parent(s) to make an emergency 9-1-1 call to surrender a newborn to a paramedic or emergency medical technician. EMS personnel should accept the newborn and assist the parent in making a call to 9-1-1 to request help in surrendering the newborn per the statutory requirements. EMS personnel are also encouraged to check their agency protocol.

18. HOW DOES THE ESP KNOW IF THE BABY IS A NEWBORN?

This law defines a newborn as "A child who a physician reasonably believes to be not more than 72 hours old." Emergency service providers must comply with the requirements of this law under the assumption that the child is a newborn. The hospital must immediately accept the newborn without the necessity of a court order. Later in the process, if a physician determines that the baby is not a newborn, a report must be made to the local office of the Department of Human Services' (DHS) Children's Protective Services.

In brief, if the baby appears to be a newborn, follow the procedures outlined in this law.

19. WHAT WRITTEN INFORMATION IS THE ESP TO PROVIDE THE SURRENDERING PARENT(S)?

The ESP is required to make a reasonable effort to give the parent(s) the following publication: Safe Delivery Program FACT Sheet (DHS Pub 867). What Am I Going To Do? (DHS Pub 864) is optional.

20. WHAT OTHER INFORMATION SHOULD THE ESP SHARE?

Reasonable efforts should be made to inform the parent(s) that by surrendering the newborn the newborn will be placed for adoption and that they will have 28 days to petition the court to regain custody of the surrendered child. A reasonable attempt should be made to:

- ✓ Reassure that shared information will be kept confidential.
- ✓ Encourage the parent(s) to identify him/herself.
- ✓ Encourage the parent(s) to share relevant family/medical history (Voluntary Medical Background for a Surrendered Newborn (DHS Form 4819) has been developed to assist with this).
- ✓ Inform the parent(s) that they can receive counseling or medical attention.
- ✓ Inform the parent(s) that a reasonable effort must be made to identify the non-surrendering parent.
- ✓ Inform the parent(s) that the placement agency can provide confidential services.
- ✓ Inform the parent(s) that they may voluntarily sign a release for the newborn to be used in the termination hearing (Voluntary Release For Adoption of a Surrendered Newborn by Parent (DHS Form 4820)).

21. WHERE DOES AN ESP OBTAIN A LISTING OF COUNSELING AND MEDICAL SERVICE PROVIDERS?

This information is available from local offices of Department of Community Health, both mental health and public health departments, pregnancy counseling services, family planning clinics, Yellow Pages of phone directories or through an internet search.

22. THE LAW INDICATES THAT THE NEWBORN SURRENDERED INSIDE THE FIRE OR POLICE DEPARTMENT TO ON DUTY PERSONNEL MUST BE TRANSFERRED TO THE HOSPITAL. HOW SHOULD THIS BE DONE?

The newborn should be transported to the hospital. If local protocol mandates that the newborn must be transported to the hospital by ambulance, fire and police personnel who accepted the surrendered newborn must accompany or follow the ambulance to the hospital to transfer temporary protective custody of the newborn to hospital staff.

23. HOW ARE FIRE AND POLICE PERSONNEL TO TRANSPORT A SURRENDERED NEWBORN TO THE HOSPITAL?

The transporting of a surrendered newborn to the hospital by fire and police department personnel is not addressed in statute. Temporary protective custody cannot be transferred to an ambulance crew responding to a request to transport the newborn to the hospital. Personnel are encouraged to contact their respective areas for protocol and/or procedures. Note: The Michigan Association of Fire Chiefs and Fire Marshal Division of the Department of State Police developed a model Standard Operating Guideline in 2000.

24. SHOULD THE INITIAL CLINICAL ASSESSMENT OF THE NEWBORN, AT THE HOSPITAL, INCLUDE A COMPLETE PHYSICAL EXAMINATION?

Initially, a nurse and/or physician in the emergency department should conduct a brief clinical assessment to determine if signs of abuse and/or neglect are present. A more complete clinical assessment by the emergency room physician should follow. Results of the complete clinical examination should be documented, including the estimated age of the newborn, results of the physical examination and recommended care plan.

25. WHAT SHOULD BE DONE IF, DURING THE HOSPITAL'S CLINICAL ASSESSMENT, SIGNS OF ABUSE AND/OR NEGLECT ARE PRESENT?

If the physician examining the newborn has reason to suspect that the newborn has experienced abuse and/or neglect (for reason other than being surrendered to an ESP) the physician must immediately report to the local office of DHS' Children's Protective Services and file A Report of Actual or Suspected Child Abuse or Neglect (DHS Form 3200).

26. DOES THE HOSPITAL HAVE TO OBTAIN WRITTEN CONSENT TO TREAT AND/OR TRANSFER THE NEWBORN?

No.

27. WILL THE SURRENDERED NEWBORN BE ELIGIBLE FOR MEDICAID?

An application for Medicaid may be made for newborns surrendered under the Safe Delivery of Newborns law by the provider hospital, child placing agency, court appointed lawyer guardian ad litem, or prospective adoptive parent(s). Assistance in applying for Medicaid can be obtained from a local DHS office.

28. WHO APPLIES FOR THE BIRTH REGISTRATION FOR THE NEWBORN?

Hospital personnel will complete the birth registration form for newborns who are delivered and surrendered in the hospital. For all other surrenders, the child placing agency will make application for the birth registration. Reporting of the birth will be handled as a "foundling" registration. The birth certificate must be completed and filed with the state registrar within five (5) days after assuming custody of the newborn. For assistance or questions regarding the procedures for birth registration, contact the Registration Unit, Office of Vital Records and Health Statistics, Michigan Department of Community Health at 517-335-8666.

29. FOLLOWING AN EXAMINATION AT A HOSPITAL AND IF THE NEWBORN IS UNHARMED, WHAT IS THE NEXT STEP FOR THE HOSPITAL?

The hospital must notify a child placing agency for placement.

30. WHERE DOES THE HOSPITAL OBTAIN A LISTING OF CHILD PLACING AGENCIES THAT HANDLE ADOPTIONS?

A listing of Michigan private adoption agencies that will provide a placement for a surrendered newborn in an approved adoptive home is available at www.michigan.gov/safedelivery or in the *Safe Delivery Response and Resource Handbook*.

31. WHAT IF A PARENT(S) RETURNS TO THE HOSPITAL, FIRE DEPARTMENT OR POLICE STATION OR CALLS 9-1-1 FOLLOWING SURRENDER AND REQUESTS THE RETURN OF THE NEWBORN?

The newborn should not be returned to the parent(s) under these circumstances. Personnel should advise the parent(s) of their right to file an action in Circuit Court, Family Division for custody of the newborn within 28 days following surrender or 28 days following notice of the surrender.

CHILD PLACING AGENCY RESPONSIBILITIES

32. WHAT ARE THE RESPONSIBILITIES OF A CHILD PLACING AGENCY THAT HAS TAKEN A NEWBORN UNDER THIS LAW?

- ✓ Immediately assume the care, control and temporary protective custody of newborn.
- ✓ If the parent(s) is known and willing, immediately meet with the parent(s).

- ✓ Unless the birth was witnessed by the ESP, immediately request assistance from law enforcement officials to investigate and determine whether the newborn is a missing child through Michigan's Missing Children's Information Clearinghouse as well as the National Center for Missing and Exploited Children.
- ✓ Complete DHS Form 377, Statement Transferring Physical Custody of Surrendered Newborn.
- ✓ Make a temporary placement of the newborn with a prospective adoptive parent who has an approved preplacement assessment.
- ✓ Within 48 hours after transferring physical custody to a prospective adoptive parent, petition the court for authority to place and provide care for the newborn.
- ✓ Within 28 days make a reasonable effort to identify, locate and provide notice of the surrender of the newborn to the non-surrendering parent. If that parent's identity and address are unknown, the child placing agency must provide notice of the surrender of the newborn by publication.
- ✓ File a written report with the court that issued the order placing the child stating the efforts made to identify and locate the non-surrendering parent and the results of those efforts.

33. WHAT ARE THE LISTINGS FOR MICHIGAN'S MISSING CHILDREN'S INFORMATION CLEARINGHOUSE AND THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN?

Michigan State Police
Prevention Services Section
333 S. Grand Avenue
Lansing, MI 48913

Telephone Number 1-877-616-4677
Fax 517-241-6815

The National Center for Missing and Exploited Children Information Clearinghouse telephone number is 1-800-THE LOST (843-5678).

A child placing agency who assumes temporary protective custody of a surrendered newborn is required to immediately notify Michigan's Missing Children's Information Clearinghouse to determine if the child is a victim of abduction unless the birth was witnessed by an ESP.

34. THE CHILD PLACING AGENCY ASSUMING TEMPORARY PROTECTIVE CUSTODY OF THE NEWBORN MUST SUPPLY THE INFORMATION NECESSARY TO ESTABLISH A BIRTH REGISTRATION FOR THE CHILD EXCEPT FOR NEWBORNS SURRENDERED FOLLOWING A HOSPITAL BIRTH. IS THERE A FORM AVAILABLE THAT CAN BE USED FOR THIS PURPOSE?

The agency may use "Certificate of Live Birth", Michigan Department of Community Health form DCH-0481.

35. THE CHILD PLACING AGENCY THAT HAS TEMPORARY PROTECTIVE CUSTODY OF A NEWBORN UNDER THE SAFE DELIVERY OF NEWBORNS LAW WILL BE REQUIRED TO COMPLETE COURT FORMS. WHAT FORMS HAVE BEEN DEVELOPED AND HOW DOES THE AGENCY ACCESS THEM?

The State Court Administrator's Office has approved forms to be used related to the surrendered newborn. These forms are available from the Family Division of Circuit Court. They are also available online at www.courts.Michigan.gov/SCAO/CourtForms. For easy reference, the form numbers and titles have been provided:

- ✓ CCFD-01 Petition for Placement Order of Surrendered Newborn Child
- ✓ CCFD-02 Order Placing Surrendered Newborn with Prospective Adoptive Parents
- ✓ CCFD-03 Petition of Parent for Custody of Surrendered Newborn Child

- ✓ CCFD-04 Order for Blood or Tissue Typing or DNA Profile
- ✓ CCFD-04a Order Determining Maternity/Paternity of Surrendered Newborn Child
- ✓ CCFD-05 Motion Objecting to DNA Identification Profile or Blood/Tissue Typing Summary Report
- ✓ CCFD-06 Order Determining Custody of Surrendered Newborn Child
- ✓ CCFD-07 Petition to Accept Release and Terminate Rights to Surrendered Newborn Child
- ✓ CCFD-08 Order After Hearing on Petition to Accept Release and Termination Rights to Surrendered Newborn Child

36. A CHILD PLACING AGENCY THAT HAS TEMPORARY CUSTODY OF A NEWBORN UNDER THE SAFE DELIVERY OF NEWBORNS LAW IS REQUIRED TO, WITHIN 28 DAYS, MAKE REASONABLE EFFORTS TO IDENTIFY, LOCATE AND PROVIDE NOTICE OF THE SURRENDER OF THE NEWBORN TO THE NON-SURRENDERING PARENT. IF THE IDENTITY AND ADDRESS OF THAT PARENT IS UNKNOWN, THE AGENCY IS TO PROVIDE NOTICE OF THE SURRENDER OF THE NEWBORN BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE NEWBORN WAS SURRENDERED. HOW WOULD SUCH A PUBLICATION READ?

While there is no specific language developed, the following is an example of a notification relating to a surrendered newborn:

State of Michigan,
 (Name of court) Circuit Court, Family Division
 Publication of Notice
 Safe Delivery of Newborns (MCL712.1)

To: Birth Father and Birth Mother of Said Minor Child In the Matter of: Newborn Baby, Born and surrendered on (list date, time, hospital, city & state), Take Notice: by surrendering your newborn, you are releasing your newborn to a child placing agency to be placed for adoption. The surrendering parent has 28 days from the date of surrender (list date) and the non-surrendering parent has 28 days from this notice to petition the court to regain custody of your child. After the 28 days there will be a hearing to terminate your parental rights. There will be a public notice of this hearing; however, the notice will not contain your names. You will not receive personal notice of the hearing. You, as the parent(s), can call (list agency with phone number and, if required, the court's information) for further information.

37. WHEN A CHILD PLACING AGENCY HAS TEMPORARY PROTECTIVE CUSTODY OF A NEWBORN, WHAT IS THE PROCESS FOR NOTIFYING THE DEPARTMENT OF HUMAN SERVICES OF A "SAFE DELIVERY OF NEWBORNS" PLACEMENT?

The agency is to complete Safe Delivery of Newborns Tracking Information (DHS Form 850) available at www.michigan.gov/safedelivery. This form must be forwarded to the Adoption Services Division of the Department of Human Services for tracking purposes.

Mailing address:	Contact numbers:
DHS Adoption Services Division	Fax: 517-241-2555
PO Box 30037 Suite 412	Phone: 517-373-3513
Lansing, MI 48909	