

## CHAPTER 58

**AN ACT** concerning certain abandoned children, amending P.L.1991, c.275 and supplementing Title 30 of the Revised Statutes and making an appropriation.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.30:4C-15.5 Short title.

1. This act shall be known and may be cited as the "New Jersey Safe Haven Infant Protection Act."

C.30:4C-15.6 Findings, declarations relative to abandoned children.

2. The Legislature finds and declares that:

a. New Jersey and the nation have experienced sorrow in the knowledge that newborn infants are sometimes abandoned in life-threatening situations and that some of these children have been harmed or have died as a consequence of their abandonment.

b. The parents of these newborn infants may be under severe emotional stress and may need a safe haven available to them and their child.

c. Anonymity, confidentiality and freedom from prosecution may encourage the parent to leave an infant safely and save the life of the infant.

d. Texas passed a law in 1999 concerning the emergency possession of certain abandoned children (Texas Family Code Section 262.301 et seq.) and measures similar to this Texas law have passed in Minnesota and Louisiana and are under consideration in more than 20 states, including California, Colorado, Kentucky and Indiana to name a few.

e. Infants at risk may be served by having this legislation in place and this legislation is worthwhile if it saves even one infant's life.

3. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to read as follows:

C.30:4C-15.1 Termination of parental rights, standards.

7. a. The division shall initiate a petition to terminate parental rights on the grounds of the "best interests of the child" pursuant to subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) The child's safety, health or development has been or will continue to be endangered by the parental relationship;

(2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm. Such harm may include evidence that separating the child from his foster parents would cause serious and enduring emotional or psychological harm to the child;

(3) The division has made reasonable efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

(4) Termination of parental rights will not do more harm than good.

b. The division shall initiate a petition to terminate parental rights on the ground that the "parent has abandoned the child" pursuant to subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) a court finds that for a period of six or more months:

(a) the parent, although able to have contact, has had no contact with the child, the child's foster parent or the division; and

(b) the parent's whereabouts are unknown, notwithstanding the division's reasonable efforts to locate the parent; or

(2) where the identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification, the division may immediately file for termination of parental rights upon the completion of the law enforcement investigation; or

(3) where the parent voluntarily delivered the child to and left the child at, or voluntarily arranged for another person to deliver the child to and leave the child at a State, county or municipal police station or at an emergency department of a licensed general hospital in this State when the child is or appears to be no more than 30 days old, without expressing an intent to return for the child, as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7), the division

shall file for termination of parental rights no later than 21 days after the day the division assumed care, custody and control of the child.

c. As used in this section and in section 15 of P.L.1951, c.138 (C.30:4C-15) "reasonable efforts" mean attempts by an agency authorized by the division to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, including, but not limited to:

(1) consultation and cooperation with the parent in developing a plan for appropriate services;

(2) providing services that have been agreed upon, to the family, in order to further the goal of family reunification;

(3) informing the parent at appropriate intervals of the child's progress, development and health; and

(4) facilitating appropriate visitation.

d. The division shall not be required to provide "reasonable efforts" as defined in subsection c. of this section prior to filing a petition for the termination of parental rights if an exception to the requirement to provide reasonable efforts to reunify the family has been established pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3).

C.30:4C-15.7 Designated sites for voluntary relinquishment of child; assumption of care, custody, control by DYFS.

4. a. If a person voluntarily delivers a child who is or appears to be no more than 30 days old to, and leaves the child at a State, county or municipal police station and does not express an intent to return for the child, a State, county or municipal police officer shall take the child to the emergency department of a licensed general hospital in this State and the hospital shall proceed as specified in subsection b. of this section.

b. If a person voluntarily delivers a child who is or appears to be no more than 30 days old to, and leaves the child at an emergency department of a licensed general hospital in this State and does not express an intent to return for the child, or, if a State, county or municipal police officer brings a child to a licensed general hospital under the circumstances set forth in subsection a. of this section, the hospital shall:

(1) take possession of the child without a court order;

(2) take any action or provide any treatment necessary to protect the child's physical health and safety; and

(3) no later than the first business day after taking possession of the child, notify the Division of Youth and Family Services in the Department of Human Services that the hospital has taken possession of the child.

c. The Division of Youth and Family Services shall assume the care, custody and control of the child immediately upon receipt of notice from a licensed general hospital pursuant to paragraph (3) of subsection b. of this section. The division shall commence a thorough search of all listings of missing children to ensure that the relinquished child has not been reported missing.

d. A child for whom the Division of Youth and Family Services assumes care, custody and control pursuant to subsection c. of this section shall be treated as a child taken into possession without a court order.

e. It shall be an affirmative defense to prosecution for abandonment of a child that the parent voluntarily delivered the child to and left the child at, or voluntarily arranged for another person to deliver the child to and leave the child at, a State, county or municipal police station as provided in subsection a. of this section or the emergency department of a licensed general hospital in this State as provided in subsection b. of this section. Nothing in this subsection shall be construed to create a defense to any prosecution arising from any conduct other than the act of delivering the child as described herein, and this subsection specifically shall not constitute a defense to any prosecution arising from an act of abuse or neglect committed prior to the delivery of the child to a State, county or municipal police station as provided in subsection a. of this section or the emergency department of a licensed general hospital in this State as provided in subsection b. of this section.

f. A State, county or municipal police officer and the governmental jurisdiction employing that officer or an employee of an emergency department of a licensed general hospital in this State and the hospital employing that person shall incur no civil or criminal liability for any good faith acts or omissions performed pursuant to this section.

g. Any person who voluntarily delivers a child who is or appears to be no more than 30 days old to a licensed general hospital or a police station in accordance with this section shall not be required to disclose that person's name or other identifying information or that of the child or the child's parent, if different from the person who delivers the child to the hospital or police station, or provide background or medical information about the child, but may voluntarily do so.

C.30:4C-15.8 Responsibilities of division, placement of child.

5. The division, after assuming the care, custody and control of a child from a licensed general hospital pursuant to section 4 of P.L.2000, c.58 (C.30:4C-15.7), shall not be required to attempt to reunify the child with the child's parents. Additionally, the division shall not be required to search for relatives of the child as a placement or permanency option, or to implement other placement requirements that give preference to relatives if the division does not have information as to the identity of the child, the child's mother or the child's father. The division shall place the child with potential adoptive parents as soon as possible.

C.30:4C-15.9 Educational and public information program toll free hotline.

6. a. The Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services, shall establish an educational and public information program to promote safe placement alternatives for newborn infants, the confidentiality offered to birth parents and information regarding adoption procedures. This campaign shall include the establishment of a 24-hour, toll free hotline to assist in making information about the safe haven procedures established by P.L.2000, c.58 (C.30:4C-15.5 et al.) as widely available as possible.

b. The Department of Human Services shall provide to licensed general hospitals in this State and State, county or municipal police stations information about relevant social service agencies which may be made available to any person voluntarily delivering a child as provided in section 4 of P.L.2000, c.58 (C.30:4C-15.7).

7. The Commissioner of Human Services shall report to the Governor and the Legislature no later than two years after the effective date of this act on the effects of the safe haven procedures established pursuant thereto and shall accompany that report with any recommendations for legislative or administrative action that the commissioner desires to make.

8. There is appropriated from the General Fund to the Department of Human Services \$500,000 to establish the educational and public information program and the 24-hour, toll free hotline as provided in section 6 of P.L.2000, c.58 (C.30:4C-15.9).

9. The Commissioner of Human Services, in consultation with the Commissioner of Health and Senior Services and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

10. This act shall take effect on the 30th day after enactment.

Approved July 7, 2000.