

# **The Idaho Safe Haven Act**

## *Assuring the Safety of Abandoned Infants*

### **Introduction**

The following information has been prepared to assist Idaho medical, law enforcement, and child welfare professionals in understanding the Idaho Safe Haven Act. Each of these professional groups has potential responsibilities designated in this act. While it is expected that requests for safe haven will be rare, it is still an extraordinarily important event for the baby and the parent involved. It is hoped people will know how to respond appropriately if a safe haven is requested.

### **The Law to Protect Abandoned Infants**

The Idaho Safe Haven Act was passed in 2001. It is similar to laws passed in many other states to protect abandoned infants. These laws are a response to incidents where young parents have abandoned newborns, for fear of being known, or simply because they did not know what else to do.

The Idaho Safe Haven Act, like the laws in other states, is intended to provide a safe alternative for parents who might otherwise abandon their baby. If a parent delivers the baby to a safe haven, the parent can remain anonymous, they can be assured the baby will be cared for, and they will not be prosecuted for child abandonment.

Under the act, certain medical professionals and hospitals are identified as "safe havens". A safe haven is authorized by law to accept a baby less than 30 days of age, directly from a parent, without identifying the parent. The law also outlines processes to assure the child is truly abandoned and to quickly place the child in a permanent adoptive home.

### **Definition of a Safe Haven**

The following are identified as possible safe havens:

- Hospitals licensed in the state of Idaho;
- Licensed physicians in the state of Idaho and staff working at their offices and clinics;
- Advanced practice professional nurses including certified nurse midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists;
- Licensed physician assistants;

- Medical personnel when making an emergency response to a "911" call from a custodial parent, for the purpose of taking temporary physical custody of a child pursuant to the Idaho Safe Haven Act. For purposes of this act, "medical personnel" shall include those individuals certified by the department of health and welfare as:
  - First responders;
  - Emergency medical technicians - basic;
  - Advanced emergency medical technicians - ambulance;
  - Emergency medical technicians - intermediate; and
  - Emergency medical technicians - paramedic.

## **Responsibilities of Safe Havens**

The law allows a safe haven to take temporary physical custody of a child, without a court order, if the child is personally delivered to the safe haven, provided that,

- a) The child is no more than 30 days of age; and
- b) The parent personally delivers the child to the safe haven; and
- c) The parent does not express intent to return for the child.

A safe haven that takes temporary physical custody of a child under the Act shall:

- a) Do what is necessary to make certain the newborn's health and safety needs are met, this can include delivering the child to a hospital for care or treatment; and
- b) Immediately notify a peace officer of the abandonment.

The safe haven can not inquire as to the identity of the parent. The safe haven may ask, though, if the parent wishes to provide any medical or other information about the child. If the safe haven knows the parent, the safe haven shall keep all information about the identity confidential.

## **Legal Immunity of Safe Havens**

A safe haven, as defined by the Idaho Safe Haven Act, is immune from civil or criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a child and performing duties under this act.

## **Actions of Parents**

A parent may leave a child with a safe haven without being subjected to prosecution for abandonment provided that the child was no more than thirty (30) days of age when left at the safe haven, as determined within a reasonable degree of medical certainty.

The parent leaving the child shall not be required to provide any information to the safe haven, but may voluntarily provide information including, but not limited to, medical history of the parent(s) or the child.

## **Responsibilities of Peace Officers**

Upon notification by a safe haven that a child has been abandoned under the Idaho Safe Haven Act, a peace officer shall take protective custody of the child. The peace officer shall then immediately deliver the child to the care, control and custody of the Department of Health and Welfare. However, if the child requires further medical attention, the child can be left in the care of a hospital. The peace officer shall notify the court and prosecutor of the action taken and the location of the baby so that a shelter care hearing may be held.

A peace officer taking a child into protective custody under this act shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith or in violation of the provisions of the act.

## **Responsibilities of the Department of Health and Welfare**

The Department of Health and Welfare is responsible for placing the baby with a potential adoptive parent as soon as possible. The social workers will follow normal procedures for identifying potential families, and for facilitating a successful adoption.

The specific process for terminating parental rights has been streamlined for children left with a safe haven. The termination of parental rights petition should be filed after 30 days, the social workers are not expected to work for reunification, and the deliverance of the child to a safe haven is handled like a request to place a child for adoption.

As soon as possible after Health and Welfare becomes involved, efforts must be made to verify that the baby is not a missing child. The department shall request assistance from law enforcement officials to investigate this through the missing children clearinghouse and other state and national resources.

After thirty days the department shall petition to terminate the parental rights of the parent who abandoned the child at the safe haven and any unknown parent.

Prior to the time set for the termination hearing, and prior to entry of an court order terminating parental rights, the Department shall obtain and file with the court a certificate from vital statistics, stating a diligent search has been made of the registry of claims of parental rights of abandoned children, and shall describe the results of that search.

Child protective services shall not initiate an investigation of abandonment, unless a claim of parental rights is made and the court orders the investigation.

## **Claiming Parental Rights**

A person wishing to claim parental rights of a baby left with a safe haven may file a claim with the Vital Statistics Unit of the Department of Health and Welfare. Forms for filing will be available at the central office of vital statistics in Boise or at the clerk of court office in any county. Vital statistics will maintain a registry, of people who claim parental rights of abandoned children. The courts must determine that this registry has been checked before parental rights are terminated.

If a claim of parental rights is made before parental rights have been terminated, the court will delay the termination for up to sixty days, and will order genetic tests to establish maternity or paternity.

## **More Information**

More information about the Idaho Safe Haven Act can be obtained by contacting the Idaho CareLine (1-800-926-2588), or the child protection program specialist at the Family and Community Services Division of the Department of Health and Welfare (208-334-5700).

Copies of the law can be obtained on line at <http://www.state.id.us/legislat/legislat.html>. or from the Legislative Services Office. Room 108, State Capitol, Boise, Idaho 83720-0054. Phone 208-334-2475.