



# HOUSE BILL 125: Safe Surrender Infants.

2023-2024 General Assembly

<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	March 7, 2023
<b>Introduced by:</b>	Reps. White, Bradford, Riddell	<b>Prepared by:</b>	Susan Sitze Anna Parsons* Staff Attorney
<b>Analysis of:</b>	Second Edition		

**OVERVIEW:** *House Bill 125 would amend the current law for the safe surrender of an infant by identifying specific individuals to whom an infant may be surrendered and outlining the duties, immunity, confidentiality, and notice related to a safely surrendered infant.*

**BILL ANALYSIS:** The bill would establish a new Article 5A pertaining to the Safe Surrender of Infants in the Chapter 7B Juvenile Code and make conforming changes. The bill is more expansive than current law on safe surrender.

This analysis provides the definitions contained in Section 2 prior to outlining the changes in Section 1.

**Definitions – Section 2** of the bill adds the following new definitions to current law (G.S. 7B-101) and makes conforming changes:

- **Non-surrendering parent** is the parent of a safely surrendered infant other than the parent who physically surrenders the infant.
- **Safely surrendered infant** is an infant reasonably believed to be not more than seven days old and without signs of abuse or neglect who is voluntarily delivered to an individual under the Safe Surrender law (Article 5A of Chapter 7B) by the infant's parent who does not express an intent to return for the infant. The act of surrendering does not constitute neglect.
- **Surrendering parent** is a parent who physically surrenders the parent's infant pursuant to Article 5A.

The following outlines **Section 1** of the bill which creates Article 5A Safe Surrender of Infants.

**Purpose & Limitations** (G.S. 7B-520) – The stated purpose of Article 5A is to protect newborn infants by providing a safe alternative for a parent who, in crisis or desperation, may physically abandon or harm a newborn. Safe surrender laws would not apply where the infant is believed to be more than seven days old, shows signs of abuse or neglect, where there is reason to believe the individual surrendering the infant is not the parent, or where there is reason to believe the parent intended to return for the infant.

**Persons to Whom the Infant May Be Surrendered** (G.S. 7B-521) – Most of the information in this section is current law contained in G.S. 7B-500(b) and is being relocated to G.S. 7B-521. The bill would provide that, subject to limitations, the following individuals are permitted to take temporary custody of the infant:

- **Health care providers** (defined in G.S. 90-21.11) on duty at a hospital, health department, or nonprofit community health center.
- **First responders**, which include law enforcement officers, certified emergency medical services workers, or firefighters.
- **Social services workers** on duty or at a local department of social services.

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# House Bill 125

Page 2

The bill would eliminate the current law (G.S. 7B-500(d)) permitting any adult, without a court order, to take into temporary custody an infant under seven days of age voluntarily delivered by the infant's parents with no expressed intent to return.

**Duties of Person Taking Safely Surrendered Infant** (G.S. 7B-522) – Most of the information in this section is current law (G.S. 7B-500(c)) being relocated to G.S. 7B-522. The section provides that an individual who takes an infant into temporary custody must protect the physical health and well-being of the infant and immediately notify the department of social services (DSS) in the county where the infant is surrendered. The individual may inquire about parent identities, date of birth, etc., but the parent is not required to provide the information. If practical, the surrendering parent shall be provided written information as specified in G.S. 7B-528.

**Immunity** (G.S. 7B-523) – Most of the information in this section is current law (G.S. 7B-500(e)) being relocated. The section provides that an individual to whom an infant is surrendered is immune from civil or criminal liability if the individual acted in good faith.

**Confidentiality** (G.S. 7B-524) – Unless a parent consents to release, information regarding the surrendering parent's identity is confidential. However, an individual who takes an infant into temporary custody must provide to the DSS director any information known about the infant and the infant's parents, including their identity, any medical history, and the circumstances of surrender to the DSS director. Information received by DSS about the surrendering parent's identity can be disclosed for the following reasons: provide notice to local law enforcement (G.S. 7B-525(b)(3)), contact with the non-surrendering parent, or by court order. Information received by the DSS pertaining to the infant's safe surrender and condition must be held in confidence except the director may share necessary or relevant information with a health care provider, placement provider, guardian ad litem, or a district or superior court judge presiding over a criminal or delinquency matter. The confidentiality section does not apply if the DSS determines the juvenile is not a safely surrendered infant or is the victim of a crime.

**Social Services Response** (G.S. 7B-525) – A DSS director, by virtue of the surrender, has the surrendering parent's rights to legal and physical custody of the infant without obtaining a court order. The DSS may apply ex parte to the district court for an order finding the infant has been safely surrendered and confirming the DSS has the surrendering parent's right to legal custody to obtain the child's birth certificate, social security number, or federal and State benefits. Additional responsibilities of the DSS director are specified in this section.

If a non-surrendering parent is identified, contacted, and located, the director must place custody of the infant with the non-surrendering parent and the DSS custodial rights terminate if the following apply: there is rebuttable presumption the non-surrendering parent is the infant's parent, the non-surrendering parent asserts parental rights, and the director does not suspect the infant is an abused, neglected, or dependent juvenile. This section also outlines the process in subsection (d) if the identity of the non-surrendering parent is known by the DSS director and the director has cause to suspect the infant may be an abused, neglected, or dependent juvenile. Finally, it provides that G.S. 7B-527(a) applies if the surrendering parent seeks to regain custody of the infant.

**Notice by Publication of Safely Surrendered Infant** (G.S. 7B-526) – Within 14 days from the date of the safe surrender, the director must place a notice in a publication, defined in subsection (b), that an infant has been surrendered and taken into custody by DSS. The notice must be published in the county in which the surrender was made, and in any other county the director has reason to believe either parent may be residing. The notice must be published once a week for three successive weeks and must provide the following information: the infant was surrendered by the mother or father with no expressed intent to return, the date of surrender, profession of the person to whom the infant was surrendered and the location

# House Bill 125

Page 3

of the facility; physical characteristics of the infant; current custody; right to request the infant's return; efforts to identify, locate, and contact the non-surrendering parent; parental right to contact DSS; proposed termination of parental rights in 60 days; and contact information for DSS.

**Rights of Surrendering Parent** (G.S. 7B-527) – Prior to filing a termination of parental rights, a surrendering parent has the right to regain custody of the infant. The safe surrender does not preclude the parent from executing a relinquishment of their parental rights for adoption with the local DSS. A parent surrendering an infant is immune from civil liability or criminal prosecution if they acted in good faith.

**Information to Surrendering Parent** (G.S. 7B-528) – The Department of Health and Human Services, Division of Social Services is required to create printable and downloadable information on infant safe surrender which must be translated into commonly spoken and read languages in this State, written in a user-friendly manner, posted on the Division website, and available for distribution. This section lists six elements that must be contained in the information.

**Preliminary hearing to terminate parental rights for a safely surrendered infant** (G.S. 7B-1105.1) - **Section 6** of the bill amends Article 11 of Chapter 7B pertaining to termination of parental rights by adding a new statutory section regarding the preliminary hearing for a safely surrendered infant. The section requires that within 10 days from the date of filing a petition to terminate parental rights of a surrendering or non-surrendering parent of a safely surrendered infant, or the next term of court if there is no court in the county in that 10-day period, the court must conduct a preliminary hearing to address the infant's safe surrender. The purpose of the hearing is to ascertain the identity and location of either parent and to establish notice regarding termination of parental rights. The statute lists information the court must ask the DSS director. The court is required to determine whether any diligent efforts are required to identify or locate the surrendering parent while considering the need to protect confidentiality and must determine whether the surrendering parent should be served. If the identity of the non-surrendering parent is known the court must order service. If the identity is not known the service must be by publication. The contents of the service by publication are outlined in this new statute and upon completion, an affidavit of the publisher must be filed with the court. No summons is required for a parent who is served by publication. The court must issue the order required by the section within 30 days from the date of the preliminary hearing unless the court determines more time is needed.

**Other changes** - **Section 4** deletes language in G.S. 7B-500 since much of it was relocated to the new Article 5A. **Sections 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, and 15** replace references to current law with the new statutes created by this bill and make other conforming changes.

**EFFECTIVE DATE:** This bill would become effective October 1, 2023.

*\*Theresa Matula and Kristen Harris, Legislative Analysis Division, substantially contributed to this summary.*