

ENGROSSED HOUSE
BILL NO. 1122

By: Winchester, Calvey, Leist,
Peters, Piatt, Roggow and
Tyler of the House

and

Cain of the Senate

An Act relating to crimes and punishment; amending 21 O.S. 1991, Section 851, as last amended by Section 154, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 851), which relates to desertion of children under ten years of age; stating that leaving a newborn infant with a medical provider under certain circumstances shall not be subject to criminal prosecution; stating exceptions; requiring certain entities to receive a child and to provide for the physical health or safety of the child; requiring notification of local law enforcement; stating what information shall be required if requested; providing immunity for medical providers under certain circumstances; making newborn infant an abandoned child for certain purposes; defining terms; providing for certain tracking mechanisms; providing for sunset review; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 851, as last amended by Section 154, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 851), is amended to read as follows:

Section 851. ~~Any~~ A. Except as otherwise provided by subsection B of this section, any parent of any a child or children under the age of ten (10) years, and every person to whom such child ~~or children have~~ has been confided for nurture or education, who deserts such child or children within the State of Oklahoma, or takes such child or children without the State of Oklahoma, with the intent wholly to abandon ~~it~~ such child shall be deemed guilty of a felony and, upon conviction thereof shall be punished by

imprisonment in the State Penitentiary for any period of time not less than one (1) year nor more than ten (10) years.

B. 1. It shall not be considered a criminal offense pursuant to this section or Sections 853 or 858.3 of this title for any parent to voluntarily leave the newborn infant of that parent with a medical provider or designated person in this state in accordance with the provisions of this subsection. The parent may be subject to prosecution for any other criminal violation as provided by law.

2. Any medical provider or designated person shall receive physical custody of a newborn infant who is seventy-two (72) hours old or younger if:

a. the parent has voluntarily left the infant with the medical provider or designated person without identifying the infant or furnishing any means of identification, or

b. the parent has voluntarily left the infant with the medical provider or designated person and expressed a willful intent by words, actions, or omissions not to return for the infant.

3. The medical provider or designated person shall document the physical condition of the infant when received from the parent and any information voluntarily given by the parent leaving the infant. A medical provider or designated person who takes physical custody of an infant pursuant to this section shall perform or provide for the performance of any act necessary to protect the physical health or safety of the infant.

4. The medical provider or designated person shall immediately notify the local law enforcement agency pursuant to Section 7003-2.1 of Title 10 of the Oklahoma Statutes that the parent of a child has left the infant and that the medical provider or designated person has taken physical custody of the infant.

C. 1. The parent leaving a newborn infant with a medical provider or designated person pursuant to this section shall not be required to provide any information to the medical provider or designated person including, but not limited to, the name of the mother or the name of the father.

2. The parent may be required to give information regarding the age of the newborn infant and whether the newborn infant is a child of the parent.

D. A medical provider or designated person with responsibility for performing duties pursuant to this section is immune from any criminal liability that otherwise might result from its actions, if acting in good faith in receiving a newborn infant. In addition, such medical providers and designated persons are immune from any civil liability that otherwise might result from merely receiving a newborn infant.

E. A newborn infant left with a medical provider or designated person pursuant to this section shall be deemed to be an abandoned infant pursuant to the provisions of the Oklahoma Children's Code.

F. For purposes of this section:

1. "Newborn infant" means a child between birth and seventy-two (72) hours old as determined by the medical provider within a reasonable degree of certainty based upon the appearance of the child or information supplied by the parent;

2. "Medical provider" means a person authorized to practice the healing arts, a registered or practical nurse, a nurses aide, or an emergency medical technician; and

3. "Designated person" means an employee or person on duty at a police station, fire station, child protective agency, hospital, or other medical facility who has been designated by the appropriate authority to receive a newborn infant and has received instruction from that authority regarding what procedures are to be followed upon receiving a newborn infant.

G. In implementing the provisions of this act, tracking mechanisms shall be instituted to determine how many babies are abandoned and whether the lives of those babies are saved.

H. The provisions of this act shall be subject to a sunset provision. In 2003, the provisions of the act shall be reviewed to determine if the legislation is successful.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 12th day of February, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2001.

Presiding Officer of the Senate