

Bulletin

June 20, 2007

Minnesota Department of Human Services □ P.O. Box 64943 □ St. Paul, MN 55164-0943

OF INTEREST TO

- County Directors
- Social Services Supervisors and Staff
- Child Protection Workers
- Tribal Social Service Agencies
- County Attorneys
- Hospitals

ACTION/DUE DATE

Please review and use when handling cases that fall under the Safe Place for Newborns law.

EXPIRATION DATE

June 20, 2009

The Safe Place for Newborns law

TOPIC

Safe Place for Newborns law.

PURPOSE

Provide guidance to county social service agencies on the implementation of the Safe Place for Newborns law. This Bulletin replaces Bulletin 03-68-03, "Implementing Safe Place for Newborns Law", dated March 19, 2003.

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INTRODUCTION

The Minnesota Legislature enacted the Safe Place for Newborns law in 2000. This law allows a mother, or a person who has her permission, to leave a newborn at a hospital without fear of prosecution for abandonment. This bulletin responds to questions raised about the Safe Place for Newborns law. This bulletin replaces Bulletin 03-68--3, "Implementing the Safe Place for Newborns Law", dated March 19, 2003.

What situations are covered by the Safe Place for Newborns law?

Minnesota law permits county social service agencies to plan for the immediate safety and adoption of newborns who are left at a hospital under certain conditions. See Minnesota Statutes, sections 260C.217 and 145.902. The law applies if the agency takes custody of a newborn when they are left with hospital staff on hospital premises, provided that:

- The newborn was born within 72 hours of being left at the hospital, as determined within a reasonable degree of medical certainty
- The newborn was unharmed.

[Minnesota Statutes, section 145.902, subdivision 1 (a)]

What situations are not covered by the Safe Place for Newborns provisions?

The Safe Place for Newborns provisions do not apply to situations where a mother admits herself into the hospital for the birth and provides identifying information, even if she states that she wants to utilize provisions of the Safe Place for Newborns law. If a county social service agency receives a referral from the hospital, the agency should assess the safety needs of the mother and the newborn and, as appropriate, offer services to protect their safety. Services may include planning for placement of the newborn away from the mother according to her wishes. If the situation does not fall under the Safe Place for Newborns provisions, the agency must follow all provisions of Minnesota law that apply whenever a child is placed in foster care or for adoption. This includes identifying and working with the father.

What should county social service agencies do upon receiving a report that a newborn was abandoned under the Safe Place for Newborns provisions?

The county social service agency should verify the information received from the hospital regarding the circumstances surrounding the newborn left at the hospital. If the circumstances fall within the provisions of the Safe Place for Newborns law, the newborn is considered an abandoned child for purposes of Minnesota Statutes, section 260C and adoption proceedings. The social service agency should obtain legal authority to place the newborn when discharged from the hospital by either:

- Asking law enforcement to exercise its authority to take the newborn into custody under Minnesota Statutes, section 260C.175

- Seeking a court order for immediate custody under Minnesota Statutes, section 260C.151, subdivision 6.

If the newborn is not American Indian (see below), they may be placed immediately for adoption, without attempting to locate the parents or other relatives. [Minnesota Statutes, section 260C.217, subdivision 1]

What if there is reason to believe the newborn may be an American Indian?

If there is reason to believe the newborn is American Indian, provisions of the Indian Child Welfare Act may apply. In this situation, the agency should contact the tribal social service offices within a reasonable proximity to the hospital to request assistance in identifying the child's family. If a tribe identifies the newborn as the biological child of an Indian person and a member of an Indian tribe, or eligible for membership in an Indian tribe, the provisions of the Indian Child Welfare Act must be followed. These provisions require that the agency:

- Provide legal notice to the tribe
- Engage in active efforts to prevent the breakup of the Indian family
- Identify relatives for meeting the placement preferences
- Meet expert testimony requirements.

How does a county agency place the newborn for immediate adoption?

The county social service agency may refer the newborn for placement through a private agency or may take the necessary actions itself. If the county takes action, it should:

- Identify and place the child with a prospective adoptive family.
- Ask the county attorney's office to file either a Child in Need of Protection or Services (CHIPS) petition, or a Termination of Parental Rights (TPR) petition, to gain legal custody of and placement responsibility of the child. Either a CHIPS or TPR petition may be the basis for the court to find the child abandoned since Minnesota Statutes, section 260C.217, subdivision 2, permits a Safe Place for Newborns to be considered an abandoned child.
- Work with the county attorney's office to ensure that there is no father who might be entitled to notice of an adoption proceeding. In most cases, this means waiting 30 days from the child's birth and checking with the Father's Adoption Registry to ensure no man has filed as putative father entitled to notice of an adoption proceeding under Minnesota Statutes, section 259.49. A man attempting to utilize the Father's Adoption Registry is supposed to give the mother's name, including all names she might be known by. While this information will not be known to county social service agencies (such searches may prove problematic for the commissioner of health who is responsible for the operation of the Father's Adoption Registry), the county will have met its legal obligation.
- As appropriate, assist the prospective adoptive family with filing an adoption petition and with obtaining a final order for adoption.

How should these cases be entered into SSIS?

A case that falls under the Safe Place for Newborns law should be opened in SSIS as a child welfare case with a presenting problem of “other.”

What if the mother who abandoned her baby at a hospital under the Safe Place for Newborns provision changes her mind and asks that her child be returned to her?

If, prior to finalization of the adoption, a person presents herself as the mother of a newborn abandoned under the Safe Place for Newborns law and wants the child returned to her care, the county social services agency should open the matter as a child maltreatment case and conduct an assessment according to the requirements of Minnesota Statutes, section 626.556. The county social service agency should assess the request for return of the child by verifying the person’s identity as the biological mother, assessing any safety issues the child may face in the care of the mother, and assessing the need for child protective services. A new child maltreatment report should be entered into SSIS, and the child protection assessment process completed.

While a maltreatment assessment should take place, a county social service agency should not determine that maltreatment has occurred based solely on the mother’s decision to utilize the provisions of the Safe Place for Newborns law. If the agency’s assessment documents conditions indicating the newborn is at significant risk of maltreatment if protective intervention is not provided, a determination that child protective services are needed is appropriate. In this event, a child protective services or out-of-home placement plan should be developed.

OTHER STATUTORY PROVISIONS

Minnesota Statutes, section 145.902 provides that a hospital shall accept a newborn left with a hospital employee on hospital premises if the newborn was born within 72 hours of being left at the hospital and was left unharmed.

The statute also provides:

- The hospital must not inquire as to the identity of the mother or the person leaving the newborn, or call the police, provided the newborn is unharmed when presented at the hospital. The hospital may ask the mother or the person leaving the newborn about the medical history of the mother or newborn; but they are not required to provide information. The hospital may provide the mother or the person leaving the newborn with information about how to contact relevant social service agencies. [Minnesota Statutes, section 145.902, subdivision 1(b)]
- Within 24 hours of receiving a newborn, the hospital must inform the local welfare agency that a newborn has been left at the hospital, but must not do so before the mother or the person leaving the newborn leaves the hospital. [Minnesota Statutes, section 145.902, subdivision 2]
- A hospital, and any employee, doctor or other medical professional working at the hospital, are immune from any criminal liability that otherwise might result from their

actions, if they are acting in good faith in accepting a newborn, and are immune from any civil liability that otherwise might result from merely accepting a newborn. [Minnesota Statutes, section 145.902, subdivision 3 (a)]

Minnesota Statutes, section 609.3785 provides that a person may leave a newborn with a hospital employee in a hospital without being subjected to prosecution for that act, provided that:

- The newborn was born within 72 hours of being left at the hospital as determined within a reasonable degree of certainty
- The newborn is left unharmed
- When the person leaving the newborn is not the mother, the person has the mother's approval to do so.

Special Needs

This information is available in other forms to people with disabilities by contacting us at (651) 431-4660 (voice) or through the Minnesota Relay Service at (800) 627-3529 (TDD), 7-1-1 or (877) 627-3848 (speech to speech relay service).