

1 **ESSB 5236 - H AMD Failed March 6, 2002 0398**

2 By Representative Boldt

3 Strike everything after the enacting clause and insert the
4 following:

5 NEW SECTION. **Sec. 1.** The legislature intends to increase the
6 likelihood that pregnant women will obtain adequate prenatal care and
7 will provide their newborns with adequate health care during the first
8 few days of their lives. The legislature further intends to protect
9 the health and safety of all children and reaffirms its mission under
10 RCW 13.34.020 and RCW 74.14A.010. The legislature recognizes that in
11 some situations it is in the best interest of the child to provide a
12 clear process for the relinquishment of that child and the termination
13 of parental rights. The legislature does not intend to encourage the
14 abandonment of newborn children nor to change existing law relating to
15 notification to parents under chapter 13.34 RCW, but rather to ensure
16 that abandonment does not occur and that all newborns have an
17 opportunity for adequate health care and a stable home life.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW
19 to read as follows:

20 (1) For purposes of this section:

21 (a) "Appropriate location" means the emergency department of a
22 hospital licensed under chapter 70.41 RCW during the hours the hospital
23 is in operation.

24 (b) "Newborn" means a live human being who is less than seventy-
25 two hours old.

26 (c) "Qualified person" means a social worker employed by the
27 hospital or any person that has been designated by the hospital as a
28 person who will receive infants who are being relinquished by a parent.
29 Any person designated as a qualified person shall complete any training
30 requirements pursuant to section 8 of this act.

31 (2) A parent of a newborn who relinquishes the newborn to a
32 qualified person at an appropriate location is not subject to criminal
33 liability under RCW 9A.42.060, 9A.42.070, 9A.42.080, 26.20.030, or
34 26.20.035.

1 (3)(a) The qualified person taking the newborn shall determine if
2 the newborn is in need of emergent care and shall attempt to obtain any
3 pertinent information about the newborn including the identity of both
4 parents of the newborn and any know medical history relevant to the
5 newborn.

6 (b) The qualified person and the hospital shall provide referral
7 information about adoption options, counseling, appropriate medical and
8 emotional aftercare services, domestic violence, legal rights to the
9 parent seeking to relinquish the newborn, and the legal rights of a
10 parent seeking to terminate parental rights as well as any right to
11 reunification with the newborn.

12 (c) If a parent of a newborn relinquishes the newborn to a
13 qualified person at an appropriate location pursuant to this section,
14 the hospital shall cause child protective services to be notified
15 within twenty-four hours after receipt of such a newborn. Child
16 protective services shall assume custody of the newborn within twenty-
17 four hours after receipt of notification and shall arrange for
18 discharge of the newborn from the hospital.

19 (d) A hospital, its employees, volunteers, and medical staff are
20 immune from any criminal or civil liability for accepting or receiving
21 a newborn under this section.

22 **Sec. 3.** RCW 9A.42.060 and 1996 c 302 s 2 are each amended to read
23 as follows:

24 (1) Except as provided in subsection (2) of this section, ((A))
25 a person is guilty of the crime of abandonment of a dependent person in
26 the first degree if:

27 (a) The person is the parent of a child, a person entrusted with
28 the physical custody of a child or other dependent person, or a person
29 employed to provide to the child or other dependent person any of the
30 basic necessities of life;

31 (b) The person recklessly abandons the child or other dependent
32 person; and

33 (c) As a result of being abandoned, the child or other dependent
34 person suffers great bodily harm.

35 (2) A parent of a newborn who relinquishes the newborn to a
36 qualified person at an appropriate location pursuant to section 2 of
37 this act is not subject to criminal liability under this section.

1 (3) Abandonment of a dependent person in the first degree is a
2 class B felony.

3 **Sec. 4.** RCW 9A.42.070 and 1996 c 302 s 3 are each amended to read
4 as follows:

5 (1) Except as provided in subsection (2) of this section, ((A))
6 a person is guilty of the crime of abandonment of a dependent person in
7 the second degree if:

8 (a) The person is the parent of a child, a person entrusted with
9 the physical custody of a child or other dependent person, or a person
10 employed to provide to the child or other dependent person any of the
11 basic necessities of life; and

12 (b) The person recklessly abandons the child or other dependent
13 person; and:

14 (i) As a result of being abandoned, the child or other dependent
15 person suffers substantial bodily harm; or

16 (ii) Abandoning the child or other dependent person creates an
17 imminent and substantial risk that the child or other dependent person
18 will die or suffer great bodily harm.

19 (2) A parent of a newborn who relinquishes the newborn to a
20 qualified person at an appropriate location pursuant to section 2 of
21 this act is not subject to criminal liability under this section.

22 (3) Abandonment of a dependent person in the second degree is a
23 class C felony.

24 **Sec. 5.** RCW 9A.42.080 and 1996 c 302 s 4 are each amended to read
25 as follows:

26 (1) Except as provided in subsection (2) of this section, ((A))
27 a person is guilty of the crime of abandonment of a dependent person in
28 the third degree if:

29 (a) The person is the parent of a child, a person entrusted with
30 the physical custody of a child or other dependent person, or a person
31 employed to provide to the child or dependent person any of the basic
32 necessities of life; and

33 (b) The person recklessly abandons the child or other dependent
34 person; and:

35 (i) As a result of being abandoned, the child or other dependent
36 person suffers bodily harm; or

1 (ii) Abandoning the child or other dependent person creates an
2 imminent and substantial risk that the child or other person will
3 suffer substantial bodily harm.

4 (2) A parent of a newborn who relinquishes the newborn to a
5 qualified person at an appropriate location pursuant to section 2 of
6 this act is not subject to criminal liability under this section.

7 (3) Abandonment of a dependent person in the third degree is a
8 gross misdemeanor.

9 **Sec. 6.** RCW 26.20.030 and 1984 c 260 s 26 are each amended to
10 read as follows:

11 (1) Except as provided in subsection (2) of this section,
12 ((A))any person who has a child dependent upon him or her for care,
13 education or support and deserts such child in any manner whatever with
14 intent to abandon it is guilty of the crime of family abandonment.

15 (2) A parent of a newborn who relinquishes the newborn to a
16 qualified person at an appropriate location pursuant to section 2 of
17 this act is not subject to criminal liability under this section.

18 (3) The crime of family abandonment is a class C felony under
19 chapter 9A.20 RCW.

20 **Sec. 7.** RCW 26.20.035 and 1984 c 260 s 27 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (2) of this section,
23 ((A))any person who is able to provide support, or has the ability to
24 earn the means to provide support, and who:

25 (a) Wilfully omits to provide necessary food, clothing, shelter,
26 or medical attendance to a child dependent upon him or her; or

27 (b) Wilfully omits to provide necessary food, clothing, shelter,
28 or medical attendance to his or her spouse,
29 is guilty of the crime of family nonsupport.

30 (2) A parent of a newborn who relinquishes the newborn to a
31 qualified person at an appropriate location pursuant to section 2 of
32 this act is not subject to criminal liability under this section.

33 (3) The crime of family nonsupport is a gross misdemeanor under
34 chapter 9A.20 RCW.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.34 RCW
36 to read as follows:

1 (1) The department shall provide training for persons designated
2 as a qualified person who will receive a newborn from a parent who is
3 relinquishing the newborn. The department shall establish training
4 standards and protocol and make training available to all persons who
5 are designated as a qualified person. The department shall conduct the
6 initial training at the hospitals by September 30, 2003.

7 (2) The department shall provide to hospitals all forms related to
8 child custody and termination of parental rights necessary to carry out
9 the provisions of this act.

10 NEW SECTION. **Sec. 9.** (1) The secretary of the department of
11 social and health services shall convene a task force to recommend
12 methods of implementing this act, including how private or public
13 funding may be obtained to support a program of public education
14 regarding the provisions of this act and targeted education of pregnant
15 women as to the prenatal care services that are available to them and
16 services related to adoption of their child. The task force shall
17 consider all reasonable methods of educating Washington residents about
18 the need for prenatal and postdelivery health care for a newborn whose
19 parents may otherwise not seek such care and place their newborn at
20 risk as a result. The task force shall also consider, and make
21 recommendations regarding: (a) Ways to meet the medical and emotional
22 needs of the mother and to improve the promotion of adoption as an
23 alternative to placing a newborn in situations that create a serious
24 risk to his or her health; and (b) methods of providing access to (i)
25 the medical history of the parents of a newborn who is transferred to
26 a hospital pursuant to section 2 of this act; and (ii) the medical
27 history of the newborn, consistent with the protection of the anonymity
28 of the parents of the newborn.

29 (2) In addition to the secretary, or the secretary's designee, the
30 task force shall include but not be limited to representation from the
31 following: (a) Licensed physicians; (b) public and private agencies
32 which provide adoption services; (c) private attorneys handling
33 adoptions; (d) the licensed nursing community; (e) hospitals; (f)
34 prosecuting attorneys; (g) foster parents; (h) the department of
35 health; (i) the attorney general; (j) advocacy groups concerned with
36 the availability of adoption records; (k) risk managers; and (l) the
37 public. At least three members of the task force shall be public
38 members. The task force may seek input from other experts as needed.

1 (3) Members of the task force shall serve without compensation.

2 (4) The task force shall submit its report and recommendations to
3 the governor and legislature not later than December 1, 2002.

4 (5) This section expires January 1, 2004.

5 NEW SECTION. **Sec. 10.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2002, in the omnibus appropriations act, this act
8 is null and void.

9 NEW SECTION. **Sec. 11.** Sections 1 through 7 of this act are
10 necessary for the immediate preservation of the public peace, health,
11 or safety, or support of the state government and its existing public
12 institutions, and take effect immediately.-

EFFECT: Adds language to the intent section reaffirming the legislature's commitment to protect the health and safety of children as well as recognizing that some situations exist where the best interest of the child is met by a clear process of relinquishment. Uses the word relinquishment instead of transfer. Defines a qualified person as a social worker or other person designated by the hospital. Requires the Department of Social and Health Services to provide training to qualified persons. Requires qualified persons receiving a relinquished infant to determine if the infant requires emergent care and to attempt to obtain information about the child and the identity of the child's parents. Adds a null and void clause.