

2 **SSB 5236** - S AMD 493

3 By Senators Kohl-Welles, Long and Hargrove

4 ADOPTED 01/18/02

5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. **Sec. 1.** The legislature intends to increase the  
8 likelihood that pregnant women will obtain adequate prenatal care and  
9 will provide their newborns with adequate health care during the first  
10 few days of their lives. The legislature recognizes that prenatal and  
11 postdelivery health care for newborns and their mothers is especially  
12 critical to their survival and well-being. The legislature intends  
13 that reasonable steps should be taken to remove any barriers to such  
14 care, particularly for those parents who may otherwise encounter  
15 emotional and/or psychological barriers to obtaining such care by  
16 reducing impediments to obtaining prenatal and postdelivery care to  
17 newborns while encouraging pregnant women to act responsibly regarding  
18 the health of their newborns. The legislature does not intend to  
19 encourage the abandonment of newborn children nor to change existing  
20 law relating to notification to parents under chapter 13.34 RCW, but  
21 rather to assure that abandonment does not occur and that all newborns  
22 have an opportunity for adequate health care and a stable home life.

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

25 (1) For purposes of this section:

26 (a) "Appropriate location" means the emergency department of a  
27 hospital licensed under chapter 70.41 RCW during the hours the hospital  
28 is in operation.

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

31 (c) "Qualified person" means any person that the parent  
32 transferring the newborn reasonably believes is a bona fide employee,  
33 volunteer, or medical staff member of the hospital and who represents  
34 to the parent transferring the newborn that he or she can and will  
35 summon appropriate resources to meet the newborn's immediate needs.

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

4 (3)(a) The qualified person and the hospital shall not require the  
5 parent transferring the newborn to provide any identifying information  
6 in order to transfer the newborn.

7 (b) The qualified person and the hospital shall attempt to protect  
8 the anonymity of the parent who transfers the newborn, while providing  
9 an opportunity for the parent to anonymously give the hospital such  
10 information as the parent knows about the family medical history of the  
11 parents and the newborn. The qualified person and the hospital shall  
12 provide referral information about adoption options, counseling,  
13 appropriate medical and emotional aftercare services, domestic  
14 violence, and legal rights to the parent seeking to transfer the  
15 newborn.

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

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

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

28 (1) Except as provided in subsection (2) of this section, a person  
29 is guilty of the crime of abandonment of a dependent person in the  
30 first degree if:

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

35 (b) The person recklessly abandons the child or other dependent  
36 person; and

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

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

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

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

8       (1) Except as provided in subsection (2) of this section, a person  
9 is guilty of the crime of abandonment of a dependent person in the  
10 second degree if:

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

15       (b) The person recklessly abandons the child or other dependent  
16 person; and:

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

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

22       (2) A parent of a newborn who transfers the newborn to a qualified  
23 person at an appropriate location pursuant to section 2 of this act is  
24 not subject to criminal liability under this section.

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

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

29       (1) Except as provided in subsection (2) of this section, a person  
30 is guilty of the crime of abandonment of a dependent person in the  
31 third degree if:

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

36       (b) The person recklessly abandons the child or other dependent  
37 person; and:

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

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

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

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

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

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

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

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

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

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

27 (a) Willfully omits to provide necessary food, clothing, shelter,  
28 or medical attendance to a child dependent upon him or her; or

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

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

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

1        NEW SECTION.    **Sec. 8.**    (1) The secretary of the department of  
2 social and health services shall convene a task force to recommend  
3 methods of implementing this act, including how private or public  
4 funding may be obtained to support a program of public education  
5 regarding the provisions of this act. The task force shall consider  
6 all reasonable methods of educating Washington residents about the need  
7 for prenatal and postdelivery health care for a newborn whose parents  
8 may otherwise not seek such care and place their newborn at risk as a  
9 result. The task force shall also consider, and make recommendations  
10 regarding: (a) Ways to meet the medical and emotional needs of the  
11 mother and to improve the promotion of adoption as an alternative to  
12 placing a newborn in situations that create a serious risk to his or  
13 her health; and (b) methods of providing access to (i) the medical  
14 history of the parents of a newborn who is transferred to a hospital  
15 pursuant to section 2 of this act; and (ii) the medical history of the  
16 newborn, consistent with the protection of the anonymity of the parents  
17 of the newborn. The task force shall develop model forms of policies  
18 and procedures for hospitals to use in receiving newborns under section  
19 2 of this act.

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

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

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

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

34        NEW SECTION.    **Sec. 9.**    Sections 1 through 7 of this act are  
35 necessary for the immediate preservation of the public peace, health,  
36 or safety, or support of the state government and its existing public  
37 institutions, and take effect immediately."

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2 By Senators Kohl-Welles, Long and Hargrove

3 ADOPTED 01/18/02

4 On page 1, line 1 of the title, after "children;" strike the  
5 remainder of the title and insert "amending RCW 9A.42.060, 9A.42.070,  
6 9A.42.080, 26.20.030, and 26.20.035; adding a new section to chapter  
7 13.34 RCW; creating new sections; prescribing penalties; providing an  
8 expiration date; and declaring an emergency."

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