

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1283**

Introduced by Synowiecki, 7

Read first time January 23, 2002

Committee: Judiciary

A BILL

1 FOR AN ACT relating to juveniles; to amend sections 28-705 and  
2 43-248, Reissue Revised Statutes of Nebraska; to adopt  
3 the Abandoned Infants Safe Haven Act; to provide a  
4 defense to prosecution as prescribed; to harmonize  
5 provisions; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1.   Sections 1 to 9 of this act shall be known  
2 and may be cited as the Abandoned Infants Safe Haven Act.

3           Sec. 2.   For purposes of the Abandoned Infants Safe Haven  
4 Act, abandoned infant means a child who is or who appears to be not  
5 more than forty-five days of age and who is left, knowingly and  
6 intentionally, by his or her parent or another person with an  
7 emergency medical services provider when such parent or other  
8 person does not express an intent to return for the child.

9           Sec. 3.   (1) An emergency medical services provider  
10 shall, without a court order, take immediate physical custody of an  
11 abandoned infant left with the provider.

12                   (2) An emergency medical services provider who takes  
13 custody of an abandoned infant under this section shall perform any  
14 act necessary to protect the abandoned infant's physical health or  
15 safety.

16                   (3) Any person who in good faith voluntarily leaves an  
17 abandoned infant with an emergency medical services provider is not  
18 obligated to disclose such person's own name or the name of the  
19 abandoned infant's parents.

20           Sec. 4.   (1) Immediately after an emergency medical  
21 services provider takes custody of an abandoned infant under  
22 section 3 of this act, the provider shall notify the Department of  
23 Health and Human Services that the provider has taken custody of  
24 the child.

25                   (2) The department shall (a) assume the care, custody,  
26 and control of the abandoned infant immediately after receiving  
27 notice under this section and (b) not later than forty-eight hours  
28 after the department has taken custody of the abandoned infant,

1 contact the Abused and Missing Children's Registry created under  
2 section 28-715 to determine if the abandoned infant has been  
3 reported missing.

4           Sec. 5. When the Department of Health and Human Services  
5 assumes care, custody, and control of an abandoned infant under  
6 section 4 of this act, efforts to locate the abandoned infant's  
7 parents or reunify the abandoned infant's family are not required  
8 if the court makes a finding to that effect under section 8 of this  
9 act.

10           Sec. 6. Whenever an abandoned infant is taken into  
11 custody without a court order under the Abandoned Infants Safe  
12 Haven Act, the Department of Health and Human Services shall  
13 immediately file a petition in the juvenile court or the county  
14 court sitting as a juvenile court for the county in which the  
15 emergency medical services provider took custody of the abandoned  
16 infant, requesting the court to:

17           (1) Authorize the filing of a petition alleging that the  
18 abandoned infant is a child as described in subsection (3)(a) of  
19 section 43-247;

20           (2) Hold an initial hearing in the matter not later than  
21 the next business day after the abandoned infant is taken into  
22 custody; and

23           (3) Appoint a guardian ad litem for the abandoned infant.

24           Sec. 7. The juvenile court or county court sitting as a  
25 juvenile court shall hold an initial hearing on a petition filed  
26 under section 6 of this act on the next business day after the  
27 abandoned infant is taken into custody by the emergency medical  
28 services provider.

1                   Sec. 8. (1) A court may make a finding described in this  
2 section at any stage of a proceeding under the Abandoned Infants  
3 Safe Haven Act.

4                   (2) Reasonable efforts to reunify an abandoned infant  
5 with his or her parent, guardian, or custodian are not required if  
6 the court:

7                   (a) Has appointed a guardian ad litem pursuant to the  
8 Nebraska Juvenile Code or has appointed a court appointed special  
9 advocate pursuant to the Court Appointed Special Advocate Act; and

10                   (b) After receiving a written report and recommendation  
11 from the guardian ad litem or court appointed special advocate and  
12 after a hearing, finds that reasonable efforts to locate the  
13 abandoned infant's parents or reunify the abandoned infant with his  
14 or her family would not be in the best interests of the abandoned  
15 infant. There is a rebuttable presumption that it is not in the  
16 best interests of the abandoned infant to locate his or her parents  
17 or reunify the abandoned infant with his or her family.

18                   Sec. 9. No person shall be prosecuted under section  
19 28-705 if the prosecution is based solely on the alleged act of  
20 leaving an abandoned infant with an emergency medical services  
21 provider as provided in the Abandoned Infants Safe Haven Act and  
22 the alleged act did not result in bodily injury to the child.

23                   Sec. 10. Section 28-705, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25                   28-705. (1) Any person who abandons and neglects or  
26 refuses to maintain or provide for his or her spouse or his or her  
27 child or dependent stepchild, whether such child is born in or out  
28 of wedlock, commits abandonment of spouse, child, or dependent

1 stepchild.

2 (2) For the purposes of this section, child shall mean an  
3 individual under the age of sixteen years.

4 (3) When any person abandons and neglects to provide for  
5 his or her spouse or his or her child or dependent stepchild for  
6 three consecutive months or more, it shall be prima facie evidence  
7 of intent to violate the provisions of subsection (1) of this  
8 section.

9 (4) A designation of assets for or use of income by an  
10 individual in accordance with the entitlements provided for in  
11 section 68-1039 shall be considered just cause for failure to use  
12 such assets or income to provide medical support of such  
13 individual's spouse.

14 (5) Abandonment of spouse, child, or dependent stepchild  
15 is a Class I misdemeanor.

16 (6) It shall be a defense to prosecution under this  
17 section if (a) the complaint is based solely on the alleged act of  
18 leaving an abandoned infant with an emergency medical services  
19 provider as provided in the Abandoned Infants Safe Haven Act and  
20 (b) the alleged act did not result in bodily injury to the child.

21 Sec. 11. Section 43-248, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-248. (1) A juvenile may be taken into temporary  
24 custody by any peace officer without a warrant or order of the  
25 court when:

26 ~~(1)~~ (a) A juvenile has violated a state law or municipal  
27 ordinance in the presence of the officer;

28 ~~(2)~~ (b) A felony has been committed and the officer has

1 reasonable grounds to believe such juvenile committed it;

2           ~~(3)~~ (c) A juvenile other than an abandoned infant as  
3 defined in section 2 of this act is seriously endangered in his or  
4 her surroundings and immediate removal appears to be necessary for  
5 the juvenile's protection;

6           ~~(4)~~ (d) The officer believes the juvenile to be mentally  
7 ill and dangerous as defined in section 83-1009 and that the harm  
8 described in that section is likely to occur before proceedings may  
9 be instituted before the juvenile court; or

10           ~~(5)~~ (e) There are reasonable grounds to believe that the  
11 juvenile has run away from his or her parent, guardian, or  
12 custodian.

13           (2) An abandoned infant as defined in section 2 of this  
14 act may be taken into the custody of the Department of Health and  
15 Human Services pursuant to proceedings under the Abandoned Infants  
16 Safe Haven Act.

17           Sec. 12. Original sections 28-705 and 43-248, Reissue  
18 Revised Statutes of Nebraska, are repealed.