

Child and Family Services Policy Manual: Legal Procedure Abandoned Newborns

Philosophy	The public policy of the State of Montana includes ensuring that all children have a right to a healthy and safe childhood in a nurturing permanent family. Implicit in this policy statement is the proposition that unwanted newborns have the right to life and a nurturing environment. Montana statute creates a "safe haven" for abandoned newborns. Under the "Safe Haven" statute, parents may surrender their newborn babies to an emergency services provider with anonymity, confidentiality, and freedom from prosecution.
Definitions	<p>Emergency Services Provider:</p> <ul style="list-style-type: none"> • a uniformed or otherwise identifiable employee of a fire department, hospital, or law enforcement agency when the individual is on duty inside the premises of the fire department, hospital, or law enforcement agency; or • any law enforcement officer who is in uniform or is otherwise identifiable. <p>Newborn: an infant who a physician reasonably believes to be no more than 30 days old.</p> <p>Surrender: to leave a newborn with a emergency services provider without expressing an intent to return for the newborn.</p>
Parent's Action	<p>A parent may deliver his/her newborn to an emergency services provider. The parent has no obligation to provide the emergency services provider with any information regarding the parent or the newborn. No criminal prosecution may be initiated involving the abandonment of the newborn if the newborn exhibits no evidence of intentional infliction of injury.</p> <p>The surrendering parent or the non-surrendering parent must file a petition for commencement of a parent proceeding (in accordance with Mont. Code Ann. § 40-4-211) within 60 days of the surrender of the newborn if either parent wants to reassume custody of the newborn.</p>
Emergency Services Provider Action	If a parent decides to surrender a newborn to an emergency services provider, the emergency services provider must accept the newborn and take action necessary to protect the physical health and safety of the newborn. The emergency services provider must also make a reasonable effort to complete the Safe Haven for Abandoned Newborns Checklist/Information

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(See Page 5 of this policy section).

If a parent surrenders a newborn to an emergency services provider other than a hospital, the emergency services provider must deliver the newborn to a hospital. When the emergency services provider delivers the newborn to the hospital, the provider will also provide the hospital with the completed checklist (if the parent was willing to provide the requested information).

Hospital Action

When an emergency services provider transfers a newborn to a hospital, the hospital must accept the newborn. A physician at the hospital will examine the newborn and the hospital will provide whatever medical treatment deemed necessary.

NOTE: The Department must reimburse the hospital for any medical treatment provided the newborn.

The physician will determine the newborn's birth date if the birth date is unknown.

If the physician has reason to suspect the newborn has been abused or neglected or if the physician believes the newborn is older than 30 days, the physician must, as a mandatory reporter, make a report of suspected child abuse/neglect to the Department as soon as possible.

Child Protection Specialist Action

The hospital must call the local Child and Family Services office no later than the first business day after taking possession of the newborn if there is no indication of child abuse or neglect.

Upon receipt of a call from a hospital regarding an abandoned newborn, the Child Protection Specialist shall:

- a) immediately assume the care, control, and temporary protective custody of the newborn;
- b) if a parent is known and willing, immediately meet with the parent;
- c) make a temporary placement of the newborn;
- d) immediately request assistance from law enforcement to investigate and determine, through the national center for missing and exploited

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children and any other national and state missing children information programs, whether the newborn is a missing child;

- e) no later than 48 hours after assuming the care, control, and temporary protective custody of the newborn, file a petition with the court requesting appropriate relief with the goal of achieving permanent placement for the newborn at the earliest possible date;

The county attorney should file a petition for immediate protection and emergency protective services combined with termination of the parent-child relationship/permanent legal custody. The court cannot terminate the parents' rights prior to 60 days after surrender of the newborn because the parent(s) have 60 days to petition for custody of the newborn.

- f) within 30 days, make reasonable efforts to identify and locate the parent who did not surrender the newborn. If the identify and address of the non-surrendering parent are unknown, the county attorney must provide notice by publication in a newspaper of general circulation in the county where the newborn was surrendered.

The Child Protection Specialist should place the newborn with prospective adoptive parents as quickly as possible. If available, the prospective adoptive parents must be allowed access to information regarding the newborn's medical history, date of birth, and age.

Waiver of Reasonable Efforts and Search for Extended Family Members

The Child Protection Specialist is not required to attempt to reunify the newborn with the newborn's parents.

The Child Protection Specialist is not required to search for relatives of the newborn as a placement or permanency option. In addition, the Child Protection Specialist is not required to implement other placement requirements which give preference to relatives if information regarding the identity of the newborn or the newborn's parents is not available.

Note: Any known or reported Indian heritage of the newborn

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brings the newborn within the jurisdiction of the Indian Child Welfare Act, 25 U.S.C. 1901, et seq. for placement purposes.

Medicaid Eligibility The newborn will be deemed Medicaid eligible because a newborn who is voluntarily surrendered is presumed to have been born in Montana unless the surrendering parent otherwise informs the emergency services provider. A Montana birth certificate may be issued based on the presumption of birth in Montana.

References Mont. Code Ann. § 40-4-211
Mont. Code Ann. § 40-6-401 et seq.
Mont. Code Ann. § 41-3-02

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**SAFE HAVEN FOR ABANDONED NEWBORNS
CHECKLIST/INFORMATION**

If a parent wishes to surrender his/her infant to an emergency services provider, the provider must make a reasonable effort to provide and obtain information. If the parent is willing to provide information, please note the information in the appropriate space. The checklist should accompany the baby to the hospital. The checklist should also accompany the baby when the baby leaves the hospital with the Child and Family Services Child Protection Specialist.

Information to obtain from the parent, if possible:

Any relevant family or medical information, including information regarding any tribal affiliation
Information Received:

The parent's name if s/he is willing to provide it
Information Received: _____

The identify of the other parent (after informing the parent that Child and Family Services is required to make a reasonable attempt to identify the other parent and to obtain relevant medical and family history from the other parent)

Information Received: _____

Ascertain whether the newborn has a tribal affiliation and, if so, with which tribe

Information Received: _____

Information to provide the parent, if possible:

Provide the parent the brochure entitled "**WHAT IS THE 'MONTANA SAFE HAVEN NEWBORN PROTECTION ACT'?**";

By surrendering the newborn s/he is releasing the newborn to the Department of Public Health and Human Services, Child and Family Services Division, to be placed with an adoptive family;

S/he has 60 days to petition (ask) the court to return the baby if the parent wants to regain custody of the baby;

The parent may call the HELPLINE 1-866-820-KIDS (5437) to obtain more information regarding available services, including how to receive counseling or medical attention;

Information s/he provides will remain confidential;

Child and Family Services can provide confidential services to the parent; and

The parent may call his/her Child and Family Services office to plan for the baby by signing a relinquishment of parental rights to the baby to be used at a hearing to terminate parental rights.