

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:10 a.m. on March 14, 2000 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department  
Russell Mills, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:  
David Wilson, Kansas Arts Commission  
Representative Kay O'Connor  
Carla Norcott-Mahany, Planned Parenthood  
Melissa Ness, Kansas Children's Service League  
Cleta Renyer, Right to Life, Kansas  
Don Wilson, Kansas Hospital Association  
Senator Lana Oleen

Others attending: See Attached Sheet

Chairman Oleen announced that her mother and sister were attending the committee and introduced her mother, Fran Scrimsher and her sister, Patti Spencer.

The chair opened the hearing on:

**HB 2592 - Kansas Arts Commission**

Chairman Oleen recognized David Wilson, Kansas Arts Commission, a proponent to **HB 2592**. Mr. Wilson stated that this bill resulted from the Joint Committee on the Arts and Cultural Resources meeting the past summer. (Attachment 1) Mr. Wilson stated that the primary purpose of the bill is to change the length of Commissioner terms from one four year term to a maximum of two three year terms. He stated that the Kansas Arts Commission feels these changes will help the Commission move forward in the future.

Senator Biggs told the committee that he serves on the Joint Committee on the Arts and Cultural Resources and the committee fully endorses this bill.

Senator Gooch ask Mr. Wilson if the appointment of the board members were staggered to ensure that they did not all expire at the same time and Mr. Wilson stated that they were.

Chairman Oleen closed the hearing on **HB 2592**.

Chairman Oleen announced that Representative Kay O'Connor is on final action in the House of Representatives. The committee will accommodate her schedule when she arrives.

Mary Galligan gave a brief review of **SB 652** to the members. She stated this bill would provide a procedure by which the parent of a child less than 46 days old could be given to a medical facility and in the process of abandonment, the parent would be protected from prosecution.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 245-N  
Statehouse, at 11:00 a.m. on March 14, 2000.

Chairman Oleen opened hearing on:

**SB 652 Newborn protection act**

Chairman Oleen recognized Joyce Allegrucci, Assistant Secretary of Children and Family Policy, Social and Rehabilitation Services, as a proponent of the bill. Ms. Allegrucci stated that this bill would provide added protection to children. (Attachment 2) She stated that SRS does suggest some amendments to the bill and provided a balloon outline their proposals. Ms. Allegrucci stated that SRS strongly supports the intent and the goal of **SB 652**.

Chairman Oleen recognized Carla Norcott-Mahany, Planned Parenthood of Kansas and Mid-Missouri, a proponent of **SB 652**. Ms. Norcott-Mahany stated the need for creating safe havens for the parents of newborns to relinquish custody has been illustrated all too clearly by recent incidents. (Attachment 3).

Chairman Oleen recognized Melissa Ness, Kansas Children's Service League (KCSL), a proponent to **SB 652**. Mr. Ness stated that KCSL is committed to keeping children safe, families strong, and communities involved and prevention and early intervention is a core commitment. (Attachment 4). She noted that this bill promotes a coordinated response toward getting the abandoned infants into a appropriate care environment.

Chairman Oleen stated that Representative O'Connor was present and recognized her as a proponent on this bill. Representative O'Connor stated that she had introduced similar legislation in the House as **HB 2927**. Representative O'Connor had several concerns about the bill as written which she believed could be corrected by the committee. (Attachment 5). Representative O'Connor provided question and answer information from the Texas State Representative Geanie Morrison who drafted the first bill designed to save abandoned newborns. (Attachment 6).

Chairman Oleen recognized Cleta Renyer, Right to Life of Kansas, as a proponent to **SB 652**. Right to Life of Kansas supports this bill because it could save the life of a newborn infant. (Attachment 7 and attached was an article from Time, February 21, 2000 "A Refuge for Throwaways"). Ms. Renyer stated that Right to Life of Kansas recommends that the age of the infant be thirty days or younger and that there be a 14 day period when the parent can change their mind.

Mr. Donald Wilson spoke on behalf of the Kansas Hospital Association, regarding **SB 652**. Mr. Wilson stated that the Kansas Hospital Association was a supporter of the bill but had outlined several issues which they felt needed to be addressed regarding procedures. (Attachment 8).

Senator Oleen addressed the committee as a supporter of **SB 652** and stated that a community in her District had a tragic occurrence last December when a young couple left a newborn in a creek to die. Copies of the news articles were provided to committee members (Articles from The Daily Union, Junction City, Kansas,). Senator Oleen urged the committee to support the concept in the bill, knowing that procedural changes are needed. She indicated a willingness to work with interested parties to enhance the bill.

Chairman Oleen called the committee's attention to written testimony submitted by proponents to **SB 652** by The Manhattan Department of Fire Services (Attachment 9); Kansas State Nurses Association, Topeka, (Attachment 10) and First United Methodist Church, Manhattan, Kansas (Attachment 11).

Conferees answered questions from committee members concerning the number of babies abandon over the last year, the notification process and length of time it would take to complete the process.

The meeting adjourned at 12:05. The next meeting will be March 15, 2000 at 11:00 a.m.





## Summary of HB #2592

By the Joint Committee on the Arts and Cultural Resources

*An ACT concerning the Kansas Arts Commission; relating to terms of members; affecting officer nomenclature; amending K.S.A. 74-5202 and 74-5204 and repealing existing sections.*

**Summary:** The Kansas Arts Commission (KAC) is actively exploring alternative sources of funding including the development of a cultural trust fund. In this process, the Commissioners developed suggested changes to the KAC enabling legislation. The Joint legislative Committee on the Arts and Cultural Resources reviewed these changes this past summer and fully endorsed the suggestions. House Bill # 2592 resulted from this approval. This act accomplishes three things:

1. It changes the length of Commissioner terms from one four year term to a maximum of two three year terms, contingent upon reappointment by the Governor for the first and second term. The reasoning behind this change was to accommodate the anticipated long-term development of alternative funding sources such as a trust fund. Many Commissioners said it took two to three years to really develop and understand their role as Commissioner of the KAC.
2. It expands the possible membership beyond representatives of the arts field to those that care about the arts, but which might bring a diversity of experiences to help guide the Commission in its development of alternative funding sources, including fundraising, promotion, and trust fund development.
3. It changes the Commission officer nomenclature from President and Vice-President to Chair and Vice-Chair, in order to better represent the structure of the Commission and reflect current practices with similar arts agencies nation-wide.

The Kansas Arts Commission feels these changes will help the Commission move forward in the future.

Sen. Federal & State Affairs Comm  
Date: 3-14-00  
Attachment: # 1-1

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**Senate Committee on  
Federal and State Affairs**

March 14, 2000

**Senate Bill 652**

Children and Family Policy  
Joyce Allegrucci, Assistant Secretary  
785-368-6448

Madam Chair and members of the committee, I appear before you today in support of Senate Bill 652. This bill would provide added protections to our most vulnerable residents. It would also assist the state in meeting the federal requirements of the Adoption and Safe Families Act of 1997 by the provision of expedited permanency.

However, we do have some concern about subsection (d) of New Section 1. This section would require the establishment of special procedures by SRS to handle these situations. We believe existing emergency custody provisions provide an appropriate response mechanism. Immediate protective custody of children is currently addressed in the Kansas code for care of children. Expanding these sections to include special consideration for this population would provide the desired protection for newborn infants without requiring additional personnel or the establishment of new procedures.

K.S.A. 38-1527 currently authorizes law enforcement or a court services officer to take a child into custody without a court order. K.S.A. 38-1528 authorizes law enforcement to transport the child to a facility or person designated by the Secretary. The law enforcement officer is required to notify the county or district attorney of the child's placement in police protective custody. K.S.A. 38-1529 authorizes the prosecutor to file a petition alleging the child is in need of care. Kansas law allows the prosecutor, under these circumstances, to immediately request termination of parental rights. K.S.A. 38-1542 provides for a court to issue an ex parte order placing a child in the protective custody of the Secretary. In both instances, a hearing is required within 72 hours.

The non-criminal abandonment of newborn infants could be specifically referenced in these existing statutes and an expedited termination of parental rights procedure added in order to carry out the intent of subsection (d). As currently written, the requirements would require additional personnel and result in SRS establishing special procedures to handle these situations despite the appropriate processes already in place.

Madam Chair, SRS strongly supports the intent and the goal of SB 652 to decriminalize the abandonment of newborn infants and to expedite their placement in permanent adoptive homes. We have attached a balloon version of the bill which would accomplish the purpose of SB 652 with the structure now available.

That concludes my testimony, but I will be glad to address your questions.

# SENATE BILL No. 652

By Committee on Federal and State Affairs

3-2

9 AN ACT concerning infants; enacting the newborn infant protection act;  
10 amending K.S.A. 21-3604 and K.S.A. 1999 Supp. 38-1585 and repeal-  
11 ing the existing sections.

12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) This section shall be known and may be cited as  
14 the newborn infant protection act.

15 (b) A parent or other person having lawful custody of an infant which  
16 is 45 days old or younger and which has not suffered bodily harm may  
17 surrender physical custody of the infant to any employee who is on duty  
18 at a fire station, city or county health department, hospital emergency  
19 room or other health care facility. Such employee shall take physical cus-  
20 tody of an infant surrendered pursuant to this section unless the person  
21 surrendering physical custody of the infant clearly expresses an intent to  
22 return for the infant.

23 (c) A person taking physical custody of an infant pursuant to this  
24 section shall perform any act necessary to protect the physical health or  
25 safety of the infant, and shall be immune from liability for any injury to  
26 the infant that may result therefrom.

27 (d) As soon as possible after a person takes physical custody of an  
28 infant under this section, such person shall notify the department of social  
29 and rehabilitation services that the person has taken physical custody of  
30 an infant pursuant to this section. The department shall assume the care,  
31 control and custody of the infant immediately on receipt of such notice.  
32 An infant taken into custody under this section shall be treated as an  
33 infant taken into physical custody without a court order, and the depart-  
34 ment immediately shall file a petition to terminate the parental rights of  
35 the parents of such infant pursuant to K.S.A. 38-1581 *et seq.*, and amend-  
36 ments thereto. An expedited hearing shall be granted on any petition filed  
37 pursuant to this subsection.

38 Sec. 2. K.S.A. 21-3604 is hereby amended to read as follows: 21-  
39 3604. (a) Abandonment of a child is the leaving of a child under the age  
40 of 16 years, in a place where such child may suffer because of neglect,  
41 by the parent, guardian or other person to whom the care and custody of  
42 such child shall have been entrusted, when done with intent to abandon  
43

local law enforcement

law enforcement officer shall take custody of the  
child as an abandoned child pursuant to K.S.A. 38-  
1527

and shall deliver the child to a facility or  
person designated by the secretary pursuant to  
K.S.A. 38-1528.

2-2

1 such child.

2 Abandonment of a child is a severity level 8, person felony.

3 (b) *No parent or other person having lawful custody of an infant shall*  
4 *be prosecuted for a violation of this section, if such parent or person*  
5 *surrenders custody of an infant in the manner provided by section 1, and*  
6 *amendments thereto, and if such infant has not suffered bodily harm.*

7 Sec. 3. K.S.A. 1999 Supp. 38-1585 is hereby amended to read as  
8 follows: 38-1585. (a) It is presumed in the manner provided in K.S.A. 60-  
9 414 and amendments thereto that a parent is unfit by reason of conduct  
10 or condition which renders the parent unable to fully care for a child, if  
11 the state establishes by clear and convincing evidence that:

12 (1) A parent has previously been found to be an unfit parent in pro-  
13 ceedings under K.S.A. 38-1581 *et seq.* and amendments thereto, or com-  
14 parable proceedings under the laws of another state, or the federal  
15 government;

16 (2) a parent has twice before been convicted of a crime specified in  
17 article 34, 35, or 36 of chapter 21 of the Kansas Statutes Annotated, or  
18 comparable offenses under the laws of another state, the federal govern-  
19 ment or any foreign government, or an attempt or attempts to commit  
20 such crimes and the victim was under the age of 18 years;

21 (3) on two or more prior occasions a child in the physical custody of  
22 the parent has been adjudicated a child in need of care as defined by  
23 subsection (a)(3) of K.S.A. 38-1502 and amendments thereto;

24 (4) the parent has been convicted of causing the death of another  
25 child or stepchild of the parent;

26 (5) the child has been in an out-of-home placement, other than kin-  
27 ship care, under court order for a cumulative total period of one year or  
28 longer and the parent has substantially neglected or willfully refused to  
29 carry out a reasonable plan, approved by the court, directed toward re-  
30 integration of the child into the parental home;

31 (6) (1) the child has been in an out-of-home placement, other than  
32 kinship care, under court order for a cumulative total period of two years  
33 or longer; (2) the parent has failed to carry out a reasonable plan, ap-  
34 proved by the court, directed toward reintegration of the child into the  
35 parental home; and (3) there is a substantial probability that the parent  
36 will not carry out such plan in the near future; ~~or~~

37 (7) a parent has been convicted of capital murder, K.S.A. 21-3439  
38 and amendments thereto, murder in the first degree, K.S.A. 21-3401 and  
39 amendments thereto, murder in the second degree, K.S.A. 21-3402 and  
40 amendments thereto or voluntary manslaughter, K.S.A. 21-3403 and  
41 amendments thereto, or if a juvenile has been adjudicated a juvenile of-  
42 fender because of an act which if committed by an adult would be an  
43 offense as provided in this subsection, and the victim of such murder was

1 the other parent of the child; or

2 (8) *the parent has been granted immunity from prosecution for aban-*  
3 *donment of such child under subsection (b) of K.S.A. 21-3604, and amend-*  
4 *ments thereto.*

5 (b) The burden of proof is on the parent to rebut the presumption.  
6 If a parent has been convicted of capital murder, K.S.A. 21-3439 and  
7 amendments thereto or murder in the first degree, K.S.A. 21-3401 and  
8 amendments thereto as provided in subsection (a)(7), the burden of proof  
9 is on the parent to rebut the presumption by clear and convincing evi-  
10 dence. In the absence of proof that the parent is presently fit and able to  
11 care for the child or that the parent will be fit and able to care for the  
12 child in the foreseeable future, the court shall now terminate the parents  
13 parental rights in proceedings pursuant to K.S.A. 38-1581 *et seq.* and  
14 amendments thereto.

15 Sec. 4. K.S.A. 21-3604 and K.S.A. 1999 Supp. 38-1585 are hereby  
16 repealed.

17 Sec. 5. This act shall take effect and be in force from and after its  
18 publication in the statute book.

K.S.A. 38-1502(aa) "abandoned infant" means a child which is 45 days or younger and which has not suffered bodily harm when physical custody of the infant has been surrendered to any employee who is on duty at a fire station, city or county health department, hospital emergency room or other health care facility.

K.S.A. 38-1529(c) when the alleged child in need of care is an abandoned infant the petition shall include a request the court find reintegration is not a viable alternative and for termination of parental rights. An expedited hearing shall be granted on any petition filed pursuant to this subsection.



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**Planned Parenthood**<sup>®</sup>  
of Kansas and Mid-Missouri

**Testimony by**

**Carla Norcott-Mahany**  
**Kansas Public Affairs Director/Lobbyist**  
**Planned Parenthood of Kansas and Mid-Missouri**

**before the**  
**Federal and State Affairs Committee**  
**of the**  
**Kansas Senate**

**on March 14, 2000**

**in Support of Senate Bill 652**

Good morning. Thank you for the opportunity to offer testimony here today in support of Senate Bill 652. My name is Carla Norcott-Mahany. I am the Kansas Public Affairs Director and Lobbyist for Planned Parenthood of Kansas and Mid-Missouri. Our mission is to provide high quality and affordable reproductive health care, including family planning and related health care services, as well as comprehensive human sexuality education. Four of our 13 health centers are in Kansas.

We concur with the sponsors of Senate Bill 652 that this legislation is good public policy. The need for creating safe havens for the parents of newborns to relinquish custody, no questions asked, has been illustrated all too clearly by the recent incidents in Junction City and across the country. Furthermore, success rates for this fledgling legislative initiative in other states seem promising.

Social and behavioral science expertise may play a very important and appropriate role in your consideration of this bill. However, I will keep my remarks centered on the reproductive health aspects that have occurred to me and those of us at Planned Parenthood who have thought about SB 652 and its implications.

What is the root problem here? In our opinion, it is unplanned and unwanted pregnancy. That's something we know quite a lot about – how to prevent it, how to educate young people about it, and the importance of making available the full range of options needed if it happens.

Perhaps there would be no need for this legislation if:

- comprehensive, reality-based sex education were available to every student in Kansas,
- public funding supported more family planning services for poor women in communities throughout the state;
- public funding also allowed access to safe abortions across Kansas so women in crisis would no longer have to travel long distances, make special arrangements, and come up with funds they are hard pressed to find;
- and finally, if parental notification laws were abolished so that minors who fear the disapproval or retribution of their parents or guardians would be able to seek abortion services without the additional steps of obtaining court approval – or keeping the pregnancy a secret until birth, then doing whatever it takes to be sure it stays secret.

These are some of the remedies we would encourage you to consider in addition to SB 652.

Thank you.



Testimony before the Senate  
Federal and State Affairs Committee  
on SB 652

March 14, 2000

Kansas  
Children's  
Service League

**Kansas Children's Service League (KCSL)** is a statewide non-profit agency providing services to Kansas children and families since 1893. We provide a broad range of services throughout the state as part of our enduring commitment to help keep children safe, families strong, and communities involved.

KCSL's advocacy efforts are an essential piece of our long and rich tradition of working to effectively address the needs of Kansas's children and families. We are committed to bringing the best of what we know, and key insights about what we need to know, about children and families and programs and services to drive policy and manage system reform. Our partnerships with organizations such as the Children's Alliance and the Children's Coalition, as well as our merger with the Kansas Child Abuse Prevention Council have established a long history of working to improve, innovate, and advance the child welfare system.

KCSL's advocacy efforts are rooted in our obligation to remain connected to the broader vision for strengthening children and families. This means putting forth ideas and solutions that reflect the strengths of the past, the challenges of the present, and our hopes for the future. To that end, an important piece of advocacy is providing both a historical and an immediate perspective of the impact of legislation and policy on children and families. This includes assessing what piece of the service continuum or identified need that a specific policy piece addresses, how it interacts with other parts of the system, and the necessary resources and structures that need to be in place for its successful implementation.

**WHY SUPPORT THIS BILL?**

Prevention and early intervention is a core commitment of Kansas Children's Service League. KCSL is committed to *keeping children safe, families strong, and communities involved*. We do this through promoting and supporting communities in the development of the menu of prevention and early intervention services designed to meet the unique needs of their children and families. In order to create a community with a strong prevention continuum, we must insure public policy furthers prevention in Kansas. The following outlines the basis of our support for SB 652.

**A strong continuum of prevention is supported by clear commitments to keep children safe.**

Part of what defines prevention is a clearly articulated commitment to protect those most vulnerable in our society, children, and more specifically infants. This bill demonstrates such a commitment and underscores what we must do. Knowing what to prevent is critical in order to generate ideas about how to effectively prevent it.

**This bill creates a mechanism for preventing harm and for engaging in prevention.**

This bill promotes a coordinated and efficient response toward getting the abandoned infants, who are not abused and neglected, into the appropriate care environment by creating a

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Sen. Federal & State Affairs Comm  
Date: 3-14-00  
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systemic response. This includes the expedited termination of parental rights and immunity for parents who have not bodily harmed their children. This helps ensure that further harm can be prevented. It gives children the chance to receive the support and the resources to live safe, healthy, and productive lives.

**This bill brings our prevention efforts into sharper focus and provides a necessary impetus for the development of prevention and early intervention services.**

The articulation of specific protections for abandoned infants creates a concrete commitment to assessing the needs of this population and their families. It challenges us to ask ourselves "How can we prevent families from reaching the point at which they would abandon their child." It gives us an opportunity to assess the scope of this problem and assess the effectiveness of current supports for children and their parents when in crisis.

## RECOMMENDATIONS

- This is not a solution but rather a response to a crisis. As such we must assess the range of service and programming necessary to address this crisis.
- We must take steps to continue to support and build a continuum of prevention programming, and a menu of community-based initiatives around the state. Specifically, prevention and early intervention programs such as our own Healthy Families Program, and the State's Healthy Start.
- Monitor the number and kind of such abandonment cases throughout the state, so that we can begin to have a sense of what "success" with this population might look like. This information must drive service development, delivery, and evaluation.
- We must develop a process to educate workers and communities, about this fundamental shift in policy so that community members/ service providers know how to access this system/ appropriate information. **One of the main forces behind providing immunity is to eradicate fear and shame so that people will access services rather than harm their children. In the absence of broad-based information sharing, the stigma will remain, in spite of public policy changes.**
- Review subsection (d) of New section 1. We agree with SRS that this section would require the establishment of special procedures by SRS to handle these situations. Existing emergency custody provisions provide an appropriate response mechanism.

As an agency whose mission focuses our efforts on prevention and early intervention services, this bill gives us an opportunity to step back and assess whether we have placed our emphasis on the right part of the prevention continuum. We will be happy to work with this committee and others on ways to protect our most vulnerable Kansas citizens.

Submitted by: Melissa Ness, Kansas Children's Service League

STATE OF KANSAS



TOPEKA

**KAY O'CONNOR**  
REPRESENTATIVE, DISTRICT 14  
NORTHERN OLATHE

March 13, 2000

DURING SESSION:

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Madam Chair & Committee Members:

Thank you for the opportunity to testify in favor of the concept of SB 652. I also introduced similar legislation in the House. A copy of HB 2927 is enclosed.

I have a concern about SB 652 on page 2, line 6, in reference to, "if such infant has not suffered bodily harm." Does this mean that if this infant is suffering trauma due to a "secret" private delivery, the baby's mother may then be charged with abandonment? I hope that is not the intent and perhaps this part can be changed or even deleted.

Enclosed also is some excellent Q & A material sent to me by Texas State Representative Geanie Morrison who outlawed the first bill designed to save abandoned newborns.

Senator Oleen and I discussed whether there was a need for a "change of heart" section. I wish to draw your attention to the Texas response on page 11 of the Q & A sheets.

Sincerely,

Kay O'Connor  
Representative 14<sup>th</sup> District

Enclosures (2)

KO:jld

Sen. Federal & State Affairs Comm  
Date: 3-14-00  
Attachment: # 5-1



## SAVING ABANDONED NEWBORNS: FREQUENTLY ASKED QUESTIONS ABOUT THE BABY MOSES PROJECT

### How prevalent is abandonment in the United States?

Unfortunately, no one knows. Texas state Representative Geanie Morrison (R) Victoria, author of the United States' first bill to address the recent increase in baby abandonment, was unable to find reliable data. Texas, like most states, does not keep statistics specific to this issue. Although there are federal and state laws that pertain to abandonment, Rep. Morrison's H.B. 3423 is the first law that seeks to prevent abandonment by setting up a system where parents can safely leave their babies without fear of being prosecuted for child abandonment. Along with Rep. Morrison, U.S. Representative, Sheila Jackson Lee (D) Houston, became alarmed upon the news of a rash of abandonments in Houston, Texas. Over a 10 month period in 1999, 13 babies were abandoned in the Houston area, 5 in a two week period. Of those, three babies were not found in time. In her efforts to address this problem, Rep. Lee also found that the federal government does not keep statistics pertaining to this issue. "I was aghast to learn that we don't keep this data," the Associated Press reports Rep. Lee as saying. "If we're going to look at preventing these things - Is it a national problem and are there national answers? - we've got to know how many babies are being dumped."<sup>1</sup> *The Christian Science Monitor* quoted Rep. Lee after she began work on federal legislation to require statistics to be gathered as saying: "Some of the largest states don't keep data on abandoned babies. The only way we can provide a solution ... is to know the data."<sup>2</sup> It would appear, from a quick glance through news stories that are available on the internet, that abandonment is a national problem. In addition to the programs and bills being discussed in Alabama, California, Florida, Kentucky, Minnesota, North Carolina, West Virginia, New York, Pennsylvania and Texas<sup>3</sup>, there are news stories from Colorado, Illinois, and Montana, and high-profile cases in Delaware, the District of Columbia, Maryland and New Jersey.<sup>5</sup> In all, there are cases or developments in at least 15 jurisdictions, including the high-population states of California, Florida, Illinois, New Jersey, New York, Pennsylvania and Texas, involving abandonment and related issues.

### What does HB 3423 do?

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<sup>1</sup> Chris Fletcher, "13 Baby Abandonments Stun Houston," Dec. 29, 1999.

<sup>2</sup> Stacy A. Teicher, "Rescuing babies from abandonment," Jan. 24, 2000, p. 3.

<sup>3</sup> Activities in these jurisdictions are discussed below.

<sup>4</sup> Additional citations appear for some of these nine states are available. In addition, there are these items: Denver Post, Jan. 3, 2000, "Baby abandoned in grocery," Schaumburg (IL) Review, June 4, 1998, "Principal surprised by charges against student," and "Great Falls Children's Receiving Home," discussing "The perplexing problem of child abandonment..."

<sup>5</sup> Amy Grossberg and Brian Peterson were convicted in a Delaware case. LaTrena Pixley was convicted of second degree murder in a District of Columbia proceeding. On Jan. 26, a Jamaican citizen living in Maryland abandoned her newborn. Melissa Drexler of New Jersey is presently serving time for the murder of her baby, who she delivered during her prom.

H.B. 3423, which became effective in Texas on Sept. 1, 1999, provides a mother with a responsible alternative to baby abandonment. H.B. 3423 is credited with starting the national movement to respond to baby abandonment by enacting laws to provide parents with an anonymous way to safely leave their babies in someone else's care.

### **Why was HB 3423 passed in Texas?**

The law was passed in Texas because of growing concern about the numbers of abandoned children: in the first 10 months of 1999, 13 babies were abandoned in Houston, Texas. Of the 13 children, three were found dead.<sup>6</sup> Given the fact that babies were being abandoned at the rate of four children every quarter, and nearly 25 percent of the babies were found dead, it seemed to Texas leaders that action needed to be taken. If the Houston metropolitan area, with a population of 4.4 million, were to be typical of the situation in Texas, which has a population of 20 million, then the picture statewide could be 16 babies abandoned each quarter, four of whom were found dead. Annualized, that could mean 64 abandoned babies in Texas, of whom 16 might be found dead. If the same statistical estimates are applied to the U.S. population of 272.7 million, the totals would be 13 times as large – 832 babies might have been abandoned, of whom 208 might have been found dead.<sup>7</sup>

### **Are there any official U.S. statistics on babies who would be deemed to be abandoned because they are found dead?**

Yes, there are data from the Bureau of Justice Statistics of the Department of Justice, based on Supplementary Homicide Reports of the Federal Bureau of Investigation (FBI). The FBI data cover 1976-98 and show that the number of victims of homicide under 1 year of age went from 206 in 1976 to 267 in 1998. As a percentage of victims under age 5, those less than 1 year went from 37.4% in 1976 to 41% in 1998.<sup>8</sup> There is no way to determine what portion of the reported homicides of babies were due to abandonment.<sup>9</sup>

### **What is known about the abandoned or murdered babies and the persons who are responsible for abandonment or the homicides?**

In Houston, for example, despite attempts to locate parents, only four of 13 mothers were identified. Of the four, only one, a teenager whose baby died, was charged with a crime and she was prosecuted for murder. The homicide statistics show that the younger the child, the greater the risk for infanticide. As the Department of Justice report says, "The number of infanticides of children age 1 and younger has increased while the number for older children has remained relatively constant." The government says that a parent is

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<sup>6</sup> See Note 2.

<sup>7</sup> These data projections are based on population statistics as of July 1, 1996, obtained from the U.S. Census Bureau, as imputed by William L. Pierce, Ph.D., President of the Richard C. Stillman Foundation for Adoption.

<sup>8</sup> See <http://www.ojp.usdoj.gov/bjs/homicide/kidsage.txt>

<sup>9</sup> Fletcher.

the perpetrator in most homicides of children under age 5: 31% were killed by mothers, 31% were killed by fathers and 6% were killed by other relatives. Data on ethnicity of the children who were victims of homicide show that although Black children are over-represented (about 8 per 100,000 population as compared to about 2.5 per 100,000 population for White or Anglo children and less for "Other" racial groups), "Infanticide rates for –

- black children have fluctuated, but are currently lower than in earlier years
- white children have remained stable
- children of other racial groups have declined."<sup>10</sup>

### **How did Texas end up passing a law to deal with abandonment and the resulting infanticide of babies?**

The law is the result of the efforts of Texas State Representative Geanie W. Morrison, a Republican from District 30, in Victoria. The initial impetus came from Dr. John Richardson, of Cook Children's Hospital in Fort Worth, who read about the idea of providing safe shelter for babies of mothers in crisis in *National Adoption Reports*, the newsletter of the National Council For Adoption. Dr. Richardson enlisted the assistance of his niece, an Austin judge, who decided, acting as a private citizen, to seek out a state legislator who would take up the cause of abandoned babies. Rep. Morrison shepherded the bill through the legislature as the prime sponsor.<sup>11</sup> Among those publicly endorsing the Morrison legislation in addition to Dr. John Richardson and Judge Deborah Richardson were: Children's Medical Center, Dallas; Christus Santa Rosa Children's Hospital, San Antonio; Cook Children's Health Care System, Fort Worth; Tarrant County Hospital District, Fort Worth; Texas Hospital Association; Texas Pediatric Association. Gov. George W. Bush, who was supportive of Rep. Morrison's bill, signed HB 3423 on June 2, 1999. The law became effective on September 1, 1999.

### **What does Rep. Morrison's law do?**

The law, which is the first of its kind in the U.S. since the ending of the era of "foundling homes," which were a distinct improvement over "almshouses"<sup>12</sup>, provides a responsible alternative, especially to mothers who find themselves in desperate situations, by allowing them to voluntarily deliver a newborn (under 30 days of age) baby to a licensed emergency medical services provider without threat of criminal prosecution. HB 3423 addresses two important issues: it significantly reduces the risk that a newborn will be abandoned in a perilous environment that may result in death and it protects the parents who feel they have no option other than abandonment, but who compassionately deliver their newborn to a safe shelter.

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<sup>10</sup> All data from the Bureau of Justice Statistics, see Note 4 for URL.

<sup>11</sup> Catholic News Service, August 20, 1999.

<sup>12</sup> For a discussion of this history and the beginning of "boarding out" infants with foster parents in 1871, see, especially, Introduction, pages xxii ff., *The Encyclopedia of Adoption*, Christine Adamec and William Pierce, Facts on File, NY, 1991.

### **Why does Rep. Morrison's law use emergency medical services providers?**

In an attempt to conceal the pregnancy, it appeared that the majority of these mothers had received no prenatal care, making immediate medical attention critical. From what little is known about abandonment, because the practice is unlawful, it would appear that most babies are delivered by the mothers in secret because they desire to keep the fact of the pregnancy confidential. It is not unusual for babies delivered by mothers without assistance to develop various kinds of distress and we do not live in a society where women are prepared to deliver by themselves and also provide adequate care for their newborns. For these reasons, the law is designed to encourage those who feel they are forced or left no alternative but to abandon a baby rather than seek routine emergency care from a health facility to go to those who are trained to stabilize and transport those in need of immediate medical attention.

### **Why is most of the discussion about mothers abandoning children, rather than fathers, since the existing FBI statistics show fathers and other relatives commit homicide more often than mothers?**

Most of the focus is on mothers rather than fathers because, at least from the cases that have come to light, and because it is possible for women to conceal pregnancies and deliver alone, it is mostly women who are thought likely to abandon babies. Unless a woman's baby is taken from her by force or fraud, she is likely to be an accomplice. There is no intention to minimize the role and responsibility of fathers and other relatives of babies in any mention of mothers abandoning children. As the tragic case in Delaware illustrated<sup>13</sup>, and as the FBI data prove, men are quite capable of infanticide.

### **What do state laws say about the rights of fathers, especially those who are not married to the mothers of their babies?**

Each state law varies, but generally a child's biological father, except in cases of assisted reproduction such as Donor Insemination, has the right to notice if his child is being placed for adoption because adoption involves the termination of parental rights. For instance, according to *Adoption Factbook III*,<sup>14</sup> which contains a chart of state laws compiled by Christine Adamec, Texas provides that fathers may give consent for children to be adopted prior to their birth. Texas also has a putative fathers' registry, which means that if a man does not put his name on the registry to say he wants to be heard on any adoption involving his nonmarital child, the court may proceed without his consent.

Can mothers or fathers of babies change their minds about adoption?

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<sup>13</sup> A young, unmarried White couple from affluent backgrounds delivered their baby in a motel room and the baby was allegedly killed by the father before being thrown in the trash.

<sup>14</sup> Published in November, 1999, by the National Council For Adoption. Adamec's chart originally appeared in *The Complete Idiot's Guide to Adoption*, Alpha Books, 1998, at pages 120-124.

Mothers may not give consent to an adoption in Texas until at least 48 hours after the baby is born. Either parent usually has 10 days to change their mind.<sup>15</sup> As a practical matter, this means that the new abandonment law in Texas could use a similar timetable to determine when the implied voluntary consent present in an abandonment may be revoked. The matters of consents, relinquishments and revocation of consents are among the topics that will be carefully examined when the Texas legislature reconvenes in 2001.

**How do people in Texas find a list of emergency medical service providers?**

Rep. Morrison's office is maintaining, on an interim basis, a list of such providers and her offices may be contacted for referrals. Rep. Morrison's Austin office telephone is 512-463-0456 and her District office is (800) 687-0100 [for Texas callers only] or (361) 572-0196. Rep. Morrison is heading up the BABY MOSES PROJECT, which will be providing information, education and technical assistance about H.B. 3423 as well as similar legislative initiatives which have developed in response to the Texas law or independently.

**What are the goals of the Baby Moses Project?**

The goals are to raise funds in order to provide an organized response to the outpouring of support for the idea of giving babies safe shelter and necessary services, not just in Texas but throughout the United States and anywhere people want to ensure that newborns may be anonymously and safely delivered to an EMT without their parents needing to fear legal prosecution. The Project will operate under a foundation so that contributions will be deductible to the extent provided by federal law. It is hoped that a combination of contributed funds and volunteer services will result in the Morrison law spreading across America.

**Is Rep. Morrison's law a model for other states to follow?**

Certainly, the idea is being considered by numerous other states and has received tremendous attention from the national media. But model laws or uniform acts are highly technical and usually are drafted over a period of years by organizations such as the National Conference of Commissioners on Uniform State Laws. In this instance, Rep. Morrison believes that her law is a good starting point but she is working with people all across America to gather ideas for improving the law. Rep. Morrison will be introducing a bill to improve upon H.B. 3423 in the next session of the Texas legislature, set for 2001.

**What other jurisdictions currently have some approach similar to Rep. Morrison's law?**

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<sup>15</sup> See Note 13.



At the present time, Rep. Morrison and the Baby Moses Project – an effort largely of Texans, working through a charitable foundation<sup>16</sup> -- are aware of activities which are reportedly under way in these eight states in addition to Texas.

- ALABAMA In Alabama, Jodi Brooks, a reporter for Mobile television station WPMI-TV, the local NBC affiliate, started a program. Ms. Brooks had covered too many stories about abandoned babies, many of whom died. Ms. Brooks decided to put together a team to offer women the option of safely placing their children at the door of a church without having to fear being prosecuted for abandonment. Since the program started, no dead infants have been found and three mothers have brought in their babies for adoption.<sup>17</sup> A recently-rescued baby now awaits adoption.<sup>18</sup> Meanwhile, the Mobile program, called "A Secret Safe Place for Newborns," states in its program materials that no questions will be asked, that newborns up to 72 hours can be dropped off at emergency rooms of participating hospitals with total secrecy, and police will not be called for abandonment. The Mobile program reportedly includes giving the mother an identity bracelet that will match her with her child in the event she changes her mind.<sup>19</sup> Because of the response the Mobile program has received, Ms. Brooks says that a "template is being put together that will help other communities start similar programs."<sup>20</sup>

- CALIFORNIA In California, according to Susan Mejia, Legislative Director for State Sen. James Brulte (R-Cucamonga), who introduced S. B. 1368 on Jan. 19, 2000, the drive for the legislation came from a California woman, Debi Faris of Yucaipa, who took it upon herself to begin burying abandoned babies who had died or were murdered. Faris has provided burial for 37 bodies of abandoned babies through her "Garden of Angels" project.<sup>21</sup> A Jan. 24 story, "Activist backs baby drop-off bill," reports that Sen. Brulte's bill "...is picking up steam, gathering the support from all corners of the political spectrum."<sup>23</sup> That same story tells about Assemblyman Ken Maddux (R-Garden Grove) is proposing similar legislation in the other chamber. An Associated Press story quoted Sen. Brulte as saying "We've had evidence that babies are being put into Dumpsters and sometimes we find them before they die, and sometimes we don't. And that presumes we find 100 percent of babies and I don't think we do...." The same news article quotes Elaine Leschiot, who prosecuted Melissa Drexler, the young woman who delivered a baby during her 1997 prom, wrapped the baby in a bag, and returned to the dance as

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<sup>16</sup> The Richard C. Stillman Foundation for Adoption is hosting the project and providing various support to the project organizers so that 100 percent of all funds donated to the project go, overhead-free, for project goals. Other individuals involved in the project, which is still in formation, include Dr. John Richardson. Other groups supporting the project include the National Council For Adoption.

<sup>17</sup> Stacy A. Teicher, "Rescuing babies from abandonment," Christian Science Monitor, Jan. 24, 2000, p. 3.

<sup>18</sup> Ron Colquitt, "Abandoned baby awaits adoption procedures," Mobile Register, Oct. 20, 1999

<sup>19</sup> Nancy Stanfield, "New Option: Legal Abandonment," About.com, Jan. 17, 2000, at <http://adoption.about.com/home/adoption/library/weekly/aa011700a.htm>

<sup>20</sup> Personal communication with William Pierce, Richard C. Stillman Foundation for Adoption, Jan. 30, 2000.

<sup>21</sup> Personal communication with William Pierce, Richard C. Stillman Foundation for Adoption, Jan. 26, 2000.

saying "I don't think any of these girls are big killers," she said. "I think it's the embarrassment and shame, and they're self-centered."<sup>22</sup>

- COLORADO In Colorado, Senator Gloria Tanner filed SB 171, which was passed out of the senate by an overwhelming 32-3 vote. The legislation now awaits passage in the House

- FLORIDA There are several reports that Florida is also exploring enacting legislation similar to Rep. Morrison's law or the program in Mobile, Alabama. *The Christian Science Monitor* reported that "...by next month [February], Pensacola, Fla., will be added to the list of communities reaching out to help troubled mothers and their newborns."<sup>23</sup>

- INDIANA In Indiana, state Senator Clark has filed SB 424.

- KANSAS In Kansas, state Representative Kay O'Connor filed legislation on February 9, 2000. The legislation is currently in the Appropriations committee. Due to the fact that this legislation has been referred to one of only a few committees that is blessed (free from filing deadlines), Rep. O'Connor feels confident that the legislation will meet with a favorable response.

- KENTUCKY In Kentucky, H.B. 367 was also introduced "...to protect women from prosecution if they leave their babies with emergency workers."<sup>24</sup>

- MARYLAND In Maryland, the Montgomery County Board of Social Services, in response to a case involving an abandoned baby found in Germantown, a suburban community just outside Washington, D.C., where the infant narrowly escaped death after being put in the trash in subfreezing weather, voted at its Feb. 7, 2000, meeting in favor of a motion to send a letter to the County legislative delegation asking that a bill similar to H.B. 3423 be introduced in the state legislature.<sup>25</sup>

- MINNESOTA In Minnesota, state Senator Leo Foley has filed SB 2615. Minnesota also has, in Dakota County, near St. Paul, has a new program called "A Safe Place for Newborns," involving three hospitals in the county and the Roman Catholic Archdiocese of St. Paul and Minneapolis. According to the Associated Press, the program allows parents to leave babies anonymously at hospitals without fear of prosecution. A mother who brings in a newborn will be asked to volunteer medical information about the baby. She will be given an identity bracelet, as in the Mobile,

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<sup>22</sup> "Proposed California law may protect panicked mothers who discard infants," *Sacramento Bee*, Jan. 17, 2000.

<sup>23</sup> See Note 9.

<sup>24</sup> See Notes 9 and 11.

<sup>25</sup> See draft Minutes, Board of Social Services, available from Galena Kuiper, Chair, Board of Social Services, or Trudy McNamara, staff to the Board.

Alabama, program, proving she is the mother in case she wants to reclaim her baby later. According to the AP, eventually the program is expected to expand throughout Minnesota.<sup>26</sup> According to Rev. Andrew Cozzens, co-chairman of the program, "Essential to the success of the program is protecting the woman's confidentiality. To get immunity from prosecution for abandonment, she must bring her newborn to the hospital within 72 hours. She has six months to work with child-welfare officials to reclaim the baby...community leaders agree that all the 'what ifs' don't add up to the price of a human life...."<sup>27</sup>

- NEW JERSEY In New Jersey, Assemblywoman Charolette Vandervalt has filed HB 2030.

- NEW YORK In New York State, an effort of Nassau County [Long Island] Police Ambulance Medical Technicians (AMT) has been widely publicized, including an article in *The New York Times*. The AMT Children of Hope Infant Burial Foundation is similar to the Garden of Angels project in California, but Tim Jaccard, Chairperson of the Children of Hope effort, has a more ambitious agenda than burying bodies. Material from Children of Hope states that in the United Kingdom, "...where the government has been monitoring the issue, statistics reveal a 300 percent increase in infant abandonment in the last decade." Jaccard says "Here in the United States, those working in the field estimate that 57 babies a day are abandoned across the country. That is an alarming 20,800 infants abandoned with about 6,900 of them found dead." Jaccard is focused on education and advertising as well: "Through the advertising of hot-line telephone numbers and various service agencies, the AMT's Children of Hope Foundation is providing these mothers, who feel shame and desperation, with the confidential and reassuring help they and their unborn need." Jaccard calls for both research and education: "We need a fuller picture of the circumstances of infant abandonment and to identify all those responsible for the pregnancy before we can effectively confront the issue.... We need to educate both teenage males and females especially on the responsibilities and consequences of their actions. We must try to save as many of the abandoned newborns as possible. This must begin at all phases of the pregnancy, before, during and after." The Nassau County effort has advertisements on buses, railroad approaches, in train stations, clinics and hospitals.<sup>28</sup> Jaccard says his group is exploring introduction of legislation similar to the Morrison law in New York.<sup>29</sup> Jaccard's group has an adoption referral option through a New York licensed, nonprofit child placement agency, Family Connections, Inc.<sup>30</sup>

- NORTH CAROLINA According to the office of Rep. Morrison, North

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<sup>26</sup> "Abandoned Babies Program Launched," Jan. 5, 2000.

<sup>27</sup> See Note 9.

<sup>28</sup> Undated two-page statement, "FACTS YOU SHOULD KNOW ABOUT INFANT ABANDONMENT," A.M.T. Children of Hope Foundation Infant Burial, Inc. of the Nassau County Police Department.

<sup>29</sup> Personal communication with William L. Pierce, President, Richard C. Stillman Foundation for Adoption. The A.M.T. Children of Hope Foundation was the recipient of a modest grant from the Stillman Foundation in 1999.

<sup>30</sup> Letter from Jaccard to the Stillman Foundation, Jan. 11, 2000, in the files of the Stillman Foundation.

Carolina is looking into similar legislation.

- OKLAHOMA In Oklahoma, state Representative Susan Winchester has filed HB 2148. The legislation was overwhelmingly approved to be considered by the full House.

- PENNSYLVANIA Pennsylvania is also reportedly exploring the possibility of introducing legislation similar to the Texas law. Already, there is a program in place in Pittsburgh. "In Pittsburgh, several dozen volunteers put "Baskets for Babies" in front of their homes, explaining babies would be safe if left there."<sup>31</sup>

- TENNESSEE In Tennessee, HB 3112 was filed by Assemblyman Bill McAfee.

- OTHER STATES Other states that are considering programs or legislation include; Connecticut, Oregon, Illinois, Ohio, Wisconsin, Mississippi, Michigan and New Mexico.

#### **Who pays for the cost of the Morrison law and other similar projects?**

In Texas, Rep. Morrison says, it is considerably less expensive to treat a newborn that has been delivered to a Emergency Medical Service than it is to treat a child who has been unsafely abandoned in freezing or sweltering temperatures for countless hours. Weather is a significant factor, but by no means the most dangerous. Others include: lack of feeding; animals; insects; trash trucks - and the major determining factor, time. Babies who are safely given to properly trained personnel are much more likely to survive and to avoid permanent disabling injuries - injuries that might well need extensive and expensive medical treatment financed with taxpayers' dollars. Most important of all, the legislation is premised on the belief that there is not a price on a human life. Even apart from the clear benefits to society of eventually having a productive, taxpaying citizen, basic humane treatment of children demands that society's laws creatively address proven threats, such as abandonment. These services should properly be seen as part of the public health and public child welfare and protective services routinely provided by states.

#### **In the past, the argument has been made that arrangements that allow parents to anonymously abandon their newborns will only encourage irresponsible behavior?**

The fact is that people unfortunately engage in a variety of risky behaviors in our society, including couples who are unable or unwilling to care for a child that has already been conceived. The Morrison law and others like it simply encourage women and others in positions of authority in the child's life to begin making responsible decisions by assuring that the baby is turned over to people who can provide proper medical and other

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<sup>31</sup> See Note 9.



care for the child. In no way does this law encourage a mother to act irresponsibly; rather, it provides a responsible alternative to baby abandonment, in effect saving the life of a newborn. Once that is accomplished, then society can take steps to see if the parents want to change their minds and try to regain legal custody if the parents are, should be or can be identified. If the parents do not come forward, or do not wish to regain custody, then a permanent, adoptive family should be found for the baby. The timing of services and actions should be based on the needs of the baby, not adult wishes.

### **Should parents be forced to accept responsibility for their actions?**

Not every person who is a biological parent, either the woman who gives birth or the male who provided the sperm, is willing or able to raise a child. Forcing those who are unwilling or unable to try to be parents is unsound social policy, experimenting with the lives of babies. The most responsible action most of these parents can take at this point in their lives is to ensure that their baby is in the hands of someone who can provide a caring, stable environment.

### **What happens once a baby is safe and in the hands of authorities?**

Many of the details are necessarily left to existing state and federal laws pertaining to child abuse and neglect, child welfare, foster care and adoption. Essentially, the idea is that once the baby is medically stable, the public department (in Texas, the Department of Protective and Regulatory Services) should arrange for the baby to be cared for by a qualified, licensed foster family. Ideally, this should be a family that is also licensed and has an approved home study to adopt so that if the parent or parents do not end up with custody of the child, and the court rules that the child may be adopted, the baby can stay with the family who has been nurturing her or him for weeks or months. In most instances, these foster care placements and adoptive placements will be handled by the public agency at little or no cost to the family that cares for the child.

### **Why does a public department have to be involved, since there are many private groups who are working in this area?**

Arranging foster care and adoptions is something that, in the laws of most states, requires the involvement of a licensed child-placing or adoption agency. There are literally thousands of crisis pregnancy centers, faith-based organizations and other voluntary groups, which can provide information, referrals and help to women in crisis. But most of these are not licensed to do adoption placements or provide the information to be given out to callers. In addition, the information on these web sites can be misleading or inaccurate. For instance, two of the high-profile groups in California known for their interest in abandoned children are not licensed to do placements, yet they give out information and act in ways similar to agencies. The difference is that if someone were to innocently follow their advice they could end up violating the law. In one instance, a California group says on its web site to women contemplating abandonment: "We can arrange a confidential adoption for you without your parents finding out, *if you want to give up the baby. You don't need approval from your parents or the baby's father; we'll*



take care of the paperwork." This information is only partially accurate: the baby's father has very distinct legal rights in many instances. Other groups, including at least one in California, tells callers that one of their couples will fly in, pick up a baby, fly to California, and an adoption can be arranged without the father knowing anything. Among other considerations, such advice is contrary to the Interstate Compact on the Placement of Children, which has been agreed to and is part of the law of each of the states. Clearly, there is a role for groups such as these crisis pregnancy centers, as well as licensed private adoption agencies, and attorneys experienced in family and adoption law. But the ultimate responsibility is given, by statute, to the state agency in charge of social services, child protection services and adoption. The state agency may decide to contract out some of its responsibilities to others, but until the state agency has done this, other groups are at substantial legal peril if they act independently of pertinent regulations and statutes. We support all efforts to put an end to this tragic problem, but request a strict adherence to the law by which each state is governed.

### **Is anyone opposed to this legislation?**

Yes, there are individuals and some groups who have expressed opposition in various public forums. Following are some of the objections and responses.

On the internet, there is a discussion of these new programs on "About.com," a network of sites led by expert guides, called "New Option: Legal Abandonment." An article was posted on the "Adoption" GuideSite, which is hosted by Nancy "Sass" Stanfield, beginning Jan. 17, 2000. Ms. Stanfield identifies herself as a person who was adopted and who searched out her birth parents. Ms. Stanfield's article reflects the subjective viewpoints of those who believe in one-way searches for birth parents, especially in her description of the Morrison law. Ms. Stanfield raises five objections in a list of accusations which begin "Nowhere does the law...." The first objection is that the person doesn't identify her or their self - but that's the whole purpose of the law, to allow for anonymous but safe placing of a child with licensed medical specialists. The second objection is that there is no relinquishment signed - but this is anonymous legal abandonment, not adoption, where voluntary relinquishments are signed. The third objection is that the person does not provide medical information - but that would hardly be expected when someone is anonymously depositing a baby. With respect for the newborn's life, it is better to have a baby that is safely delivered to an EMT without medical records than a baby found in a Dumpster with medical records by the corpse. The fourth objection is simply incorrect: H.B. 3423 does not need to state a period when a person abandoning a child may change their mind, as that period is already specified at length in Texas law. The fifth objection is also incorrect: H.B. 3423 does not need to require the state to try and obtain any information because such requirements are already built into the state's protective services laws and regulations.<sup>32</sup>

There is also an article on "Foundling Asylums" in an Online Edition of The Catholic Encyclopedia, Copyright 1999, which is dated from 1909, that may be cited by

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<sup>32</sup> See Note 18.

some who oppose H.B. 3423 and similar approaches to abandonment. The article is about 100 years out of date, but does contain some very interesting historical information. In context, the article clearly stresses the fact that foundling homes and various approaches were meant to protect the lives of vulnerable infants. The article condemns the existence of institutions and devices that allow babies to be safely and anonymously deposited. One such idea, recently revived to prevent the death of abandoned babies in South Africa, was a revolving crib that allowed the baby to be brought inside while preserving the privacy of the person or persons who put the child in the crib. As the program in Johannesburg demonstrates, such approaches work because an average of one baby a month has safely been deposited in a large mail slot cut in the door of a Baptist church. This large South African city is the scene of about a dozen infants being found each year dead, in the garbage or exposed outside.<sup>33</sup> The article also argues that 18 months of "support" is given to mothers of babies. The experience of the U.S. with Aid to Families with Dependent Children has demonstrated that welfare is no solution and the numbers of neglected and abused children continues to rise, even in the aftermath of new initiatives to protect children. The three main objections to foundling homes 100 years ago were: "...the very high death rate in these places (sometimes more than 90 percent), ...the smaller expense of the family system, and...the obvious fact that the family is the natural home for young children." Today, babies are not maintained in large institutions. Family foster care is less expensive and widely used, even when the child has been abandoned. Indeed, in Minnesota and elsewhere some of the leading advocates of a more practical approach to the problem of abandonment – including guarantees of privacy and anonymity, as well as placement of children for adoption – are leaders of the Catholic Church.<sup>34</sup> Of course, the most important fact to keep in mind when dealing with abandonment, adoption and other issues is that for the last 50 years, starting first in Korea and more recently in Latin America, India, Vietnam, Eastern Europe and China, babies who are safely abandoned are being adopted by qualified, willing families.

Is there any truth to the claim being made on the internet that these new laws will provide an opening for people to steal babies from women and then dispose of them through adoption?

There has been a large number of postings, under a number of headings but especially under "Re: Calif. Bill would make it "ok" to abandon babies". But even in that forum, the wild charges<sup>35</sup> have largely been dismissed.

To the charge that babies will be kidnapped and turned over for adoption, clearly there are procedures to protect against such abuses. The first place a person would turn if their baby disappeared would be to law enforcement officers, public agencies and the like. People who have missing babies will use the many means at their disposal.

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<sup>33</sup> Pat Reber, Associated Press, "South African babies left in mail slot," Jan. 16, 2000.

<sup>34</sup> See Note 9.

<sup>35</sup> For instance, see "Ginger Root" and a posting on Jan. 25 on alt.adoption, message id: [BJtj4.16550Sup4.326486@news1.rdc1.ab.home.com](mailto:BJtj4.16550Sup4.326486@news1.rdc1.ab.home.com) for the most outlandish fantasy.

One line of argument, advanced in a Jan. 18 posting on the same subject on alt.adoption, criticized France for still allowing anonymous abandonments in the French civil code: "It is also heavily defended by the Catholic Church, among others. Also, the Muslim community in France has advocated for these laws to remain. Several French groups... have been formed to fight for an end to anonymous abandonment....Remember that records are open in France...the only question is whether [sic] or not there is any information in them."

The same individual, posting on Jan. 22, raised four separate objections. The first was that these laws are contrary to the Convention on the Rights of the Child. The fact is that the U.S. has not ratified that Convention and countries that have, such as France, China, Russia and others allow anonymous relinquishment.

The second is "there is no evidence that any birthmother who would toss a child into a dumpster would be in a position of bother to avail herself of the methodology for anonymous relinquishment provided for in these laws. The experience of one Baptist church in South Africa answers that objection: in five months, five babies have been saved.

The third is the claim that "...the beneficiaries of such a law are more likely to be unscrupulous adoption practitioners who would be able to protect unaccountable relinquishment practices under the guise of anonymous relinquishment." For this charge to have any validity, all the public departments with responsibility for protective services, foster care and adoption would need to be "unscrupulous" and, as publicly-accountable entities, they operate in a full disclosure mode.

The fourth is an ad hominem attack: "...the fact that members of the militant fringe of the far right, such as Operation Rescue and its front organisations, have come out in support of such laws should [be] all that one needs to say on the subject. Generally speaking, in my experience, when people widely believed to be apologists for terrorism support a law, beware the law..." There is wide, bipartisan support for these laws across all ideological lines, as is evident by the fact that the two leading political figures currently working on these matters in Texas are U.S. Rep. Lee, a Democrat, and State Rep. Morrison, a Republican.

Another set of objections is related to establishing the identity of the child in case a parent wanted the have the baby returned. But DNA testing, which is already used to determine paternity in some countries where questions have been raised about kidnapping and valid executions of relinquishment, is a solution far more practical and protective of anonymity and privacy than requiring a woman to accept a hospital or EMT identification band.

Another objection, posted to alt.adoption on Jan. 26 is that "These laws seem designed to expedite the anonymous surrender of parental rights as much as save babies' lives." There is no evidence for such a charge: some of the new law's strongest supporters point to abandonment and loss of babies' lives as the primary concern which motivated them.

The more the laws receive acceptance, the wilder grow the accusations, as in this material from a Jan. 26 posting: "I'm concerned about systemic accountability from corrupt child welfare systems. I wouldn't be surprised if given the option of Les Accouchements Sous X [anonymous abandonment and placement as practiced in France] in America, unscrupulous county workers start classifying babies they've simply lost the records for or can't be bothered with or for which they received a bribe "legally abandoned" or even for which Medical or Medicare improprieties may have occurred with (a big problem) when in fact no such abandonment occurred. Given past recent experience, I'm sure their partners in crime in the Police Dept will happily help them produce the requisite paperwork...." Such accusations are ludicrous on their face. There is no evidence that such incompetence, corruption and improprieties exist within the county public social service and police systems.

**What is the attitude of the public toward such laws allowing anonymous abandonment of babies?**

Initially, there has been a very favorable response, even among some of the usual anti-adoption groups and individuals. The only poll which has been taken, which has very limitations because of the methodology (self-selection and not random selection of those who can vote, the fact that individuals can log on and vote more than one time, etc.), asked the question, "Would you vote for a law to make it legal to abandon a newborn at a hospital or fire station?" That poll, as of Jan. 30, had 502 total votes. Of those, 400, or 80%, were in favor of laws like Rep. Morrison's, 90, or 18%, were opposed, and 12, or 2%, responded "Don't know."<sup>36</sup>

**Please do not hesitate to contact Justin Unruh with any further questions.**

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<sup>36</sup> See Note 11, as amended by the author, Nancy Stanfield.



214 S.W. 6th St., Suite 208, Topeka, KS 66603-3719 - Phone: 913-233-8601

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Good morning and thank you Madam Chairperson and members of the committee for the opportunity to testify here today. My name is Cleta Renyer and I am the Legislative Director for Right To Life of Kansas.

I am here today in support of Senate Bill 652. Not only would this save the lives of newborn infants it would inadvertently save the lives of the desperate and frightened young parents by giving them an opportunity to place their babies in the hands of a nonbiased trained professional. We recommend that the age of the infant should be thirty days or younger and that there be a time period of at least 14 days before terminating parental rights thus giving the young mother a chance to change her mind.

Attached is an article dated February 21, 2000 from Time Magazine entitled A Refuge for Throwaways. I would encourage you to take the time to read through it.

On behalf of all the members of Right To Life of Kansas please consider passage of this bill giving safe refuge to the unwanted newborns.



*Affiliated with American Life League*

Sen. Federal & State Affairs Comm  
Date: 3-14-00  
Attachment: # 7-1



# Memorandum



Donald A. Wilson  
President

March 14, 2000

TO: Senate Federal and State Affairs Committee  
FROM: Kansas Hospital Association *Tom Bell*  
RE: Senate Bill 652

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of SB 652, the newborn infant protection act. This bill allows the parents of newborns to surrender custody under certain circumstances without fear of prosecution.

Our focus today will be on some of the practical issues raised by SB 652. First, the bill allows custody to be transferred to an employee of a hospital emergency room or "other health care facility." There is some question as to what this term might encompass. A broad reading could make the bill applicable to nursing homes or physician offices. We also have questions about the language in line 20-23 of page one. Our reading of this section is that if the individual expresses an intent to return for the infant, there is no requirement to take physical custody. However, does the employee have the option of taking custody in such an instance? If so, does the rest of the bill apply?

New section 1(c) provides for immunity of the employee who takes custody of the infant. Since that employee will use the facilities of the employer to care for the infant, immunity should be provided for the employer as well.

Thank you for your consideration of our comments.

TLB:cdc

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**Kansas Hospital Association**

215 SE 8<sup>th</sup> Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/

Sen. Federal & State Affairs Comm.  
Date: 3-14-00  
Attachment: # 8-1





# Department of Fire Services

Larry D. Reese, Director

2000 Denison ♦ Manhattan, KS 66502 ♦ 785-587-4504 ♦ Code Services 785- 587-4506 ♦ Emergency Dial 911

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March 13, 2000

The Honorable Lana Oleen,  
Senator  
Capital Building  
State of Kansas

Fax: (785) 296-6718

Dear Senator Oleen,

I have reviewed the proposed changes to KSA 21.3604 and KSA 1999 Supplement 38-1585, that are contained within Senate Bill #652. This act is known as the *Newborn Infant Protection Act*. As you know from your past experiences, the Department of Fire Services for the City of Manhattan is concerned with the protection of life and property. It is my opinion that the amendments to this act further enhances the protection of the lives of newborn infants through making available, to distraught or unwilling parents, the ability to safely surrender the custody of their infant to a responsible party. In our case that would be to the firefighter stationed at a fire station. I can find no reason not to support this legislation as it offers the ability for safeguarding of the life of a newborn, while protecting from liability the individuals taking physical custody of the infant.

I therefore support Senate Bill #652 and the provisions that it contains as presently written, this 13th day of March, 2000. I wish to offer my gratitude to you for continuing to join us in the fire services in our efforts to protect the lives of the citizens in the state of Kansas.

Respectfully,

Larry D. Reese, Fire Chief  
Director of Fire Services

LDR/sll  
00-ADM-L-010

Sen. Federal & State Affairs Comr  
Date: 3-14-00  
Attachment: # 9-1



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the Voice of Nursing in Kansas

Emma Doherty, M.A., R.N.  
President

Terri Roberts, J.D., R.N.  
Executive Director

*FOR MORE INFORMATION CONTACT*

Terri Roberts, JD, RN  
785.233.8638

March 14, 2000

## **S.B. 652 NEWBORN PROTECTION ACT**

### ***Written Testimony***

Chairman Oleen and members of the Senate Federal and State Affairs Committee the KANSAS STATE NURSES ASSOCIATION would like to offer **support for S.B. 652 which provides an opportunity for newborns and infants to be safely abandoned without the fear of criminal prosecution or reprisal.**

We as registered nurses are concerned about those times in unwanted pregnancies where there is strong denial by the woman about the pregnancy. This is well documented in the medical literature. This is usually a defense mechanism, oftentimes the womans self preservation is predicated on this coping mechanism of denial. Particularly in those cases, there is great value to having a statutorily recognized alternative. Some unwanted pregnancies occur for reasons that are distasteful or illegal, rape and incest being two of these. The stigma and or guilt for the woman (adolescent girl) in those cases is great and may precipitate the denial of pregnancy or actions that hide or attempt to conceal the pregnancy and the consequences thereof.

The bill provides that the infant can be left safely at many types of health care facilities (health departments, hospitals, etc) where registered nurses are likely to be one of the first health providers responding to the situation. We acknowledge that such a situation would be met with deliberate and focused attention on the newborn/infants immediate health needs (particularly if a newborn) then the need for temporary on to permanent placement issues.

This bill provides an alternative for the women who have insufficient capacity to care for an newborn/infant, and is preferable to the criminal acts or suicide that we have seen. We ask for your support of S.B. 652, to be passed out favorably for consideration.

***Thank you.***

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all pe

Constituent of The American Nurses Associa

Sen. Federal & State Affairs Comm  
Date: 3-14-00  
Attachment: # 10-1

03/13

**From:** "Greg Luttrell" <luttrell@interkan.net>  
**To:** <oleen@senate.state.ks.us>, <harrington@senate.state.ks.us>, <becker@senate.state.ks.us>, <bleeker@senate.state.ks.us>, <vidricksen@senate.ks.us>, <vratil@senate.state.ks.us>, <jones@senate.state.ks.us>, <biggs@senate.state.ks.us>, <gooch@senate.state.ks.us>  
**Date:** Fri, Mar 10, 2000 6:30 PM  
**Subject:** Bill 652

Dear Senator:

I am writing on behalf of the Social Concerns Committee, First United Methodist Church, Manhattan. We would like to offer our heart felt support for enactment of the Newborn Infant Protection Act.

We feel that in light of the recent events surrounding the death of an infant in Junction City by teenage parents, it is essential we offer an alternative to these parents who feel so desperate that they resort to murder in order to cover it up.

By taking away the threat of prosecution for abandonment, parents have a viable alternative, no questions asked. It would be worth the effort if only to save one child. We feel that this bill could be key to saving both children and parents.

We offer our assistance in any manner which may help facilitate the passage of this very important bill.

Thank you ,

Sherri Luttrell  
Chairperson, Social Concerns Committee  
First United Methodist Church  
Manhattan, KS  
luttrell@interkan.net

Sen. Federal & State Affairs Comm.  
Date: 3-14-00  
Attachment: # 11-1