



Healthcare Council

**Tuesday, February 5, 2008
11:30 AM
Morris Hall**

Action Packet

COUNCIL MEETING REPORT

Healthcare Council

2/5/2008 11:30:00AM

Location: Morris Hall (17 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Aaron Bean (Chair)	X		
Thomas Anderson	X		
Loranne Ausley	X		
Joyce Cusack	X		
Bill Galvano	X		
Rene Garcia	X		
Hugh Gibson	X		
Denise Grimsley	X		
Gayle Harrell	X		
D. Alan Hays	X		
Ed Hooper	X		
Jimmy Patronis	X		
Ari Porth	X		
Yolly Roberson	X		
Elaine Schwartz	X		
Kelly Skidmore	X		
Juan Zapata	X		
Totals:	17	0	0

Committee meeting was reported out: Tuesday, February 05, 2008 2:09:27PM

COUNCIL MEETING REPORT

Healthcare Council

2/5/2008 11:30:00AM

Location: Morris Hall (17 HOB)

PCB HCC 08-13 : Infant Abandonment

Favorable With Amendments

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Thomas Anderson	X				
Loranne Ausley	X				
Joyce Cusack	X				
Bill Galvano	X				
Rene Garcia	X				
Hugh Gibson	X				
Denise Grimsley	X				
Gayle Harrell	X				
D. Alan Hays	X				
Ed Hooper	X				
Jimmy Patronis	X				
Ari Porth	X				
Yolly Roberson	X				
Elaine Schwartz	X				
Kelly Skidmore	X				
Juan Zapata	X				
Aaron Bean (Chair)	X				
Total Yeas: 17		Total Nays: 0			

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. PCB HCC 08-13

COUNCIL/COMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER _____

1 Council/Committee hearing bill: Healthcare Council
 2 Representative(s) R. Garcia offered the following:

Amendment (with title amendment)

4 Remove everything after the enacting clause and insert:
 5 Section 1. Subsection 1, and paragraph (e) of subsection
 6 (31) of section 39.01, Florida Statutes, are amended to read:
 7 39.01 Definitions.--When used in this chapter, unless the
 8 context otherwise requires:

9 (1) "Abandoned" means a situation in which the parent or
 10 legal custodian of a child or, in the absence of a parent or
 11 legal custodian, the caregiver responsible for the child's
 12 welfare, while being able, makes no provision for the child's
 13 support and makes no effort to communicate with the child, which
 14 situation is sufficient to evince a willful rejection of
 15 parental obligations. If the efforts of the parent or legal
 16 custodian, or caregiver primarily responsible for the child's
 17 welfare, to support and communicate with the child are, in the
 18 opinion of the court, only marginal efforts that do not evince a
 19 settled purpose to assume all parental duties, the court may
 20 declare the child to be abandoned. The term "abandoned" does not
 21 include a surrendered ~~an abandoned~~ newborn infant as described
 22 in s. 383.50, a "child in need of services" as defined in

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23 chapter 984, or a "family in need of services" as defined in
24 chapter 984. The incarceration of a parent, legal custodian, or
25 caregiver responsible for a child's welfare may support a
26 finding of abandonment.

27 (31) "Harm" to a child's health or welfare can occur when
28 any person:

29 (e) Abandons the child. Within the context of the
30 definition of "harm," the term "abandons the child" means that
31 the parent or legal custodian of a child or, in the absence of a
32 parent or legal custodian, the person responsible for the
33 child's welfare, while being able, makes no provision for the
34 child's support and makes no effort to communicate with the
35 child, which situation is sufficient to evince a willful
36 rejection of parental obligation. If the efforts of the parent
37 or legal custodian or person primarily responsible for the
38 child's welfare to support and communicate with the child are
39 only marginal efforts that do not evince a settled purpose to
40 assume all parental duties, the child may be determined to have
41 been abandoned. The term "abandoned" does not include a
42 surrendered ~~an abandoned~~ newborn infant as described in s.
43 383.50.

44 Section 2. Paragraph (g) of subsection (2) of section
45 39.201, Florida Statutes, is amended to read:

46 39.201 Mandatory reports of child abuse, abandonment, or
47 neglect; mandatory reports of death; central abuse hotline.--

48 (2)(g) Reports involving surrendered ~~abandoned~~ newborn
49 infants as described in s. 383.50 shall be made and received by
50 the department.

51 1. If the report is of a surrendered ~~an abandoned~~ newborn
52 infant as described in s. 383.50 and there is no indication of
53 abuse, neglect, or abandonment other than that necessarily

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54 entailed in the infant having been left at a hospital, emergency
55 medical services station, or fire station, the department shall
56 provide to the caller the name of a licensed child-placing
57 agency on a rotating basis from a list of licensed child-placing
58 agencies eligible and required to accept physical custody of and
59 to place newborn infants left at a hospital, emergency medical
60 services station, or fire station. The report shall not be
61 considered a report of abuse, neglect, or abandonment solely
62 because the infant has been left at a hospital, emergency
63 medical services station, or fire station pursuant to s. 383.50.

64 2. If the caller reports indications of abuse or neglect
65 beyond that necessarily entailed in the infant having been left
66 at a hospital, emergency medical services station, or fire
67 station, the report shall be considered as a report of abuse,
68 neglect, or abandonment and shall be subject to the requirements
69 of s. 39.395 and all other relevant provisions of this chapter,
70 notwithstanding any provisions of chapter 383.

71 Section 3. Section 63.0423, Florida Statutes, is amended
72 to read:

73 63.0423 Procedures with respect to surrendered abandoned
74 infants.

75 (1) A licensed child-placing agency that takes physical
76 custody of an infant surrendered ~~abandoned~~ at a hospital,
77 emergency medical services station, or fire station pursuant to
78 s. 383.50, shall assume responsibility for all medical costs and
79 all other costs associated with the emergency services and care
80 of the surrendered ~~abandoned~~ infant from the time the licensed
81 child-placing agency takes physical custody of the surrendered
82 ~~abandoned~~ infant.

83 (2) The licensed child-placing agency shall immediately
84 seek an order from the circuit court for emergency custody of

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85 the surrendered ~~abandoned~~ infant. The emergency custody order
86 shall remain in effect until the court orders preliminary
87 approval of placement of the surrendered ~~abandoned~~ infant in the
88 prospective home, at which time the prospective adoptive parents
89 become guardians pending termination of parental rights and
90 finalization of adoption or until the court orders otherwise.
91 The guardianship of the prospective adoptive parents shall
92 remain subject to the right of the licensed child-placing agency
93 to remove the surrendered ~~abandoned~~ infant from the placement
94 during the pendency of the proceedings if such removal is deemed
95 by the licensed child-placing agency to be in the best interest
96 of the child. The licensed child-placing agency may immediately
97 seek to place the surrendered ~~abandoned~~ infant in a prospective
98 adoptive home.

99 (3) The licensed child-placing agency that takes physical
00 custody of the surrendered ~~abandoned~~ infant shall, within 24
101 hours thereafter, request assistance from law enforcement
102 officials to investigate and determine, through the Missing
103 Children Information Clearinghouse, the National Center for
104 Missing and Exploited Children, and any other national and state
105 resources, whether or not the surrendered ~~abandoned~~ infant is a
106 missing child.

107 (4) The parent who surrenders the infant in accordance
108 with s. 383.50 is presumed to have consented to termination of
109 parental rights, and express consent is not required. Except
110 when there is actual or suspected child abuse or neglect, the
111 licensed child-placing agency shall not attempt to pursue,
112 search for, or notify that parent as provided in s. 63.088 and
113 chapter 49. Within 7 days after accepting physical custody of
114 the abandoned infant, the licensed child-placing agency shall
15 initiate a diligent search to notify and to obtain consent from

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16 ~~a parent whose identity is known but whose location is unknown.~~
117 ~~The diligent search must include, at a minimum, inquiries as~~
118 ~~provided for in s. 63.088. Constructive notice must also be~~
119 ~~provided pursuant to chapter 49 in the county where the infant~~
120 ~~was abandoned. If a parent is identified and located, notice of~~
121 ~~the hearing on the petition for termination of parental rights~~
122 ~~shall be provided.~~

123 (5) A petition for termination of parental rights under
124 this section may not be filed until 30 days after the date the
125 infant was surrendered abandoned in accordance with s. 383.50. A
126 petition for termination of parental rights may not be granted
127 until ~~consent to adoption or an affidavit of nonpaternity has~~
128 ~~been executed by a parent of the abandoned infant as set forth~~
129 ~~in s. 63.062, a parent has failed to reclaim or claim the~~
130 surrendered abandoned infant within the time period specified in
31 s. 383.50, ~~or the consent of a parent is otherwise waived by the~~
132 ~~court.~~

133 (6) A claim of parental rights of the surrendered
134 ~~abandoned~~ infant must be made to the entity having legal custody
135 of the surrendered ~~abandoned~~ infant or to the circuit court
136 before which ~~whom~~ proceedings involving the surrendered
137 ~~abandoned~~ infant are pending. A claim of parental rights of the
138 surrendered ~~abandoned~~ infant may not be made after the judgment
139 to terminate parental rights is entered, except as otherwise
140 provided by subsection (9).

141 (7) If a claim of parental rights of a surrendered ~~an~~
142 ~~abandoned~~ infant is made before the judgment to terminate
143 parental rights is entered, the circuit court may hold the
144 action for termination of parental rights pending subsequent
145 adoption in abeyance for a period of time not to exceed 60 days.

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146 (a) The court may order scientific testing to determine
147 maternity or paternity at the expense of the parent claiming
148 parental rights.

149 (b) The court shall appoint a guardian ad litem for the
150 surrendered ~~abandoned~~ infant and order whatever investigation,
151 home evaluation, and psychological evaluation are necessary to
152 determine what is in the best interest of the surrendered
153 ~~abandoned~~ infant.

154 (c) The court may not terminate parental rights solely on
155 the basis that the parent left the infant at a hospital,
156 emergency medical services station, or fire station in
157 accordance with s. 383.50.

158 (d) The court shall enter a judgment with written findings
159 of fact and conclusions of law.

160 (8) Within 7 business days after recording the judgment,
61 the clerk of the court shall mail a copy of the judgment to the
162 department, the petitioner, and the persons whose consent were
163 required, if known. The clerk shall execute a certificate of
164 each mailing.

165 (9) (a) A judgment terminating parental rights pending
166 adoption is voidable, and any later judgment of adoption of that
167 minor is voidable, if, upon the motion of a birth parent, the
168 court finds that a person knowingly gave false information that
169 prevented the birth parent from timely making known his or her
170 desire to assume parental responsibilities toward the minor or
171 from exercising his or her parental rights. A motion under this
172 subsection must be filed with the court originally entering the
173 judgment. The motion must be filed within a reasonable time, but
174 not later than 1 year after the entry of the judgment
175 terminating parental rights.

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176 (b) No later than 30 days after the filing of a motion
177 under this subsection, the court shall conduct a preliminary
178 hearing to determine what contact, if any, will be permitted
179 between a birth parent and the child pending resolution of the
180 motion. Such contact may be allowed only if it is requested by a
181 parent who has appeared at the hearing and the court determines
182 that it is in the best interest of the child. If the court
183 orders contact between a birth parent and child, the order must
184 be issued in writing as expeditiously as possible and must state
185 with specificity any provisions regarding contact with persons
186 other than those with whom the child resides.

187 (c) At the preliminary hearing, the court, upon the motion
188 of any party or upon its own motion, may order scientific
189 testing to determine the paternity or maternity of the minor if
190 the person seeking to set aside the judgment is alleging to be
91 the child's birth parent but has not previously been determined
192 by legal proceedings or scientific testing to be the birth
193 parent. Upon the filing of test results establishing that
194 person's maternity or paternity of the surrendered abandoned
195 infant, the court may order visitation as it deems appropriate
196 and in the best interest of the child.

197 (d) Within 45 days after the preliminary hearing, the
198 court shall conduct a final hearing on the motion to set aside
199 the judgment and shall enter its written order as expeditiously
200 as possible thereafter.

201 (10) Except to the extent expressly provided in this
202 section, proceedings initiated by a licensed child-placing
203 agency for the termination of parental rights and subsequent
204 adoption of a newborn left at a hospital, emergency medical
205 services station, or fire station in accordance with s. 383.50
06 shall be conducted pursuant to this chapter.

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207 Section 4. Subsections (1) and (5) of section 383.50,
208 Florida Statutes, are amended to read:

209 383.50 Treatment of surrendered ~~abandoned~~ newborn infant.

210 (1) As used in this section, the term "newborn infant"
211 means a child who ~~that~~ a licensed physician reasonably believes
212 is to be approximately 7 3 days old or younger at the time the
213 child is left at a hospital, emergency medical services station,
214 or fire station.

215 (5) Except when ~~where~~ there is actual or suspected child
216 abuse or neglect, any parent who leaves a newborn infant with a
217 firefighter, emergency medical technician, or paramedic at a
218 fire station or emergency medical services station, or brings a
219 newborn infant to an emergency room of a hospital and expresses
220 an intent to leave the newborn infant and not return, has the
221 absolute right to remain anonymous and to leave at any time and
222 may not be pursued or followed unless the parent seeks to
223 reclaim the newborn infant. When an infant is born in a
224 hospital and the mother expresses intent to leave the infant and
225 not return, upon the mother's request, the hospital or registrar
226 shall complete the infant's birth certificate without naming the
227 mother.

228 Section 5. This act shall take effect July 1, 2008.
229

230 -----
231 T I T L E A M E N D M E N T

232 Remove the entire title and insert:

233 A bill to be entitled

234 An act relating to a safe haven for newborns; amending s.
235 39.01, F.S.; amending definitions of abandoned and harmed
236 to conform to the provisions of this bill; amending s.
37 39.201, F.S.; amending references from "abandoned" to

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238 "surrendered" where applicable to conform to provisions of
239 the bill; amending s. 63.0423, F.S.; amending references
240 from "abandoned" to "surrendered" where applicable to
241 conform to provisions of bill; providing for presumption of
242 consent to termination of parental rights in cases of
243 surrendered infants; revising requirements for conducting a
244 diligent search to identify a parent of a surrendered
245 infant; providing an exception; conforming provisions
246 relating to granting a petition for termination of parental
247 rights; amending s. 383.50, F.S.; amending references from
248 "abandoned" to "surrendered" where applicable to conform to
249 provisions of bill; increasing the age at which an infant
250 is considered a newborn infant for purposes of treatment
251 after surrender; allowing mothers to remain anonymous on
252 birth certificates under certain circumstances; providing
253 an effective date.

254

COUNCIL MEETING REPORT

Healthcare Council

2/5/2008 11:30:00AM

Location: Morris Hall (17 HOB)

Summary:

Healthcare Council

Tuesday February 05, 2008 11:30 am

PCB HCC 08-13 Favorable With Amendments

Yeas: 17 Nays: 0

Committee meeting was reported out: Tuesday, February 05, 2008 2:09:27PM