



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

September 8, 2016

ALL COUNTY INFORMATION NOTICE NO. I-63-16

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
ALL COUNTY CHIEF PROBATION OFFICERS  
ALL TITLE IV-E AGREEMENT TRIBES  
ALL BOARD OF SUPERVISORS

SUBJECT: **SAFELY SURRENDERED BABY BEST PRACTICES AND  
CLARIFICATION REGARDING SITE APPROVAL**

REFERENCES: ASSEMBLY BILL 1048 (TORRICO CHAPTER 567, STATUTES OF 2010); FAMILY CODE SECTIONS 7551 ET SEQ; HEALTH AND SAFETY CODE SECTION 1255.7; PENAL CODE SECTION 271.5; PENAL CODE SECTION 11165.13; PENAL CODE SECTION 11174.34; WELFARE AND INSTITUTIONS CODE SECTION 361.3; WELFARE AND INSTITUTIONS CODE SECTION 827; WELFARE AND INSTITUTIONS CODE SECTION 388; CALIFORNIA RULES OF COURT, RULE 5.635(d); ALL COUNTY INFORMATION NOTICE I-66-02; ALL COUNTY INFORMATION NOTICE I-16-04; ALL COUNTY INFORMATION NOTICE I-88-10; ALL FACILITIES LETTER 11-07

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

The purpose of this All County Information Notice (ACIN) is to clarify questions about becoming a safe surrender site and obtaining necessary materials, clarification for safe surrenders where the baby is born drug exposed, clarification regarding the rights of the parent who does not surrender the child (usually fathers), and briefly address what laws may apply where an alleged relative comes forward seeking custody. This ACIN also provides best practices in documenting the Safely Surrendered Baby (SSB) voluntary medical history questionnaire and ankle bracelet as well as best practices in cross-reporting with law enforcement in instances where there is a child death due to abandonment.

## **BECOMING A SAFE SURRENDER SITE**

The California Department of Social Services (CDSS) receives inquiries from fire stations, clinics, and other agencies asking for the process to become a safe surrender site pursuant to Penal Code (PC) Section 271.5. This information is provided as a quick reference for county child welfare services (CWS) agencies who may receive inquiries of this nature. Pursuant to Health and Safety Code (HS) Section 1255.7(a), there are three separate processes for becoming a safe surrender site:

1. A location within a public or private hospital may be designated by that hospital.
2. A location may be designated by the county board of supervisors.
3. A location may be designated by a local fire agency, upon the approval of the appropriate local governing body of the agency.

Fire stations, clinics, or other agencies seeking approval as a safe surrender site are directed to contact their local county board of supervisors or the appropriate local governing body of the local fire agency. The county board of supervisors or fire agency must follow their local county polices in accordance with this statute to implement the safe surrender law.

## **SAFE SURRENDER SITE MATERIALS**

The CDSS receives inquiries from safe surrender sites requesting materials necessary to facilitate the successful intake of a safely surrendered baby according to the requirements of the SSB Law. Upon approval as a safe surrender site, the service provider must obtain three materials in order to facilitate SSB Law requirements:

- SSB sign with statewide logo (as shown to the right)
- Medical questionnaire (to be completed voluntarily)
- Matching ID bracelets for the baby and surrendering individual



1. Pursuant to HS Section 1255.7(b), the SSB Law requires approved safe surrender sites to post a sign displaying the statewide logo adopted by the CDSS, notifying the public of the location where a child 72 hours old or younger may be safely surrendered.

The statewide SSB logo adopted by the CDSS is downloadable in jpeg format. An approved safe surrender site can send this image to a local vendor in order to manufacture the sign. Follow this link to download the logo:

[babysafe.ca.gov/res/images/SafeSurrenderLogo.jpg](http://babysafe.ca.gov/res/images/SafeSurrenderLogo.jpg)

2. The voluntary medical questionnaire (SOC 861) is available for download and printing at the [www.babysafe.ca.gov](http://www.babysafe.ca.gov) website in four languages: English, Spanish, Chinese, and Russian.

The Office of Child Abuse Prevention provides the Safely Surrendered Baby program site packets upon request. A packet includes the matching ID bracelets, voluntary medical questionnaire, and materials for the surrendering parent or person. The materials are available in English, Spanish, Chinese, and Russian.

For more information regarding the Safely Surrendered Baby Kit, please contact the Office of Child Abuse Prevention at (916) 651-6960 or via email at [PublicationRequests@DSS.ca.gov](mailto:PublicationRequests@DSS.ca.gov).

## **SAFELY SURRENDERED BABY SITE PROTOCOL**

Personnel at the approved safe-surrender site must ensure that a staff person does all of the following:

1. Places a unique, coded, confidential ankle bracelet on each surrendered child and provides, or makes a good faith effort to provide, a copy of the ankle bracelet to the parent or individual surrendering the child. The bracelet facilitates reclaiming the child during the 14-day consideration period provided in statute (possession of the ankle bracelet, in and of itself, does not establish a right to custody of the child).
2. Provides, or makes a good faith effort to provide a medical information questionnaire (SOC 861) to the parent or individual surrendering the child. The questionnaire may be voluntarily filled out and returned at the time the child is surrendered or may be completed at a later time and mailed in the envelope provided for this purpose. The medical information questionnaire must not require identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child.

For more information on Safe Surrender protocols, refer to ACIN I-88-10.

## DOCUMENTATION OF THE MEDICAL QUESTIONNAIRE – BEST PRACTICE

In ACIN I-16-04 and ACIN I-88-10, counties were instructed in the necessary steps to inputting a safely surrendered baby referral into the Child Welfare Services Case Management System (CWS/CMS). However, a review of data shows that in many CWS/CMS records for SSB, the “Parent/Custodian Provided with a Questionnaire” field in the SSB Special Projects tab is marked as “unknown.” The CDSS considers it a priority that the medical questionnaire be offered whenever possible because the information obtained may greatly improve the health and medical care of a surrendered infant. Additionally, the CDSS is required to report to the Legislature the number of medical history questionnaires completed in SSB cases, pursuant to Assembly Bill 1048 (Torrico Chapter 567, Statutes of 2010).

In many of these cases, the information that the questionnaire was offered and either accepted or refused is documented in the case notes, screener narrative, investigation summary or court documents. The social worker should follow up with the first responders at the hospital or fire station to verify if a medical questionnaire was in fact offered and completed and accurately document that information in the SSB Special Projects tab. Social workers should take the same care to verify and correctly input the information regarding the confidential, coded ankle bracelets.

The image shows a screenshot of a software form titled "Notification Information". It is divided into two main sections: "Parental/Custodial" and "Parent/Custodian provided medical questionnaire?".

**Parental/Custodial**

**Parent/Custodian given ankle bracelet ID information?**

Yes    No    Attempted    Unknown

**Parent/Custodian provided medical questionnaire?**

Completed and Returned Immediately    Completed and Mailed Back    Provided/Never Returned    Declined    Unknown

Date Questionnaire Returned: [ ]

All Facilities Letter (AFL) 11-07 indicates that hospital staff must “provide child protective services, or a county agency providing child welfare services, medical information pertinent to the infant’s health, including, but not limited to, information obtained, if any, on the voluntary medical information questionnaire.” Information from the medical questionnaire and any other relevant medical information should be appropriately documented in the child’s health passport in CWS/CMS. The social

worker should additionally attempt to obtain a copy of the medical questionnaire and include it in either the child's hard file or CWS/CMS documents file.

## **SAFE SURRENDERS AND DRUG-EXPOSED INFANTS**

In the course of case reviews, the CDSS has noted multiple instances where a mother attempting to surrender her infant at a hospital was denied SSB due to the child presenting with a positive toxicology screen. PC Section 11165.13 states that "a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect." Therefore, a child delivered with a positive toxicology screen is not enough, without other indicators of abuse or neglect, to exclude SSB eligibility. For more information and frequently asked questions arising from common safe surrender situations, consult ACIN I-88-10.

## **14-DAY CONSIDERATION PERIOD**

Under the SSB law, the surrendering individual has 14 days from the date of the surrender to reconsider the decision and resume care and custody of the child, following an assessment and dismissal of the petition by dependency court.

Individuals accepting the safely surrendered baby should make a best faith effort to communicate the 14-day consideration period to the surrendering party. In the subsequent 14-day period, staff in the hospital or CWS should respond to inquiries from the surrendering parent unless individual circumstances in the case indicate that this would not be in the child's best interest. Refusing access or information regarding a surrendered child during the 14-day period is contrary to the spirit of the law, which permits the parent time to reconsider his or her decision.

## **LAW ENFORCEMENT NOTIFICATION OF CASES WHERE AN INFANT DIES AS THE RESULT OF ABANDONMENT – BEST PRACTICE**

Assembly Bill 1048 requires the CDSS to report on all cases of abandoned children statewide in the annual Safely Surrendered Baby Report to the Legislature. Accurate data collection on children who have died due to abandonment continues to be a challenge, as many abandonments are investigated by law enforcement or the coroner rather than the county CWS agency, which may not be notified of the incident if the child's death is not reported.

PC Section 11174.34(k) requires law enforcement and county CWS agencies to report all cases of child death suspected to be related to child abuse or neglect. This mandate was not affected by the suspension of Interagency Child Abuse and Neglect (ICAN) reporting and remains in effect. The purpose of this law is to coordinate and integrate

state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child deaths. This requirement includes cases where a child has died after being abandoned by his or her parents.

PC Section 11174.34(j) requires all county CWS agencies to create a record in the CWS/CMS database for all cases of child deaths suspected to be related to child abuse or neglect, regardless of whether the deceased child has any known or surviving siblings. If subsequently notified that the death was determined not to be related to child abuse or neglect, the county CWS agency shall update the CWS/CMS database to reflect cause of death. Additionally, county probation departments should refer all cases meeting the criteria to local CWS agencies for input onto the CWS/CMS database. This would apply where a child dies after being abandoned.

The CDSS advised counties to work with local law enforcement and the coroner's offices to develop protocols for the reporting of child abandonments in ACIN 1-66-02. CDSS again encourages county CWS agencies to establish and/or maintain notification procedures with local law enforcement, child death review teams, and the coroner's office.

### **PARENTAGE ISSUES – WHAT TO DO WHEN AN ALLEGED NON-SURRENDERING PARENT COMES FORWARD AND REQUESTS CUSTODY**

The CDSS has received a number of inquiries from county CWS agencies with questions regarding cases where an alleged biological father has come forward requesting custody of a baby who has been safely surrendered by the mother. While the SSB Law does not specifically address custody rights for a father who was not involved with the decision to surrender his baby and who seeks custody subsequent to the child's surrender, he would have the same opportunity to establish paternity as any other father whose child is the subject of dependency proceedings.

In any civil action or proceeding in which paternity is a relevant fact, any party may suggest or bring a motion for an order for paternity testing pursuant to Family Code (FC) Section 7551. Additionally, the court in any such action or proceeding may order testing on its own motion: California Rules of Court, rule 5.635(d) authorizes the juvenile court to order genetic testing to determinate parentage. Therefore, when an alleged father comes forward after a safe surrender and requests custody, it is best to bring that fact to the court's attention at the earliest possible date so the court may exercise its discretion under FC Section 7551, and rule 5.635(d), regarding genetic testing. In these circumstances, the county social worker should notify the child's counsel so he or she can bring a motion for an order for testing if it is in the child's legal interests. Such claims would not be bound by the Safe Surrender law 14-day reclaim period. The father would be eligible to present his claim to the court at any point before the termination of parental rights.

In some instances, the parents may have signed a voluntary declaration of paternity or be married at the time of the child's birth. In these circumstances, the presumptions of paternity may eliminate the need for genetic testing. These presumptions may be difficult to establish without breaching anonymity. Counties will have to determine on a case-by-case basis whether a presumption can be established and applied.

HS Code Section 1255.7 permits either or both parents, or another individual, to safely surrender. The situation could arise where a father or other individual surrenders a baby and subsequently a woman comes forward claiming to be the child's mother and requests custody of the baby. All procedures to establish paternity should also be used to establish maternity.

In the event that one parent surrenders and the other parent comes forward to claim the child, it would still be possible for the surrendering parent to reclaim the baby within the 14-day reconsideration period. In the case that the 14-day period has passed, the surrendering parent cannot withdraw his or her surrender and reclaim the baby. However, the surrendering parent could file a Welfare and Institutions Code (WIC) Section 388 petition to seek custody or services on the ground of changed circumstances or new evidence. This petition can only be filed after disposition in the dependency case. The changed circumstance would be that the surrendering parent had no intention of the other parent coming forward to gain custody and that given this circumstance, the surrendering parent now wants to regain custody and/or obtain services. The surrendering parent would waive any right to anonymity if he or she comes forward in the dependency proceeding, but the general confidentiality of all child welfare proceedings (WIC Section 827) would apply.

## **RELATIVES' REQUESTS FOR PLACEMENT**

On occasion, relatives learn of the safe surrender and come forward seeking placement of the surrendered child. In cases of alleged relatives, if they can establish to the CWS agency that they are in fact relatives, the agency should encourage them to bring this to the court's attention or bring this information to the court's attention itself. The court, however, would have to make the legal determination that an alleged relative is in fact related to the child. This can be done with genetic testing of the known alleged nonsurrendering parent, or other evidence that may establish the identity of the child's parents. The court may wish to appoint an expert pursuant to Evidence Code Section 730 to perform genetic testing on the alleged relative and child. These decisions must take into consideration that the child has the right to be placed with relatives under WIC Section 361.3. It is best to have the court address these issues at the earliest possible time in the dependency proceedings.

## **SAFE SURRENDER LAW AND ANONYMITY**

The intent of the Safe Surrender law is to safeguard the health and safety of vulnerable infants while protecting the surrendering parent from prosecution for child abandonment or endangerment. While the law provides for confidentiality in an attempt to remove a possible barrier to surrender, protecting the anonymity of the surrendering parent is not the law's primary intent. In the event of a non-surrendering parent or relative attempting to establish custody of the child, the county should carefully weigh the circumstances surrounding the individual situation and prioritize the legal rights and long-term safety and wellbeing of the child.

If you have any questions regarding this information, please contact the Child Welfare Policy and Program Development Bureau at (916) 651-6160.

Sincerely,

***Original Document Signed By:***

KELLY WINSTON, Acting Chief  
Child Protection and Family Support Branch

c: CWDA