



SPONSOR: Rep. Maier & Rep. Wagner &
Sen. Bair & Sen. Blevins; Reps.
Brady, Buckworth, Capano, Carey,
Cathcart, Caulk, Cloutier, DiPinto,
D. Ennis, Ewing, Fallon, Gilligan,
Houghton, Lofink, Miro,
Mulrooney, Plant, Reynolds, Scott,
Spence, Stone, Ulbrich, Valihura,
Williams; Sens. Winslow, Sokola,
Sorenson, Venables

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO. 555

AN ACT TO AMEND TITLES 11, 13, AND 16 OF THE DELAWARE CODE RELATING TO ABANDONED
NEWBORN INFANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 11 of the Delaware Code by adding a new section thereto designated as Section
2 1103A, to read as follows:

3 “§1103A. Abandonment of a child at certain medical facilities as defense.

4 In any prosecution for an offense set forth in § 1101 and § 1102 of this Title, it is a
5 defense if the person surrendered care or custody of a newborn infant at a hospital emergency
6 department or directly to a person at an occupied medical facility, paramedic station or unit or fire
7 station, provided that said newborn infant is surrendered alive, unharmed and in a safe place. For
8 the purposes of this section “newborn infant” means a child not more than fourteen days old.”.

9 Section 2. Amend Section 902 of Title 16 of the Delaware Code by redesignating subsections (11), (12) and
10 (13) thereof as subsections “(12)”, “(13)”, and “(14)” and by adding a new subsection thereto to be designated as
11 subsection “(11)”, to read as follows:

12 “(11) ‘Newborn infant’ shall mean a child not more than fourteen (14) days old.”.

13 Section 3. Amend Section 907 (a) of Title 16 of the Delaware Code by adding immediately after the last
14 sentence of said subsection the following:

15 “Any person taking a child into temporary emergency protective custody pursuant to this
16 subsection shall make a reasonable attempt to so advise the parent, guardian or other persons
17 legally responsible for the child’s care.”.

18 Section 4. Amend Section 907 (b) of Title 16 of the Delaware Code by striking the first sentence thereof,
19 and by substituting in lieu thereof the following:

20 “Any person taking a child into temporary emergency protective custody pursuant to this section
21 shall immediately notify the Division, in the County in which the child is located, of his or her actions.”.

22 Section 5. Amend Section 907 of Title 16 of the Delaware Code by adding a new subsection (f) thereto, to
23 read as follows:

24 “(f)(1) A person may voluntarily surrender a newborn infant at the emergency department of a
25 licensed Delaware hospital or directly to a person at an occupied medical facility, paramedic station or unit
26 or fire station, provided that said infant is surrendered alive, unharmed and in a safe place.

27 (2) A Delaware licensed hospital, certified paramedic or certified emergency medical service shall
28 be authorized to take temporary emergency protective custody of the newborn infant who is surrendered
29 pursuant to this subsection. The person who surrenders the newborn infant shall not be required to provide
30 any information pertaining to his or her identity nor shall the Delaware licensed hospital, medical facility,
31 certified paramedic or fire station personnel inquire as to same. However, the Delaware licensed hospital,
32 medical facility, certified paramedic or fire station personnel may make reasonable efforts to obtain
33 pertinent medical history information pertaining to the newborn infant or to the newborn infant’s family.”.

34 Section 6. Amend Section 908 of Title 16 of the Delaware Code striking the period “.” as it appears in the
35 heading of said section, and by substituting in lieu thereof the following:

36 “, and special reimbursement to hospitals for expenses related to certain newborn infants.”.

37 Section 7. Amend Section 908 of Title 16 of the Delaware Code by redesignating the existing text of said
38 section s subsection “(a)” and by adding a new subsection “(b)” thereto, to read as follows:

39 “(b) A hospital, hospital staff member, hospital volunteer, certified paramedic, certified
40 emergency medical service, or person employed by or volunteering for a medical facility or fire station
41 which accepts temporary emergency protective custody of a newborn infant pursuant to Section 907(f) of
42 this Title, is absolutely immune from civil, criminal, and administrative liability for any act of commission
43 or omission in connection with the acceptance of that temporary emergency protective custody or the

44 provision of care for the newborn infant not more than 14 days old while said newborn infant is in the
45 hospital's temporary emergency protective custody. If a hospital accepts temporary emergency protective
46 custody of a newborn infant not more than 14 days old pursuant to Section 907(f) of this Title, the State of
47 Delaware shall reimburse the hospital for the hospital's actual and reasonable expenses under the Medicaid
48 Fees for Service program.”.

49 Section 8. Amend Section 1101(1) of Title 13 of the Delaware Code by adding a new paragraph thereto to
50 be designated as paragraph “d.”, to read as follows:

51 “d. A minor who came into the care of the Department or a licensed agency pursuant to Section
52 907(f) of Title 16 of the Delaware Code, where the respondent has not manifested an intent to exercise
53 parental rights and responsibilities.”.

54 Section 9. The Department of Health and Social Services and the Department of Services for Children,
55 Youth and Their Families shall design, coordinate and implement appropriate methods to educate Delawareans as to
56 the intent, purposes and operation of this Act.

SYNOPSIS

This Act is designed to save the lives of newborn infants who might otherwise be abandoned in an unsafe place, and without medical care. The Act will encourage parents who have decided to abandon their newborn infant to do so at either a hospital emergency department, fire station, or medical facility. A parent who surrenders an unharmed infant in such a safe place will be immunized from prosecution for the crimes of Abandonment of a Child or Endangering the Welfare of a Child. The Department of Health and Social Services, and the Department of Services for Children Youth and Their Families will be directed to publicize the provisions of the Act so that parents who have decided to abandon their newborn infant will be encouraged to do so in a way that protects the baby's life.