



BRAINTREE POLICE DEPARTMENT Policy and Procedure

CHILD ABANDONMENT/SAFE HAVEN

2018-21

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Chief Mark Dubois

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Purpose and Guidelines
[41.2.6 a]

Recent nationwide statistics have revealed that newborns aged 7 days or less are in the greatest risk class of being abandoned by “desperate” parents and subjected to serious injuries including death. As a result, many states have enacted statutes to prevent these types of tragic situations from occurring. In order to provide a “safe haven” for newborns, the Commonwealth has enacted M.G.L. c. 119 §39 ½, which provides parents of newborns the ability to voluntarily place their infant [7 days of age or less] at a designated facility such as a Police Station without fear of prosecution for abandonment.

The Department of Children and Families [DCF] shall accept for placement into foster care, any newborn infant 7 days of age or less that is voluntarily placed with a hospital, police department or manned fire station, hereinafter referred to as a "designated facility" by a parent of said newborn infant. Such a voluntary placement under this section shall not constitute, in and of itself, an automatic termination of parental rights or an abrogation of the parental rights or responsibilities but shall, for purposes of authorizing the DCF to initiate a petition to terminate parental rights under chapter 210, be presumed to be an abandonment of the newborn infant that has been so placed. See M.G.L. c. 119 §39.

Voluntary abandonment of a newborn infant 7 days of age or younger to an appropriate person at a hospital, Police Department or manned fire station shall not, by itself, constitute either a finding of abuse or

neglect or a violation of any criminal statute for child abuse or neglect or for abandonment. Review M.G.L. c. 119 §39.

This policy in no way prohibits the Police Department from temporarily accepting for eventual placement with DCF an infant or child that is believed to be greater in age than 7 days. Rather, its primary purpose is to provide guidance and direction to Braintree Police Officers in accordance with the enacted "Safe Haven" statute, which allows parents of newborns aged 7 days or less not to be prosecuted for abandonment provided there are no other signs of abuse. **[41.2.6 a]**

Infant 7 Days
or Less
Placed at
Police Station
[41.2.6 b,c]

If the situation should occur where an individual (presumably a parent) presents an infant for placement at the Police Station, the following procedure shall be followed:

- The Officer receiving a newborn infant shall immediately notify DCF of the placement of the newborn infant at the Police Station. A written report shall be filed with DCF within 48 hours of the oral report. **[41.2.6 b]**
- The Officer accepting the newborn shall notify the Shift Commander immediately of the situation. The Shift Commander shall notify the Deputy of Operations and ensure the following: **[41.2.6 b]**
- Emergency Medical Services (Brewster Ambulance) shall be activated to check on the newborn's medical status.
- If recommended by EMS personnel, the newborn shall be transported via Ambulance to a Hospital for further evaluation and treatment.
- If the newborn is to remain in the temporary custody of the Police Department pending the arrival of DCF personnel, the Shift Commander shall ensure that the infant is placed in a safe location and monitored continuously.

In addition, the officer accepting a newborn infant at the Police Station shall make every reasonable effort to solicit the following information from the parent placing the newborn infant:

- The name of the newborn infant;
- The name and address of the parent placing the newborn infant;
- The newborn's date of birth;
- The location of the newborn infant's birthplace;

- Information relative to the newborn infant's medical history and his or her biological family's medical history, if available; and
- Any other information that might reasonably assist DCF or the court in current or future determinations of the best interests of the child, including whether the parent or guardian plans on returning to seek future custody of the child. **[41.2.6 c]**

NOTE: The Officer receiving the newborn infant shall encourage the parent to provide the information but the parent shall not be required to provide such information, unless there are obvious signs of physical abuse or neglect. If signs of physical abuse or neglect are present, the child will be handled in accordance with the procedures set forth in M.G.L. c. 119 § 51A.

Infant Over 7
Days Old
Placed at
Police Station

If an infant or child is reasonably believed to be greater than 7 days old the same procedures shall apply; however, the exemption from prosecution for abandonment provided in M.G.L. c.119 §39 ½ shall not be available and the parent shall be required to provide the information outlined above. In addition, the procedures set forth in M.G.L. c. 119 § 51A shall apply.

Review
M.G.L. c
119 §§
39, 39 1/2

Section 39: Whoever abandons an infant under the age of ten within or without any building, or, being its parent, or being under a legal duty to care for it, and having made a contract for its board or maintenance, absconds or fails to perform such contract, and for four weeks after such absconding or breach of his contract, if of sufficient physical and mental ability, neglects to visit or remove such infant or notify the department of his inability to support such infant, shall be punished by imprisonment in a jail or house of correction for not more than two years; or, if the infant dies by reason of such abandonment, by imprisonment in a jail or house of correction for not more than two and one half years or in the state prison for not more than five years.

Section 391/2: Subject to appropriation, the department shall accept for placement into foster care any newborn infant 7 days of age or less that is voluntarily placed with a hospital, police department or manned fire station, hereinafter “designated facility” by a parent of said newborn infant. Such a voluntary placement under this section shall not constitute, in and of itself, an automatic termination of parental rights or an abrogation of the parental rights or responsibilities but

shall, for purposes of authorizing the department to initiate a petition to terminate parental rights under chapter 210, be presumed to be an abandonment of the newborn infant that has been so placed.

Voluntary abandonment of a newborn infant 7 days of age or younger to an appropriate person at a hospital, police department or manned fire station shall not by itself constitute either a finding of abuse or neglect or a violation of any criminal statute for child abuse or neglect or for abandonment. If child abuse or neglect, that is not based solely on the newborn infant having been left in the hospital, police department or manned fire station is suspected, hospital, police or fire department personnel who are mandated reporters under section 51A shall report the abuse or neglect.

The designated facility receiving a newborn infant shall immediately notify the department of the placement of the newborn infant at the facility. Upon receipt of such notice, the department shall take immediate custody of the newborn infant and shall initiate all actions authorized by law to achieve the safety and permanent placement of the newborn infant in a manner that is consistent with the best interests of the child.

The person accepting a newborn infant at a designated facility shall make every effort to solicit the following information from the parent placing the newborn infant: (1) the name of the newborn infant; (2) the name and address of the parent placing the newborn infant; (3) the location of the newborn infant's birthplace; (4) information relative to the newborn infant's medical history and his or her biological family's medical history, if available; and (5) and any other information that might reasonably assist the department or the court in current or future determinations of the best interests of the child, including whether the parent or guardian plans on returning to seek future custody of the child. The person receiving the newborn infant shall encourage the parent to provide the information but the parent shall not be required to provide such information.

The department shall develop and implement a public information program to inform the general public of the provisions of this section, teen pregnancy prevention programs and adoption information. The department shall also work in conjunction with other departments and agencies of the commonwealth and the Massachusetts Hospital

Association relative to development of the program. The program may include, but not be limited to, educational and informational materials in print, audio video, electronic and other media, public service announcements and advertisements and the establishment of a toll-free hotline.

For purposes of this section only, the following term shall be defined in the following manner unless the context shall clearly indicate a different meaning or intent:— “hospital”, a hospital that is licensed under section 51 of chapter 111, or operated by the teaching hospital of the University of Massachusetts Medical School.

The department shall explore the possibility of expending funds received from the United States Department of Health and Human Services pursuant to the Promoting Safe and Stable Families Program, as most recently amended by the Promoting Safe and Stable Families of 2001, in order to implement the public information program required by this section and to alleviate the burden said information program may have on the department’s appropriation from the commonwealth. When implementing its public information program, the department shall prioritize those areas of the commonwealth that have been identified by the department of public health as having the highest teen pregnancy rates.

The department, in conjunction with a designee of the juvenile court, the probate and family court, the center for adoption research at the University of Massachusetts, Massachusetts Families for Kids, Massachusetts Children’s Trust Fund, Massachusetts Society for the Prevention of Cruelty to Children, Alliance on Teen Pregnancy and the department of early care and education, shall report every 2 years on the overall effectiveness of the program of voluntary placement of newborn infants established pursuant to this section. The report shall include, but not be limited to, the following: (1) an analysis of this section’s effectiveness in decreasing the number of newborns that are abandoned in an unsafe manner in the commonwealth; (2) the department’s success or failure in permanently placing in the adoption process any newborn placed with a designated facility pursuant to this section; (3) the average length of time that newborns remain in foster care after being so placed; (4) any issues arising from the termination of parental rights following the placement of a newborn pursuant to this section; (5) the success or failure of any public information

campaign implemented by the department pursuant to this section; (6) any increased administrative burdens that may be placed upon any department or agency of the commonwealth as a result of this section; (7) issues with regard to the eligibility of any newborn infant placed pursuant to this section for federal entitlements such as foster care or adoption subsidies under Title IV-E of the United States Social Security Act or any other applicable federal law; and (8) the frequency or infrequency with which a parent placing a newborn at a designated facility supplies the facility with the information sought by the facility pursuant to the fourth paragraph of this section and any negative effects the lack of medical or background information on the child or parents may have had on facilitating the temporary or permanent placement of the child through the foster care or adoption process. The report, including any legislative recommendations, shall be submitted to the joint committee on children, families and persons with disabilities and the house and senate committees on ways and means on or before December 1, 2008 and not later than December 1 of each even numbered year thereafter.