

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0788.01 Chris Forsyth

SENATE BILL 00-171

STATE OF COLORADO

BY SENATORS Tanner, Dennis, Hernandez, Lacy, Martinez, Musgrave, Nichol, Reeves, Rupert and Thiebaut; also REPRESENTATIVES Berry and Clarke

PREAMENDED

A BILL FOR AN ACT

101 CONCERNING CERTAIN ABANDONED CHILDREN.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates an affirmative defense to the criminal charge of child abuse. Allows a defendant accused of permitting a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health to affirmatively defend himself or herself if:

- The defendant voluntarily delivered the child to a firefighter or hospital staff member; and
• The child was 30 days old or younger at the time of abandonment.

Places a duty upon firefighters and hospital staff members to take temporary physical custody of a child, 30 days old or younger, who is voluntarily delivered to them by a person who does not express an intent to return for the child. Mandates that if a firefighter or hospital staff member takes temporary physical custody of such child that the firefighter or hospital staff member:

- Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health or safety of the child during the temporary physical custody; and
• Notify a law enforcement officer about the abandonment within 24 hours after the abandonment.

Absolves a firefighter or hospital staff member of any civil or criminal liability for any good faith actions or omissions performed to protect, preserve, or aid the physical health or safety of the child during the temporary physical custody. Requires a law enforcement officer to take such an abandoned child into temporary custody upon receipt of notice.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE Amended 3rd Reading February 18, 2000

SENATE Amended 2nd Reading February 17, 2000

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-6-401, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **18-6-401. Child abuse.** (9) IF A PARENT IS CHARGED WITH
5 PERMITTING A CHILD TO BE UNREASONABLY PLACED IN A SITUATION THAT
6 POSES A THREAT OF INJURY TO THE CHILD'S LIFE OR HEALTH, PURSUANT TO
7 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, AND THE CHILD WAS
8 SEVENTY-TWO HOURS OLD OR YOUNGER AT THE TIME OF THE ALLEGED
9 OFFENSE, IT SHALL BE AN AFFIRMATIVE DEFENSE TO SUCH CHARGE THAT
10 THE PARENT SAFELY, REASONABLY, AND KNOWINGLY HANDED THE CHILD
11 OVER TO A FIREFIGHTER, AS DEFINED IN SECTION 18-3-201 (1), OR TO A
12 HOSPITAL STAFF MEMBER WHO ENGAGES IN THE ADMISSION, CARE, OR
13 TREATMENT OF PATIENTS.

14 **SECTION 2.** Part 3 of article 3 of title 19, Colorado Revised
15 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
16 read:

17 **19-3-304.5. Emergency possession of certain abandoned**
18 **children.** (1) IF A PARENT VOLUNTARILY DELIVERS A CHILD TO A
19 FIREFIGHTER, AS DEFINED IN SECTION 18-3-201 (1), C.R.S., OR A HOSPITAL
20 STAFF MEMBER WHO ENGAGES IN THE ADMISSION, CARE, OR TREATMENT
21 OF PATIENTS, THE FIREFIGHTER OR HOSPITAL STAFF MEMBER SHALL,
22 WITHOUT A COURT ORDER, TAKE TEMPORARY PHYSICAL CUSTODY OF THE
23 CHILD IF:

- 24 (a) THE CHILD IS SEVENTY-TWO HOURS OLD OR YOUNGER; AND
25 (b) THE PARENT DID NOT EXPRESS AN INTENT TO RETURN FOR THE

1 CHILD.

2 (2) IF A FIREFIGHTER OR HOSPITAL STAFF MEMBER TAKES
3 TEMPORARY PHYSICAL CUSTODY OF A CHILD PURSUANT TO SUBSECTION (1)
4 OF THIS SECTION, THE FIREFIGHTER OR HOSPITAL STAFF MEMBER SHALL:

5 (a) PERFORM ANY ACT NECESSARY, IN ACCORDANCE WITH
6 GENERALLY ACCEPTED STANDARDS OF PROFESSIONAL PRACTICE, TO
7 PROTECT, PRESERVE, OR AID THE PHYSICAL HEALTH OR SAFETY OF THE
8 CHILD DURING THE TEMPORARY PHYSICAL CUSTODY; AND

9 (b) NOTIFY A LAW ENFORCEMENT OFFICER OF THE ABANDONMENT
10 WITHIN TWENTY-FOUR HOURS AFTER THE ABANDONMENT.

11 (3) A FIREFIGHTER OR HOSPITAL STAFF MEMBER SHALL INCUR NO
12 CIVIL OR CRIMINAL LIABILITY FOR ANY GOOD FAITH ACTS OR OMISSIONS
13 PERFORMED PURSUANT TO THIS SECTION.

14 (4) UPON RECEIPT OF NOTICE PURSUANT TO SUBSECTION (2) OF THIS
15 SECTION, A LAW ENFORCEMENT OFFICER SHALL TAKE THE ABANDONED
16 CHILD INTO TEMPORARY CUSTODY PURSUANT TO SECTION 19-3-401.

17 **SECTION 3. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.