

SENATE BILL NO. 2129

Introduced by

Human Services Committee

(At the request of the Attorney General)

1 A BILL for an Act to create and enact a new chapter to title 14 of the North Dakota Century
2 Code, relating to authorization and immunity from prosecution for leaving an unharmed
3 newborn child at a hospital, duties of a hospital when accepting an unharmed newborn child,
4 immunity from liability for hospitals and hospital personnel when carrying out those duties, and
5 prescribing social service agency duties.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new chapter to title 14 of the North Dakota Century Code is created and
8 enacted as follows:

9 **Unharmed newborns left at hospitals - Avoidance of prosecution - Hospital duties**
10 **and immunity from liability - Social service agency duties - Abandoned child.**

- 11 1. Any person may leave a newborn with a hospital employee at any hospital in the
12 state licensed under chapter 23-16 without being subjected to prosecution for that
13 act, provided that:
- 14 a. The newborn was born within seventy-two hours prior to being left at the
15 hospital, as determined within a reasonable degree of medical certainty;
 - 16 b. The newborn is left in an unharmed condition; and
 - 17 c. If the person leaving the newborn is not the newborn's mother, the person has
18 the mother's approval to do so.
- 19 2. Any hospital in this state licensed under chapter 23-16 shall receive any unharmed
20 newborn left at the hospital under this section. The hospital may not inquire as to
21 the identity of the mother or the person leaving the newborn, or call the police,
22 provided the newborn is unharmed when presented to the hospital. Any hospital
23 with responsibility for performing duties under this section, or any employee,
24 doctor, or other medical professional working at the hospital, is immune from any

1 criminal liability that otherwise might result from actions taken if the action is taken
2 in good faith in receiving a newborn, and is immune from any civil liability that
3 otherwise might result from merely receiving a newborn. The hospital may ask the
4 mother or the person leaving the newborn about the medical history of the mother
5 or newborn but the mother or the person leaving the newborn is not required to
6 provide any information. The hospital may provide the mother or the person
7 leaving the newborn with information about how to contact relevant social service
8 agencies.

- 9 3. a. Within twenty-four hours of receiving a newborn under this section, the
10 hospital must inform the local social service agency that a newborn has been
11 left at the hospital, but must not do so before the mother or the person leaving
12 the newborn leaves the hospital.
- 13 b. A hospital performing duties under this section or an employee, doctor, or
14 other medical professional working at the hospital who is a mandated reporter
15 under section 50-25.1-03 is immune from any criminal or civil liability that
16 otherwise might result from the failure to make a report under that section if
17 the person is acting in good faith in complying with this section.
- 18 4. A local social service agency taking custody of a child after discharge from a
19 hospital that received a child under this section is not required to attempt to reunify
20 the child with the child's parents. Additionally, the agency is not required to search
21 for relatives of the child as a placement or permanency option under any other
22 section or rule, or to implement other placement requirements that give a
23 preference to relatives if the agency does not have information as to the identity of
24 the child, the child's mother, or the child's father.
- 25 5. For purposes of proceedings under section 27-20-44, a newborn left at a hospital
26 under this section is considered an abandoned child.