

# CALIFORNIA LAW

## California Health And Safety Code Section 1255.7

(a) (1) For purposes of this section, "safe-surrender site" means either of the following:

(A) A location designated by the board of supervisors of a county to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code.

(B) A location within a public or private hospital that is designated by that hospital to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code.

(2) For purposes of this section, "parent" means a birth parent of a minor child who is 72 hours old or younger.

(3) For purposes of this section, "personnel" means any person who is an officer or employee of a safe-surrender site or who has staff privileges at the site.

(4) A hospital and any safe-surrender site designated by the county board of supervisors shall post a sign utilizing a statewide logo that has been adopted by the State Department of Social Services that notifies the public of the location where a minor child 72 hours old or younger may be safely surrendered pursuant to this section.

(b) Any personnel on duty at a safe-surrender site shall accept physical custody of a minor child 72 hours old or younger pursuant to this section if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site. Safe-surrender site personnel shall ensure that a qualified person does all of the following:

(1) Places a coded, confidential ankle bracelet on the child.

(2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child pursuant to subdivision (f). However, possession of the ankle bracelet identification, in and of itself, does not establish parentage or a right to custody of the child.

(3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may be declined, voluntarily filled out and returned at the time the child is surrendered, or later filled out and mailed in the envelope provided for this purpose. This medical information questionnaire shall not require any 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. Every questionnaire provided pursuant to this section shall begin with the following notice in no less than 12-point type:

NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU.

(c) Personnel of a safe-surrender site that has physical custody of a minor child pursuant to this section shall ensure that a medical screening examination and any necessary medical care is provided to the minor child. Notwithstanding any other provision of law, the consent of the parent or other relative shall not be required to provide that care to the minor child.

(d) (1) As soon as possible, but in no event later than 48 hours after the physical custody of a child has been accepted pursuant to this section, personnel of the safe-surrender site that has physical custody of the child shall notify child protective services or a county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code, that the safe-surrender site has physical custody of the child pursuant to this section. In addition, any medical information pertinent to the child's health, including, but not limited to, information obtained pursuant to the medical information questionnaire described in paragraph (3) of subdivision (b) that has been received by or is in the possession of the safe-surrender site shall be provided to that child protective services or county agency.

(2) Any personal identifying information that pertains to a parent or individual who surrenders a child that is obtained pursuant to the medical information questionnaire is confidential and shall be exempt from disclosure by the child protective services or county agency under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Any personal identifying information that pertains to a parent or individual who surrenders a child shall be redacted from any medical information provided to child protective services or the county agency providing child welfare services.

(e) Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall assume temporary custody of the child pursuant to Section 300 of the Welfare and Institutions Code immediately upon receipt of notice under subdivision (d). Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall immediately investigate the circumstances of the case and file a petition pursuant to Section 311 of the Welfare and Institutions Code. Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall immediately notify the State Department of Social Services of each child to whom this subdivision applies upon taking temporary custody of the child pursuant to Section 300 of the Welfare and Institutions Code. As soon as possible, but no later than 24 hours after temporary custody is assumed, child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall report all known identifying information concerning the child, except personal identifying information pertaining to the parent or individual who surrendered the child, to the California Missing Children Clearinghouse and to the National Crime Information Center.

(f) If, prior to the filing of a petition under subdivision (e), a parent or individual who has voluntarily surrendered a child pursuant to this section requests that the safe-surrender site that has physical custody of the child pursuant to this section return the child and the safe-surrender site still has custody of the child, personnel of the safe-surrender site shall either return the child to the parent or individual or contact a child protective agency if any personnel at the safe-surrender site knows or reasonably suspects that the child has been the victim of child abuse or neglect. The voluntary surrender of a child pursuant to this section is not in and of itself a sufficient basis for reporting child abuse or neglect. The terms "child abuse," "child protective agency," "mandated reporter," "neglect," and "reasonably suspects" shall be given the same meanings as in Article 2.5 (commencing with Section 11164) of Title 1 of Part 4 of the Penal Code.

(g) Subsequent to the filing of a petition under subdivision (e), if within 14 days of the voluntary surrender described in this section, the parent or individual who surrendered custody returns to

claim physical custody of the child, the child welfare agency shall verify the identity of the parent or individual, conduct an assessment of his or her circumstances and ability to parent, and request that the juvenile court dismiss the petition for dependency and order the release of the child, if the child welfare agency determines that none of the conditions described in subdivisions (a) to (d), inclusive, of Section 319 of the Welfare and Institutions Code currently exist.

(h) A safe-surrender site, or personnel of the safe-surrender site, that accepts custody of a surrendered child pursuant to this section shall not be subject to civil, criminal, or administrative liability for accepting the child and caring for the child in the good faith belief that action is required or authorized by this section, including, but not limited to, instances where the child is older than 72 hours or the parent or individual surrendering the child did not have lawful physical custody of the child. This subdivision does not confer immunity from liability for personal injury or wrongful death, including, but not limited to, injury resulting from medical malpractice.

(i) (1) In order to encourage assistance to persons who voluntarily surrender physical custody of a child pursuant to this section or Section 271.5 of the Penal Code, no person who, without compensation and in good faith, provides assistance for the purpose of effecting the safe surrender of a minor 72 hours old or younger shall be civilly liable for injury to or death of the minor child as a result of any of his or her acts or omissions. This immunity does not apply to any act or omission constituting gross negligence, recklessness, or willful misconduct.

(2) For purposes of this section, "assistance" means transporting the minor child to the safe-surrender site as a person with lawful custody, or transporting or accompanying the parent or person with lawful custody at the request of that parent or person to effect the safe surrender, or performing any other act in good faith for the purpose of effecting the safe surrender of the minor.

(j) For purposes of this section, "lawful custody" means physical custody of a minor 72 hours old or younger accepted by a person from a parent of the minor, who the person believes in good faith is the parent of the minor, with the specific intent and promise of effecting the safe surrender of the minor.

(k) Any identifying information that pertains to a parent or individual who surrenders a child pursuant to this section, that is obtained as a result of the questionnaire described in paragraph (3) of subdivision (b) or in any other manner, is confidential, shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall not be disclosed by any personnel of a safe-surrender site that accepts custody of a child pursuant to this section.

## **California Penal Code Section 271.5**

(a) No parent or other individual having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of Section 270, 270.5, 271, or 271a if he or she voluntarily surrenders physical custody of the child to personnel on duty at a safe-surrender site.

(b) For purposes of this section, "safe-surrender site" has the same meaning as defined in paragraph (1) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

(c) (1) For purposes of this section, "lawful custody" has the same meaning as defined in subdivision (j) of Section 1255.7 of the Health and Safety Code.

(2) For purposes of this section, "personnel" has the same meaning as defined in paragraph (3) of subdivision (a) of Section 1255.7 of the Health and Safety Code.