

- SUBJECT:** Protecting the anonymity of parents who use the Baby Moses Law
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 7 ayes — Hupp, Eissler, A. Allen, J. Davis, Goodman, Paxton, Reyna
0 nays
2 absent — Gonzalez Toureilles, Naishtat
- WITNESSES:** For — (*Registered, but did not testify:* Dinah Welsh, Texas Hospital Association)
Against — None
- BACKGROUND:** The Baby Moses Law, enacted by 76th Legislature in 1999, provides an alternative to parents who otherwise might abandon, neglect, or harm a newborn child. The law allows parents to leave an unharmed infant, up to 60 days old, at any hospital or fire station with no questions asked and no threat of criminal prosecution. It has been used for 28 infants to date and was created in response to a string of incidents in which babies were abandoned in unsafe places – an estimated one in four of these children died.
- DIGEST:** CSHB 2331 would prohibit DFPS from attempting to identify or locate a parent who voluntarily delivered a child to a designated emergency infant care provider.
- All identifying information, documentation, or records regarding the parent who exercised the option voluntarily to deliver a child to a designated emergency infant care provider would be confidential. That information and other court documents related to the case could not be released except to a party in a suit regarding the child, the party's attorney, or an attorney ad litem or guardian ad litem appointed in the suit.
- Any hearing regarding a suit in which DFPS had assumed control of one of these children would be closed unless the court found the interests of the child or public would be better served by making the hearing public.

A person knowingly disclosing, receiving, using, or permitting the use of prohibited information regarding these cases would commit an offense punishable as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

The bill would repeal section 263.3025(d) of the Family code, which outlines certain conditions under which DFPS would or would not be required to conduct a search for a child's relatives, including whether the identity of the child's parents is known.

The bill would take effect September, 1 2005.

**SUPPORTERS
SAY:**

The spirit of the Baby Moses Law was to provide an alternative for new parents who were overwhelmed by the immediate responsibilities of caring for a baby yet feared the repercussions of relinquishing formally their parental rights. Inherent in this is protecting the anonymity of parents and shielding them from prosecution when they exercise this option. This encourages more parents to deliver their newborns to emergency rooms or firehouses rather than abandoning their babies to die.

Recent events have indicated confusion about the rules on anonymity, and these issues should be resolved so parents will not be discouraged from exercising this option. Otherwise, the result could be more cases of babies being abandoned in garbage dumps, parking lots, ditches, or other life-threatening circumstances because their parents could not care for them.

Protections in place when one parent turns over a child without the consent of the other parent would not be affected adversely by the bill. A child relinquished under the Baby Moses Law is reported to law enforcement as a potential missing child and to DFPS. Standard procedures for posting the child for adoption are followed.

Under CSHB 2331, when a nonconsenting parent recognized that a child was missing, that person could contact law enforcement and DFPS, who could discover whether the child had been delivered to an emergency provider.

While some men may not have been informed of the birth of a child they fathered and custody may have been relinquished without that person's knowledge, men have the option of listing themselves in the paternity registry. The registry exists to protect the parental rights of fathers who

affirmatively assume responsibility for children they may have fathered. The health and safety of the child are the primary priority, and multiple avenues are available to resolve custody issues.

If the child had special health needs, pertinent information could be documented because parents could fill out a voluntary disclosure of the child's medical facts without being required to leave their names. This would help ensure relevant information regarding a child's health could be obtained without invasive questioning that could discourage people from using the Baby Moses Law.

OPPONENTS
SAY:

Preventing caseworkers from locating or identifying a child's parent could in some cases interfere with parental rights and otherwise could undermine the best interests of a child. Such instances include:

- when one parent abandoned a child without consent of the other parent;
- when the father was never informed of paternity before the mother relinquished the child;
- when other family members may have been willing caregivers and placement with these families could have provided a better environment for a child than a foster home; and
- when babies suffered major medical problems, and their overall health could benefit by having more information about their family medical history.

Locating a parent to ensure that no parental rights had been violated, that a child could be placed in the most appropriate home, and that all critical medical information had been obtained would not threaten the anonymity of a parent because such investigations would not require the release of any information about the parents' identity. It is assumed that a person would leave a baby with a designated service provider rather than abandoning the child because the parent wanted what was best for the child, so parents should not be reluctant to provide such basic information and would not be discouraged from using the Baby Moses Law.

NOTES:

The substitute added provisions regarding closed hearings, the confidentiality of information related to such cases, a penalty for disclosing or using such information, and the repeal of Family Code, sec. 263.3025(d).