

1411 - SAFE SURRENDER

CHANGE # 05-2008

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I. INTRODUCTION / LEGAL BASIS

During the 2001 legislative session, the Infant Homicide Prevention Act was passed (H275 [SL 2001-291]). This act decriminalized the abandonment of an infant who is less than seven days old under certain circumstances and modified some of the procedures when conducting CPS assessments.

Safe Surrender allows an overwhelmed mother to surrender her newborn to a responsible adult and walk away without fear of criminal prosecution. Safe surrender is legal, provided that the infant is 7 days old or less and unharmed.

Conducting the assessment of a safely surrendered child entails using the same System of Care principles that have been discussed throughout this manual.

A website dedicated to information regarding Safe Surrender can be found at <http://www.safesurrender.net/index.html>

A. Legal Basis

[N.C.G.S. § 14-322.3](#) states:

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in N.C.G.S. § 7B-500(b) or N.C.G.S. § 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under N.C.G.S. § 14-322 or N.C.G.S. § 14-322.1.

[N.C.G.S. § 7B-500](#)(b) (d) identifies the individuals that may take an infant into temporary custody without a court order and what actions must be taken.

Subsection (b) states that the following individuals shall, without a court order, take into temporary custody any infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express intent to return for the infant:

- (1) A health care provider who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.
- (2) A law enforcement officer who is on duty or at a police station or sheriff's department.
- (3) A social services worker who is on duty or at a local department of social services.

- (4) A certified emergency medical service worker who is on duty or at a fire or emergency medical services station.

Subsection (d) indicates that any adult may, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express intent to return for the infant. Any individual who takes an infant into temporary custody under this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. An individual who takes an infant into temporary custody under this subsection may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

This act impacts CPS assessments through the modification of [N.C.G.S. § 7B-302\(a\)](#) as follows:

When the report alleges abandonment, the director shall immediately initiate an assessment, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for non-secure custody of the juvenile.

When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child. All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department.

II. INTAKE / SCREENING

The report shall be documented on the CPS Structured Intake Report form [DSS-1402](#) regardless of the residence of the individual who received the infant.

The county that receives a report that an infant 7 days old or younger has been safely surrendered shall complete the DSS-1402. All requirements for the completion of the DSS-1402 shall remain the same.

- The county in which the infant is located shall conduct the assessment.
- The report is to be accepted as a result of the dependency allegations. The report is eligible to be assigned as a Family Assessment at the county's discretion.
- If other allegations exist the report shall be screened based on all of the allegations.

- The report shall be assigned with an IMMEDIATE RESPONSE time in accordance with N.C.G.S. §7B-302(a).

III. CPS ASSESSMENT

The CPS Assessment of a safely surrendered infant does not alter any of the requirements to complete a CPS assessment.

A. Initiation

When a CPS assessment worker takes an infant into temporary custody, any act necessary to protect the physical health and well-being of the infant shall be performed.

The assigned social worker shall make arrangements to:

1. Assume temporary custody of the infant.
 - a. If the infant has not received medical attention, arrange this immediately.
 - b. Consult with a physician at the hospital regarding completion of a birth certificate. When the infant is safely surrendered within the 7 day time period, request that a physician evaluate the child, estimate a birth date and complete a birth certificate with a name, "Safe County Name Surrender". If an original birth certificate is later found, the safe surrender version will be destroyed.
2. File a petition alleging **DEPENDENCY**.
 - a. Make arrangements for placement of the infant.
3. Initiate contact with law enforcement and request a search of the North Carolina Center for Missing Persons and other national and state resources to determine whether the infant is a missing child.
4. Make reasonable efforts to locate the parent(s).

NOTE: In situations where the identity of the parent(s) are known by any individual involved, the identity shall be included in the assessment. An individual who safely surrenders an infant is free from criminal and civil liability; however this does not change our requirement to make reasonable efforts to locate the parents. Reasonable efforts to prevent placement and to reunify the family after placement are required by Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980.

- a. Inquiries may be made as to the medical history of the mother and father.
- b. The parent does not have to provide information as to their identity.
- c. If the parent is identified, efforts shall be made to counsel the parent about the relinquishment of the child for the purpose of adoption ([DSS-1804](#)) and the benefits of completing the relinquishment on behalf of the surrendered child.
- d. If the biological parent signs the relinquishment forms, DSS does not have to adjudicate or pursue TPR to clear the infant for adoption from that parent.

Information regarding relinquishment can be found in Chapter VI: Adoption Services-Specifically [Section 1302](#) Legal Guides.

5. If the identity of the parent(s) is known, a thorough CPS assessment must be conducted, consistent with Chapter VIII, [Section 1408](#) of the Family Services Manual.
6. To assess the safety of other children known to be in the family.

IV. Case Decision

All required activities and Structured Decision Making forms shall be completed prior to making a case decision.

Absent additional allegations, the case decision shall reflect a finding of dependency.

A. Case Decision Notice

There shall be documentation in the file indicating that the identity of the parent(s) is unknown as this was a safe surrender.

B. Central Registry / 5104

The [DSS-5104](#) shall be completed by the county that conducted the assessment.

Special considerations must be taken into account when completing the DSS- 5104 in regard to cases of safe surrender.

In cases where a safe surrender occurs, in which there are simultaneous allegations of abuse or neglect involving other children in the home, only one DSS-5104 with one form number should be completed. For the child involved in the safe surrender, the type reported and type found should be dependency, and the maltreatment type

found should be safe surrender. All other children and perpetrators on the form should be entered using the standard procedures outlines in the Central Registry Users Manual.

1. Instructions for completing the DSS-5104

a. Field 1-8. Entry Required

Enter fields 1 through 8 using standard procedures for completing the DSS 5104. The family risk assessment should be completed to the best of the social worker's ability with the information available.

b. Field 9. Child ID Entry Required

If the child already exists in SIS, enter the SIS Client ID on the form. If the alleged victim child does not already exist in SIS, obtain a new SIS Client ID and enter it on the form.

Please note that it is especially important to diligently record the SIS Client ID in cases of safe surrender, as there may be numerous clients named "Baby Boy" or "Baby Girl" in the system that do not have a known birth date or social security number.

c. Field 10. Child Name Entry Required

If the child already exists in SIS, enter the last name, first name, and middle initial as it appears in the SIS system. This name will be verified at data entry when the SIS Client ID is keyed. If the alleged victim child does not already exist in SIS, enter the last name, first name, and middle initial of the child.

If the child's name is unknown, enter the child's last name as "Girl" or "Boy" based upon the sex of the child, and the child's first name as "Baby". The middle initial may be left blank. Once a legal name has been obtained for the child, update the DSS-5027 to update the information in the SIS system.

d. Field 11. Child Social Security Number

Note: If the alleged victim child already existed in SIS, fields 11-18 will be populated with the information from SIS. If the alleged victim child does not already exist in SIS, then entry for fields 11-18 will be required.

If the retrieved information is incorrect, update the current DSS-5027 to reflect the accurate information.

If the child already exists in the SIS system, leave blank, this will be populated by information in SIS. If the child does not exist in SIS enter the alleged victim child's Social Security Number. If the child does not have a

Social Security Number or if the number is unknown, enter all "9's". Once the child's Social Security Number has been attained, complete a DSS-5027 to update the Social Security Number in the SIS system.

e. Field 12. Date of Birth

If the alleged victim child already exists in the SIS system, leave blank, this will be populated by information in SIS. If the child does not exist in SIS, enter the alleged victim child's date of birth. Enter the month, day, and year [use a leading zero (0) for any month or day less than ten (10)].

If the child's date of birth is unknown, estimate the date of birth to be seven days prior the date of initial report.

f. Field 13. Sex

Enter sex using standard procedures for the DSS-5104.

g. Field 14. Race/Ethnicity

Enter race/ethnicity using standard procedures for the DSS-5104. If the parent is unavailable to report the child's race and ethnicity, use code "11 – Unable to Determine".

h. Field 15. In School

In cases of safe surrender, enter In School code "N – child is not enrolled in school".

i. Field 16. Grade

In cases of safe surrender, enter Grade code "99 – Unable to Determine".

j. Field 17. Living Arrangement

In cases of safe surrender, enter Living Arrangement code "99 – Unknown".

k. Field 18. Special Areas

If the alleged victim child already exists in the SIS system, leave blank, this will be populated by information in SIS. If the alleged victim child does not exist in SIS, enter in the appropriate two digit code. You may enter up to three codes per child. For cases of safe surrender, enter Special Areas using standard procedures for completing the DSS-5104.

For more information on this field please view the SIS Manual.

I. Field 19. Source of Referral Entry Required

Enter the two (2) digit code for the source of referral using standard procedures for the DSS-5104. The referral source in cases of safe surrender is the person to whom the child was given.

m. Field 20. Petition Filed with Juvenile Court Required if Applicable

Check this block if a petition has been filed in Juvenile Court in relation to the situation of abuse/neglect/dependency.

n. Field 21. Criminal Charges Filed

In cases of Safe Surrender, criminal charges should not be filed and this box should be left unmarked.

o. Field 22. Perpetrator Relationship Code

Because safe surrender is considered a finding of dependency, the Perpetrator Relationship code should remain blank.

q. Field 23. Services Provided **Required if Applicable**

Enter Services Provided using standard procedures for the DSS-5104.

r. Field 24. Failure to Report Source

In cases of safe surrender, Failure to Report Source should remain blank.

s. Field 25. Failure to Report Reason

In cases of safe surrender, Failure to Report Reason should remain blank.

t. Field 26. Contributory Factors

Enter Contributory Factors using standard procedures for the DSS-5104. In many instances, this field may remain blank.

u. Field 27. Type Reported **Entry Required**

In cases of safe surrender, the Type Reported should be code "4 – Dependency".

v. Field 28. Maltreatment Type Reported

Since safe surrender cases require that the Type Reported is dependency, the Maltreatment Type Reported should be left blank.

w. Field 29. Type Found Entry Required

In cases of safe surrender, the Type Found should be coded "04 – Dependency".

x. Field 30. Findings Reason

Because the Type Found code in Field #29 is dependency, Findings Reason should remain blank.

y. Field 31. Maltreatment Type Found Entry Required

In cases of Dependency that do not involve safe surrender, the Maltreatment Type Found field is left blank. In cases of safe surrender, the "Safe Surrender" option listed in the Neglect column should be selected. The Neglect Type "Abandonment" should not be prioritized.

z. Fields 32 – 39 Perpetrator(s)

In cases of safe surrender, the Type Found is "dependency"; thus no perpetrator information is entered.