

**CHAPTER 133K**

**NEW JERSEY SAFE HAVEN INFANT PROTECTION ACT PROCEDURES AND REQUIREMENTS**

**Authority**

N.J.S.A. 30:4C-4(h), 30:4C-15.1 and 30:4C-15.5 et seq.

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In accordance with N.J.S.A. 52:14B-5.1c, Chapter 133K, New Jersey Safe Haven Infant Protection Act Procedures and Requirements, expires on August 31, 2007. See: 39 N.J.R. 1224(a).

**Chapter Historical Note**

Chapter 133K, New Jersey Safe Haven Infant Protection Act Procedures and Requirements, was adopted by R.2002 d.72, effective March 4, 2002. See: Source and Effective Date.

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**SUBCHAPTER 1. PROCEDURES AND REQUIREMENTS**

**10:133K-1.1 Purpose**

The purpose of this chapter is to provide instruction and guidance for the implementation of the New Jersey Safe

Haven Infant Protection Act, P.L. 2000, c.58. These rules ensure that a parent or parents who want to permanently give up parental rights to an infant will have a safe place to leave the live infant, rather than abandoning the infant in a life-threatening situation where the infant could be harmed or die. These rules permit the parent to remain anonymous and provide the parent with an affirmative defense against prosecution for abandonment under specified circumstances.

**10:133K-1.2 Scope**

The provisions of this chapter shall apply to each safe haven infant, a parent who wishes to permanently give up parental rights to his or her infant, a person acting on behalf of the parent, police officers and hospital staff who have before them an infant who may be a safe haven infant, and employees of the Department of Human Services and the Division of Youth and Family Services.

**10:133K-1.3 Definitions**

The words and terms used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the New Jersey Safe Haven Infant Protection Act, P.L. 2000, c.58, amending N.J.S.A. 30:4C-15.1 et seq.

“Adoption Resource Center” or “ARC” means a field office of the Division of Youth and Family Services established to serve children for whom adoption is the permanent plan.

“Hospital” means a licensed general hospital or a medical center operating in the State of New Jersey under applicable State law.

“Infant” means a live child who is or appears to be no more than 30 days old.

“Non-identifying information” means information about an infant which is not intended to identify his or her parents or birth family.

“Parent” means an infant’s mother or father.

“Police station” means a manned State, county or municipal police station, State trooper barracks, campus police headquarters, housing police, or community policing substations operating within the State of New Jersey.

“Safe haven infant” means a live infant who is or appears to be no more than 30 days old, who was voluntarily given to an officer at a police station or an employee of a hospital emergency department by a parent wanting to permanently give up rights to the infant or a person acting on behalf of the parent, pursuant to the intent of the Act.

“Safe Haven for Infants Hotline” means the toll-free 24-hour hotline, established by the Department of Human

Services pursuant to the Act at N.J.S.A. 30:4C-15.9, housed within and operated by the Division of Youth and Family Services.

**10:133K-1.4 Hotline established by Department of Human Services, operated by Division of Youth and Family Services**

(a) The Department of Human Services shall establish and maintain a 24-hour, toll-free hotline pursuant to N.J.S.A. 30:4C-15.9.

(b) The hotline shall be known as the Safe Haven for Infants Hotline, and can be reached by dialing 1-877-839-2339.

(c) The hotline shall serve the following purposes:

1. To provide information, support and guidance to persons who may be considering giving up or abandoning a newborn or an unborn child;

2. To receive and process a referral from a hospital emergency department, when a live infant is brought there from a police station, or when a live infant is brought directly to the hospital emergency department by a parent or person acting on behalf of the parent pursuant to the Act:

i. Upon receipt of a referral from a hospital emergency department, a hotline representative shall write an incident report and shall forward information by telephone and in writing immediately to the appropriate Adoption Resource Center;

ii. The Division's response shall be handled by an emergency response worker of the Division, if the referral comes to the attention of the hotline after business hours, on a weekend or during a State holiday;

3. To provide education and information to the public to:

i. Promote safe placement alternatives for newborn infants;

ii. Explain procedures established by the Act, including the confidentiality offered to parents pursuant to N.J.S.A. 30:4C-15.7g, and that the Act provides for an affirmative defense to prosecution for abandonment pursuant to N.J.S.A. 30:4C-15.7e;

iii. Explain adoption procedures applicable under New Jersey State law; and

iv. Refer adoption inquiries to the appropriate office or agency in the Department of Human Services; and

4. To monitor the handling of safe haven infant inquiries and referrals.

**10:133K-1.5 Leaving an infant at a police station or hospital emergency department considered an affirmative defense to prosecution for abandonment, unless the infant was abused or neglected**

(a) Pursuant to N.J.S.A. 30:4C-15.7e, it shall be an affirmative defense to a charge of infant abandonment if a parent, or a person acting on behalf of the parent, voluntarily brought a live infant to, and left the infant with, an officer at a police station or an employee of a hospital emergency department, without expressing an intent to return for the infant.

(b) Nothing in this section shall be construed to create a defense to any prosecution arising from an act of abuse or neglect committed against the infant before he or she was brought to and left at a police station or hospital emergency department.

(c) Nothing in this section shall preclude the Division of Youth and Family Services or the police from conducting a child abuse or neglect investigation, if the Division or the police have reason to believe that the infant was abused or neglected.

(d) Nothing in this section shall be construed to create a defense to prosecution arising from any conduct other than the act of bringing a live infant to, and leaving the infant with, an officer at a police station or an employee of a hospital emergency department. A person who abandons an infant or an older child under circumstances not governed by this Act shall not have an affirmative defense against prosecution under the Act.

**10:133K-1.6 Anonymity of the parent or person acting on behalf of the parent permitted, provision of information strictly voluntary**

(a) A parent or person who brings an infant to, and leaves the infant at, a police station or hospital emergency department pursuant to N.J.S.A. 30:4C-15.7 shall not be required to disclose his or her name or the name of the parent, provide any identifying or non-identifying information about the infant or birth family, or provide any background or medical information about the infant or birth family.

(b) A parent or person who brings an infant to, and leaves the infant at, a police station or hospital emergency department pursuant to N.J.S.A. 30:4C-15.7 may voluntarily disclose identifying or non-identifying information to assist in planning for the infant's care and treatment pursuant to N.J.S.A. 30:4C-15.7g.

(c) A parent or person who brings an infant to, and leaves the infant at, a police station or hospital emergency department pursuant to N.J.S.A. 30:4C-15.7 shall be provided with the Safe Haven for Infants Hotline telephone number in case he or she wants to provide additional information about the infant at a later date or has any questions regarding the status of the infant.

**10:133K-1.7 Actions taken by police pursuant to the Act when infant brought to the police station**

(a) When a person appears at a police station with an infant and demonstrates, by action or in words, that he or she wishes to leave the infant behind, a police officer shall initiate action, as necessary, in an attempt to determine:

1. Whether the person is acting voluntarily, on his or her own volition; and
2. If the person intends to return for the infant or seeks to permanently give up all rights to the infant.

(b) If the police officer determines that the person appears to be acting voluntarily, on his or her own volition, and has no intent to return for the infant, the police officer shall:

1. Advise the person of the right to remain anonymous in accordance with N.J.A.C. 10:133K-1.6(a);
2. Advise the person that he or she may voluntarily disclose information in accordance with N.J.A.C. 10:133K-1.6(b); and
3. Transport the infant or arrange for the infant's safe transport to a local hospital emergency department pursuant to N.J.S.A. 30:4C-15.7a.

(c) If the infant is injured or appears to be abused or neglected, the police shall immediately notify the Division of Youth and Family Services in accordance with N.J.S.A. 9:6-8.10, and consult the county prosecutor in accordance with local protocols. The police shall detain the person who brought the infant to the police station, as a criminal or civil investigation may be warranted.

(d) To assist the Division of Youth and Family Services in planning for the care of the safe haven infant, in accordance with N.J.A.C. 10:133K-1.10, a police officer shall record in the police incident report and shall share with hospital staff any identifying and non-identifying information about the infant which was voluntarily provided by the person who brought the infant to the police station.

(e) To determine if the infant has been reported missing to the authorities, the Division of State Police, Missing Persons Unit, shall assist the Division of Youth and Family Services to search listings of missing children pursuant to N.J.S.A. 30:4C-15.7c in accordance with N.J.A.C. 10:133K-1.11(a)2:

1. A State Police detective shall contact the county prosecutor's office to advise the county prosecutor that a child who appears to be a safe haven infant has been brought to, and left at, a hospital in his or her jurisdiction.

**10:133K-1.8 Actions taken by hospital staff when infant brought to the hospital by the police pursuant to the Act**

(a) When the police bring a safe haven infant to the hospital emergency department pursuant to N.J.S.A. 30:4C-15.7, hospital staff shall:

1. Take physical custody of the infant from the police officer;
2. Examine the infant;
3. Advise the police immediately and the Division of Youth and Family Services pursuant to N.J.S.A. 9:6-8.10, if, upon examination, the infant appears to have been abused or neglected;
4. Admit the infant and take any action necessary to protect the infant's physical health and safety;
5. Obtain information from the police officer and document it in the infant's medical chart in accordance with N.J.A.C. 10:133K-1.10, including all identifying and non-identifying information about the infant, his or her parents and birth family, where available, and details regarding the full circumstances of the infant's appearance at the police station;
6. Notify the Safe Haven for Infants Hotline in accordance with N.J.A.C. 10:133K-1.4(c)2, no later than the first business day after taking possession of the infant from the police, pursuant to N.J.S.A. 30:4C-15.7b(3);
7. Administer routine tests and treatment as would be provided to any newborn delivered at, or brought to a New Jersey hospital within 30 days of birth;
8. Comply with any court order obtained by the Division, including DNA profiling and HIV and medical testing of the infant; and
9. Notify the Division of the infant's anticipated discharge date, to enable the Division to identify and prepare a selected adoptive home for the infant, if a suitable home is available which can meet the infant's needs.

**10:133K-1.9 Actions taken by hospital staff when safe haven infant brought directly to the hospital**

(a) When a person appears at a hospital emergency department with an infant and demonstrates, by action or in words, that he or she wishes to leave the infant behind, hospital staff shall initiate action, as necessary, in an attempt to determine:

1. Whether the person is acting voluntarily, on his or her own volition; and
2. If the person intends to return for the infant, or seeks to permanently give up the rights to the infant.

(b) If the hospital staff determines that the person appears to be acting voluntarily, on his or her own volition, and has no intent to return for the infant, the hospital staff

shall take physical custody of the infant pursuant to N.J.S.A. 30:4C-15.7b(1), and shall:

1. Examine the infant;
2. Contact the police immediately and the Division of Youth and Family Services pursuant to N.J.S.A. 9:6-8.10 if, upon examination, the infant appears to be abused or neglected;
3. Admit the infant and take any action necessary to protect the infant's physical health and safety pursuant to N.J.S.A. 30:4C-15.7b(2);
4. Advise the person of the right to remain anonymous in accordance with N.J.A.C. 10:133K-1.6(a), pursuant to N.J.S.A. 30:4C-15.7g;
5. Advise the person that he or she may voluntarily disclose information in accordance with N.J.A.C. 10:133K-1.6(b), pursuant to N.J.S.A. 30:4C-15.7g;
6. Record information in the infant's medical chart in accordance with N.J.A.C. 10:133K-1.10, if identifying or non-identifying information about the infant and birth family is voluntarily offered by the person who brought the infant to the hospital emergency department;
7. Offer the person services, medical care or a referral for services, as appropriate;
8. Notify the Safe Haven for Infants Hotline, in accordance with N.J.A.C. 10:133K-1.4(c)2, no later than the first business day after taking possession of the infant pursuant to N.J.S.A. 30:4C-15.7b(3);
9. Administer routine tests and treatment as would be provided to any newborn infant delivered at, or brought to a New Jersey hospital within 30 days of birth;
10. Comply with any court order obtained by the Division, including DNA profiling and HIV and medical testing of the infant; and
11. Notify the Division of the infant's anticipated discharge date, to enable the Division to identify and prepare a selected adoptive home for the infant, if a suitable home is available which can meet the infant's needs.

**10:133K-1.10 Police officers and hospital staff gather information, record in police incident report and infant's medical chart**

(a) To assist the Division of Youth and Family Services in planning for the care of the safe haven infant, the police or hospital staff shall gather and record identifying and non-identifying information about the infant, if voluntarily provided by the person who brought the infant to, and left the infant at, the police station or hospital emergency department.

(b) In accordance with N.J.A.C. 10:133K-1.6(a), before gathering or recording any information, the police officer or hospital employee shall advise the person who brought the infant to the police station or hospital emergency department of his or her right to remain anonymous pursuant to N.J.S.A. 30:4C-15.7g.

(c) If the parent or person who brought the infant to the police station demonstrates a willingness to provide background or health information, a police officer shall record the information, to the extent such information is voluntarily provided, in the police incident report and shall share the information with a hospital employee. A hospital employee shall record background or health information in the infant's medical chart, if provided by the police officer or when provided by the parent or person who brought an infant directly to the hospital, to the extent such information is voluntarily provided. The information to record includes, but is not limited to, the following:

1. Information about the infant's present health, including whether the infant has any physical or developmental disabilities, problems or limitations;
2. Information about the infant's ethnicity, race and religion of origin;
3. Information about the composition of the infant's birth family, including but not limited to the age of each parent and whether the infant has any siblings;
4. Whether the infant was given a name, and, if so, what name;
5. Information about the infant's date and place of birth;
6. Information about the infant's pre-natal history and care, whether the infant was full term, and the infant's birth weight;
7. Information about the physical and mental health of each parent, and whether either parent had any hospitalizations;
8. Whether either parent is HIV positive, has AIDS, or has any other serious medical problems or conditions;
9. Whether the birth mother used drugs, took medication or consumed alcohol while pregnant;
10. Information about why the parent or parents want to permanently give up the infant; and
11. Whether the birth father and extended family members are aware of the birth of the infant and the mother's plan to give up the infant.

**10:133K-1.11 Action taken by the Division upon receipt of a report of a safe haven infant**

(a) Upon receipt of a report from the Safe Haven for Infants Hotline pursuant to N.J.A.C. 10:133K-1.4(c)2i, the Adoption Resource Center staff shall:

1. Screen the report in accordance with N.J.A.C. 10:133A-1, Initial Response and Screening;

2. Notify the Division of State Police, Missing Persons Unit that a safe haven infant has been reported, and work cooperatively with that agency to enable the State Police to make a thorough search of all listings of missing children in accordance with N.J.A.C. 10:133K-1.7(d), pursuant to N.J.S.A. 30:4C-15.7c, to determine if the infant has been reported as a missing child;

3. Notify the police department which is responsible for the jurisdiction in which the hospital is located that a safe haven infant has been reported, unless the infant was brought first to, and left at, that police station;

4. Assign the case an immediate response for Division investigation;

5. Assume care, custody and control of the infant as an emergency removal without court order or parental consent pursuant to N.J.S.A. 9:6-8.29 and 8.30, and thereby petition the Family Court, by no later than the next court day, for an order which shall include:

- i. Custody of the infant; and
- ii. Authorization to perform DNA profiling and HIV and other medical testing of the infant;

6. Comply with the provisions of the court order;

7. Arrange appropriate placement when the infant is medically cleared for discharge from the hospital, placing the infant in a selected adoptive home, if a suitable home is available which can meet the infant's needs;

8. Request a copy of the infant's medical chart, including any written identifying and non-identifying information about the safe haven infant recorded therein pursuant to N.J.A.C. 10:133K-1.10;

9. Request a copy of the police incident report, if the safe haven infant was brought to a police station before being transported to the hospital; and

10. File for a termination of parental rights pursuant to N.J.A.C. 10:133J, Termination of Parental Rights, and in accordance with the Act at N.J.S.A. 30:4C-15.1b(3), no later than 21 days after assuming care, custody and control of the infant, if no parent or relative has come forward by that date who is willing and able to care for the infant, except as specified at N.J.A.C. 10:133K-1.13.

(b) For a report about a safe haven infant received by the Division after business hours, on a weekend or during a State holiday, an emergency response worker of the Division shall handle the report as an immediate response.

**10:133K-1.12 Division not required to search for or identify parents or reunify birth family**

(a) If an exception to the requirement for reasonable efforts to reunify the infant with a parent is established

pursuant to N.J.S.A. 30:4C-11.3, a Division representative shall not be required to initiate action to search for or otherwise identify the parent or birth family of a safe haven infant or attempt to reunify pursuant to N.J.S.A. 30:4C-15.8. The Division shall place the infant with a potential adoptive parent as soon as possible.

(b) If the Division becomes aware of the identity of the infant's parent, birth family or the person who brought the infant to, and left the infant at, the police station or hospital emergency department pursuant to the Act, a Division representative shall consult the Deputy Attorney General to determine a course of action, as specified at N.J.A.C. 10:133K-1.13.

**10:133K-1.13 Actions taken when identification of safe haven infant's parent or family is determined**

(a) If the Division becomes aware of the identity of a safe haven infant's parent, birth family or the person who brought the infant to, and left the infant at, the police station or hospital emergency department before the parental rights of the infant's parent or parents are terminated, the Division representative shall consult the Deputy Attorney General in order to make a determination, on a case-by-case basis, whether to attempt to contact the parent or parents or to notify members of the birth family of the existence of the safe haven infant, to thereby work with the parent or parents or family in developing a permanent plan for the infant, or to pursue another course of action. When making a determination, the factors to consider shall include, but shall not be limited to, the following:

1. The safety and protection of the infant;
2. The safety of each parent;
3. The intent or apparent intent of the parent, or person acting on behalf of the parent, who brought the infant to the police station or hospital emergency department under the protections provided by the Act;
4. The parental rights of the other parent, including the rights of the birth father and the legal father; and
5. The infant's rights to a permanent home, including the infant's right to reside with and be raised by a parent or another member of his or her birth family, whenever possible.

**10:133K-1.14 Police officers and hospital staff acting in good faith immune from liability**

Each police officer and the governmental jurisdiction employing that police officer and each employee of a hospital emergency department and the hospital employing that individual shall incur no civil or criminal liability for any good faith acts or omissions performed in accordance with the Act, pursuant to N.J.S.A. 30:4C-15.7f.