

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2129

2001 SENATE HUMAN SERVICES

SB 2129

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2129

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 16, 2001

Tape Number	Side A	Side B	Meter #
1		X	19.6
Committee Clerk Signature <i>Barry Kolodziejchuk</i>			

Minutes:

The hearing on SB 2129 was opened by SENATOR LEE.

SANDY TABOR, Deputy Attorney General, introduced bill. (Written testimony)

SENATOR POLOVITZ: Why have states rejected this bill? MS. TABOR: States that rejected this bill regarded it as a way to dump babies. We think 'Is this a way for babies to be dumped at a hospital or is it a way to save a child's life'. We don't think we will have children dropped off but that this is a preventive measure which will allow young mothers who really just don't know what else to do with an option to save the child's life and stay out of trouble for doing the right thing. SENATOR MATHERN asked what protections are there for a mother who would be in some stress, maybe financial stress, illness, who leaves the child there and in two or three days want to come back and claim the child. MS. TABOR: There is a gap in this bill for mother to claim child. We don't have a provision in this bill. SENATOR MATHERN: Would your office

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2129

Hearing Date January 16, 2001

do anything to advertise this option if this bill would pass? MS. TABOR: Not the Attorney

General's office plan, but hospitals would provide education plan and take the initiative.

ARNOLD THOMAS, President ND Health Care, supports suggestions to the bill. We have no intention of changes to existing child statutes. It would provide a haven in hospitals for parents not able to care for their child. Hospitals should be able to obtain information. There should be discretion in this matter. There should be an opportunity for parent to reengage with the child. The hospital provides education for taking care of children, work with parent relative to welfare of child.

STACEY PFLEIGER: Executive Director of the ND Right to Life Association, supports bill.

(Written testimony)

MRS. GARY ZENTZ supports bill. Worked for Birthright who helps a mother through crisis of not being able to handle. Safe havens are marvelous.

MS. MARGARET KOTTRE, R-KIDS, questions bill. What about the father's rights? They are totally excluded which puts the financial responsibilities on state.

SENATOR MATHERN: What is your position in dealing with Father? MS. KOTTRE: Feeling is we don't want children harmed. Both parties should support financially. (Written testimony)

AARON STROH, R-KIDS, agrees with Ms. Kottre and support her position.

No opposition

The hearing was closed on SB 2129.

Date: 1/30/01  
Roll Call Vote #: 2129

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2129

Senate HUMAN SERVICES Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendments

Motion Made By Sen Fischer Seconded By Sen Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson	✓		Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Attorney General's Office Amendments

Date: 1/30/09

<b>Senate</b>	<b>HUMAN SERVICES</b>	<b>Committee</b>
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Legislative Council Amendment Number

Motion Made By Sen Fischer Seconded By Sen Erbeles

[illegible]

Absent 0

**If the vote is on an amendment, briefly indicate intent:**

**REPORT OF STANDING COMMITTEE**

**SB 2129: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to abandoned infants.

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

**SECTION 1.** A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

**Abandoned Infant - Hospital procedure - Reporting Immunity.**

1. As used in this section:
  - a. "Abandoned Infant" means an abandoned infant as defined in section 27-20-02 and which has been left at a hospital in an unharmed condition.
  - b. "Hospital" means a facility licensed under chapter 23-16.
2. A parent of an infant may abandon the infant at any hospital. An agent of the parent may leave an abandoned infant at a hospital with the parent's consent. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving the abandoned infant at a hospital.
3. A hospital shall accept an infant abandoned or left under this section. The hospital may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope with the hospital's return address. Neither the parent nor the agent is required to provide any information.
4. The hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the abandoned infant. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.
5. The hospital may provide the parent or the agent with any relevant information, including:
  - a. Information about the safe place for abandoned infant programs;
  - b. Information about adoption and counseling services; and
  - c. Information about whom to contact if reunification is sought.

6. Within twenty-four hours of receiving an abandoned infant under this section, the hospital shall report to the department, as required by section 50-25.1-03, that an abandoned infant has been left at the hospital. The report may not be made before the parent or the agent leaves the hospital.
7. The hospital and its employees and agents are immune from any criminal or civil liability for accepting an abandoned infant under this section.
8. Upon receiving a report of an abandoned infant left at a hospital under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or the agent. If it appears the abandoned infant was harmed, the department shall initiate an assessment of the matter as required by law.
9. If an individual claiming to be the parent or the agent contacts the department and requests to be reunited with the abandoned infant, the department may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department seeking information only, the department may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in an abandoned infant case. The individual is under no obligation to respond to the request for information, and the department may not attempt to compel response to investigate the identity or background of the individual."

Renumber accordingly



2001 HOUSE HUMAN SERVICES

SB 2129

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2129

House Human Services Committee

☐ Conference Committee

Hearing Date March 12, 2001

Tape Number	Side A	Side B	Meter #
2	x		3732 to end
2		x	1 to 592
3	x		0 to 110
Committee Clerk Signature <i>Cornie Boston</i>			

Minutes:

Chairman Price: I will call the Human Services Committee back to order and open the hearing on SB 2129.

Sandi Tabor - Deputy Attorney General: (See written testimony).

Rep. Metcalf: You said in paragraph 4 requires the hospital to provide the parent or agent with a numbered identification bracelet. I am sure it will take a while to prepare that numbered identification bracelet and possibly the person abandoning the child wants to get out of there as fast as possible. What would happen if they were to say Good-bye, I'm out of here. The bracelet is just forgotten about at that point?

Tabor: I think they will have them ready. I am sure the hospitals will do everything in their power to make sure that person doesn't leave without that bracelet. If they do, they can still contact the department and follow the procedures the department has established for determining

parental rights. But it is going to be more difficult. If they don't get that bracelet it will be kind of a challenge.

Rep. Weiler: Are there any numbers from the other states that currently have these laws in place, as a percentage of what ...

Tabor: I don't know numbers. These programs are pretty new. I first heard about this over a year ago now from an article in Time magazine, regarding a pilot project going on in Kansas City and in that state, the pilot project was seeing a lot of these types of instances. Of course, they have a slightly different demographic than we do in ND. I know they did some work on this in Texas and in particular in Houston. I can look that up and see if there are some numbers. We don't expect to see hundreds of abandoned babies. What we are concerned about is that if it does happen, we believe the hospitals will be willing to do some public education on this too. This will be a pointless law if we don't educate. But we don't believe it is going to be a run to the hospital.

Rep. Niemeier: I suppose some infants now are being abandoned. I am wondering how has this been dealt with, and is it a criminal offense?

Tabor: I believe there could be some. Right now, it is occurring and I don't know what prosecution is going on. We all know the infamous case out of Fargo with the young lady at NDSU. She filed a plea bargain for that. I don't know.

Chairman Price: Let's say the mother is a victim of abuse. And she is doing this just to get the infant out of the situation. Is it going to be more difficult for her to reunify?

Tabor: I don't know what they do right now. I don't know how they protect that child? Under this bill if they decide, I need to take this infant out of this situation and I know I can take them to the hospital. It may pose some difficulty, because once it is there, it is going to go through the

processing. If we see there is a problem with that, we are going to have to do some education with that. If the real concern is not to abandon the baby, but simply to find a safety place, they should be taking the child someplace else and not the hospital. Under this program they will have to follow different procedures once they abandon the baby.

Chairman Price: Maybe this is the closest safe place, and that is something that should be taken under consideration. Let's say then, in that situation, the father drops the baby off, against mothers' knowledge or wishes that day. Is there going to be any sort of protection there?

Tabor: Again the focus of this bill is a situation, where the parents have decided that basically they can't deal with the child, so instead of neglecting the child or abandoning the child in a suitcase they are going to take that baby to the hospital. Now if the father, against the mothers will takes that child to the hospital for an abandonment, again the department is going to have to sort out whether that was an abandonment or if it was an action of spite or malice on the part of the father. The hospital is going to treat it as an abandonment and follow it under this procedure.

I don't know how we would amend the bill to really take into consideration those types of situations. Right now we are providing the hospital a way to make sure the baby gets into the system and is properly taken care of. I mean getting it foster parents, taking care of that child.

Arnold Thomas: We are asking you to approve this policy to allow hospitals to be a place that a child can be left. Basically that is what 2129 is asking at a policy level. There are a number of elements in 2129 that hospitals would act upon and put into policy and procedures and how they would be compatible with existing state government. We would be very committed to publishing information to the person about what their options are, so the issue of abandonment is really where the hospital is focused.

Chairman Price: On page 2, no. 6, it says within 24 hours there's going to be a mechanism so that, for example, if the child is abandoned 9 o'clock Saturday night, the department is not open 24 hours a day, is there going to be something in place?

Thomas: Yes, it would be compatible with the agencies with which we need to work something out. The way the bill has evolved we believe that through the operating policies and procedures that we would wish the membership to adopt that - that would also have some oversight by the various agencies so that we continue to track.

Rep. Galvin: Aren't you going to figure out the word abandonment. Isn't the parent with the child when they leave them there, how does that happen, they don't sit them down on the floor and run for the door? Isn't there the ability to get the parents' name then and there?

Thomas: You are rubbing up against an issue that doesn't lend itself to an either or solution. The way 2129 is written, is if a parent chooses not to communicate in any way, shape or form, the institution would still receive the child. All of the other information adding the child identifier are there to encourage the institution to seek as much information as possible, but the anonymity of the adult that is something that is also being respected in terms of, this is a very difficult decision and they may not wish to communicate anything. The only caveat is what Asst. Attorney General Tabor mentioned and that is if the child was abused. Then there are other provisions that kick into gear right away. Those are already in place anyway.

Rep. Galvin: Then there isn't any possibility of trying to apprehend or keep the parent there, or anything like that?

Thomas: No, there you have the choice of two goods, the information from the adult versus the welfare of the child. Our discussion was focused on the youngster that would be abandoned

versus information that may be solicited from the parent. It was decided the welfare of the child would be a superseding good versus the information we could gather.

Stacey Pflieger - Executive Director of the ND right to Life Association: I stand in support of SB 2129 (See written testimony).

David Peske - ND Medical Association: When our committee physicians looked at this issue we did not have the exact language of the bill in front of us, but we did vote to support the concept embodied in this bill, so we are in favor of this bill.

Chairman Price: Any questions? Anyone else in favor? Any opposition to SB 2129? If not I will close the hearing on SB 2129.

**COMMITTEE WORK:**

CHAIRMAN PRICE: Let's go to the one we just heard, 2129. Discussion.

REP. PORTER: I would move a DO PASS.

REP. WEILER: Second.

CHAIRMAN PRICE: I will have the clerk call the roll on a **DO PASS**.

**14 YES   0 NO   0 ABSENT   CARRIED BY REP. WEILER**

Date: 3-12-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2129

House Human Services Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By Rep. Porter Seconded By Rep. Weiler

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary	✓	
Rep. William Devlin, V, Chairman	✓		Rep. Ralph Metcalf	✓	
Rep. Mark Dosch	✓		Rep. Carol Niemeier	✓	
Rep. Pat Galvin	✓		Rep. Sally Sandvig	✓	
Rep. Frank Klein	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Weiler

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
**March 13, 2001 12:52 p.m.**

**Module No: HR-43-5466**  
**Carrier: Weller**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2129: Human Services Committee (Rep. Price, Chairman) recommends DO PASS**  
**(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the**  
**Fourteenth order on the calendar.**



2001 TESTIMONY  
SB 2129

Fifty-seventh  
Legislative Assembly

Senate Bill 2129

Senate Human Services  
January 16, 2001

My name is Sandi Tabor and I am the Deputy Attorney General. I am here today to provide background on Senate bill 2129, which was submitted for introduction by the Office of Attorney General.

This legislation was triggered by recent incidents of babies dying when their mothers abandoned them. North Dakota follows 26 other states in examining the issue. Twelve other states, including Minnesota, have adopted abandonment laws <sup>1</sup>, while nine have not <sup>2</sup>, and five are still considering the bills. Known as the "Baby Moses" bills, these statutes provide safe havens for young mothers, at their wits end, who may not know what else to do.

Senate Bill 2129 provides that a person may leave a newborn at a licensed hospital without being subject to prosecution provided that the newborn was no more than 72 hours old and unharmed. The bill allows someone other than the mother to leave the baby at the hospital with the mother's permission.

As drafted, the bill does not allow the hospital to ask the mother's name or call the police as long as the child is unharmed. This type of expansive anonymity is common to the statutes passed in other states, with the exception of Louisiana. There are also provisions granting immunity from prosecution for the hospitals and its staff receiving the baby as long as the baby is unharmed.

The bill allows the hospital to provide the mother with information on how to contact social service agencies. It also dictates that the hospital contact a local social services agency within 24 hours of receiving the baby.

The final portion of the bill provides that the local social services agency is not required to 1) attempt to reunify the child with its parents; or 2) search for relatives of the child as a placement or permanency option. The social services agency is also not required to implement placement requirements

<sup>1</sup> The legislation has been adopted in Alabama, California, Colorado, Connecticut, Florida, Indiana, Louisiana, Michigan, Minnesota, South Carolina, Texas and West Virginia.

<sup>2</sup> The states rejecting the legislation were Delaware, Georgia, Kansas, Kentucky, New Jersey, North Carolina, Oklahoma, Tennessee and Wisconsin.

*Further 30 days  
to review it*

*Provide no hospital  
ability to place history  
(med)*

that give a preference to relatives if the agency does not have information as to the identity of the child or the child's parents.

We understand that the bill has some flaws. Attorney General Stenehjem has raised concerns about the anonymity provisions. In addition the ND Healthcare Association has also raised concerns. We are also interested in concerns raised by the Committee. With that in mind, I respectfully request that the Committee allow the various interested parties some time to work on amendments.

*Handwritten signature*

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2129

Page 1, line 1, after the "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to abandoned infants.

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

**SECTION 1.** A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

**Abandoned infant – Hospital procedure – Reporting Immunity.**

1. As used in this section:

a. Abandoned infant means an abandoned infant as defined in section 27-20-02 left at a hospital in an unharmed condition.

b. Hospital means a facility licensed under chapter 23-16.

2. A parent of an infant may abandon the infant at any hospital. An agent of the parent may leave an abandoned infant at a hospital with the parent's consent. Neither the parent(s) nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving the abandoned infant at a hospital.

3. A hospital shall accept an infant abandoned or left under this section. The hospital may request information regarding the parents and shall provide the parent(s) or the agent with a medical history form and an envelope with the hospital's return address. Neither the parent(s) nor the agent is required to provide any information.

4. The hospital shall provide the parent(s) or the agent with a numbered identification bracelet to link the parent(s) or the agent to the abandoned infant. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.

- 1           5. The hospital may provide the parent(s) or the agent with any relevant information,  
2           including:
  - 3           a. Information about the safe place for abandoned infant programs;
  - 4           b. Information about adoption and counseling services, including information  
5           that confidential adoption services are available and information about the  
6           benefit of engaging in a regular, voluntary adoption process;
  - 7           c. Brochures or telephone numbers for public or private agencies providing  
8           adoption or counseling services; and
  - 9           d. Information about whom to contact if reunification is sought.
- 10          6. Within twenty-four hours of receiving an abandoned infant under this section, the  
11          hospital shall report to the department, as required by section 50-25.1-03, that an  
12          abandoned infant has been left at the hospital. The report may not be made before the  
13          parent(s) or the agent leaves the hospital.
- 14          7. The hospital, its employees and agents are immune from any criminal or civil liability  
15          for accepting an abandoned infant under this section.
- 16          8. Upon receiving a report of an abandoned infant left at a hospital under this section,  
17          the department shall proceed as required under this chapter if it appears that the  
18          abandoned infant was not harmed, except the department may not attempt to identify  
19          or contact the parent(s) or the agent. If it appears the abandoned infant was harmed,  
20          the department shall initiate an assessment of the matter as required by law.
- 21          9. If an individual claiming to be the parent or the agent contacts the department and  
22          requests to be reunited with the abandoned infant, the department may identify or  
23          contact the individual as required under this chapter and all other applicable laws. If  
24          an individual contacts the department seeking information only, the department may  
25          attempt to obtain information regarding the identity and medical history of the parents  
26          and may provide information regarding the procedures in an abandoned infant case.  
27          The individual is under no obligation to respond to the request for information, and  
28          the department may not attempt to compel response to investigate the identity or  
29          background of the individual.

30   Renumber accordingly.



*North Dakota Right to Life Association*

**Testimony before the SENATE HUMAN SERVICES COMMITTEE**

**Regarding SENATE BILL 2129**

**January 16, 2001 10:15 a.m.**

Chairman Lee, members of the committee, I am Stacey Pfliger, Executive Director of the North Dakota Right to Life Association. I am here today in support of SB 2129 relating to the authorization and immunity from prosecution for leaving an unharmed newborn child at a hospital.

- SB 2129 provides overwhelmed, panicky new mothers a safe haven for their newborn, no questions asked.
- SB 2129 identifies a hospital as the safe haven location, allowing newborns to get immediate proper medical care.
- Most importantly, SB 2129 prevents infanticide.

Some may question whether or not this type of legislation is needed in our state, are infants really being abandoned in North Dakota?

- Remember the baby boy believed to be two weeks old found in a suitcase on the Fort Berthold Indian Reservation-dead. His parents never found.
- Remember Laura Rafferty, the student at NDSU, who was charged with negligent homicide two years after giving birth to a daughter and then dumping her in a dumpster. The daughter's body never found.

While these incidents sound like a story line from the latest episode of "Law & Order", they are not. They are real stories of overwhelmed, panicky new mothers.

There may be others here to testify in opposition to SB 2129 arguing that this bill encourages mothers to dump their babies, encourages irresponsibility, as well as questioning the rights of fathers. I acknowledge these concerns; however, my focus is on the woman and the child.

The North Dakota Right to Life Association supports and strongly encourages legislation that would permit anonymous relinquishment, without criminal prosecution, of newborns into some safe location. I urge this committee to give SB 2129 a do pass recommendation.

At this time I would be available for any questions you may have.

Madam Chairman be a mbr of the committee. My name is Margaret Kottre. I am an active mbr of R-KIDS. I understand why this bill is being introduced - most importantly to protect the unwanted newborns, then to protect the people who abandoned the newborn as well as protecting the <sup>acceptable</sup> ~~accepting~~ facility employees by accepting these newborn. That is where the understanding stops. Why you ask - well let me ask you this what happened to the father's rights? With the policy of no questions asked as long as the newborn is unharmed, is totally dismissing the fact that there is another parent that may not have abandoned the child, they maybe don't even know that he has a child and would take that baby into their arms and supply all the nurturing and love a father can provide. The only mention of the father is on pg 2 line 20 --- 23 & 24 - they won't have information because on pg 1 line 20 states. -- Also pg 7 lines 17 & 18 how are the employees to know or determine that the mother gave this person approval if they are not there. The employees I guess are just suppose to take that person's word for it because after all pg 1 line 21 says --

I have one more concern - what about the financial responsibility until the child is adopted. Why are it names collected being that they are already immune from prosecution and child support collected



until the adoption is finalized. If both  
parents ~~are~~<sup>have</sup> abandoned the child both parents should  
pay. If the mother is solely the one to abandoned the  
child then the mother should pay \$5 until the  
completion of the adoption.

neutral

Margaret Kötter  
2588-8437  
rmkottre@btinternet.com

Fifty-seventh  
Legislative Assembly

**Senate Bill 2129**

House Human Services  
March 12, 2001

My name is Sandi Tabor and I am the Deputy Attorney General. I am here today to provide background on Senate Bill 2129, which was submitted for introduction by the Office of Attorney General.

This legislation was triggered by recent incidents of babies dying when their mothers abandoned them. North Dakota follows 26 other states in examining the issue. Twelve states, including Minnesota, have adopted abandonment laws <sup>1</sup>, while nine have not <sup>2</sup>, and five are still considering the bills. Known as the "Baby Moses" bill, these statutes provide safe havens for young mothers, at their wits end, who may not know what else to do. The bill is designed to protect babies.

The original bill was significantly amended during the Senate hearing at the request of our office, the ND Health Care Association and the Department of Human Services to address several concerns, including a father's rights regarding the child and finding a balance between the need for anonymity and the need for information regarding the child's medical history. We now believe the bill is in proper form to provide the safeguards originally intended.

Senate Bill 2129 provides that a person may leave a newborn at a licensed hospital without being subject to prosecution provided that the newborn was no more than 1 year old and unharmed. The bill allows someone other than the parent to leave the baby at the hospital with the mother or father's consent. The bill also requires the hospital to report the abandonment to social services within 24 hours.

Paragraph 1 coordinates the definition of an abandoned infant with the definition found in section 27-20-02 – the definition section of the Uniform Juvenile Court Act. That definition states an "abandoned infant" is a child who has been abandoned before the age of one year. The paragraph also utilizes the definition of hospital presently found in chapter 23-16.

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<sup>1</sup> The legislation has been adopted in Alabama, California, Colorado, Connecticut, Florida, Indiana, Louisiana, Michigan, Minnesota, South Carolina, Texas and West Virginia.

<sup>2</sup> The states rejecting the legislation were Delaware, Georgia, Kansas, Kentucky, New Jersey, North Carolina, Oklahoma, Tennessee and Wisconsin.

In order for this type of program to effectively work, the parent must feel secure in the safe-harbor concept, i.e. he or she can leave the child at the hospital so it receives the care it needs with no criminal repercussions. In the same light, however, it is important for medical attendants, social workers, the child's adoptive parents and the child to have information regarding the parent's medical history. The bill addresses these concerns by allowing the hospital to provide the parent with a medical history form and envelope with the hospital's return address, along with information regarding the program. Information about reunification will also be provided. The parent or parent's agent is not required to complete the form, but we believe once the initial trauma of the event has passed, there is a good chance the parent will complete the form and return it to the hospital.

As drafted, the bill does not allow the hospital to ask the parent's name or call the police as long as the child is unharmed. This type of expansive anonymity is common to the statutes passed in other states. There are also provisions granting immunity from prosecution for the hospitals and its staff receiving the baby as long as the baby is unharmed.

Providing for reunification with either parent is also a key element of the bill. Paragraph 4 requires the hospital to provide the parent or the agent with a numbered identification bracelet to link the parent to the child. Possession of the bracelet does not entitle the bracelet holder to take custody of the child on demand. Rather, if a person possesses the bracelet and parental rights have not been terminated, possession creates a presumption that the individual may participate in a protection services action brought under chapter 27-20.

The final portion of the bill provides direction to the hospital and to the department regarding reporting requirements and handling contacts with the parent or agent. The bill is tied directly to chapter 50-25.1 -- the child abuse and neglect chapter of the Code. Once the report is made to the department, established procedures will be followed to protect the child. If a parent contacts the department regarding reunification, the department is free to solicit information about the parents' identities and all other relevant background.

The passage of this bill will not open the floodgates of abandoned children. Rather, the Department of Human Services, ND Health Care Providers and our office, believe it will provide another tool in our arsenal to protect the most vulnerable members of our society from parents who would do the most heinous of crimes -- abandon a baby to die. Attorney General Stenehjem urges your support of this bill.



*North Dakota Right to Life Association*

**Testimony before the HOUSE HUMAN SERVICES COMMITTEE**

**Regarding SENATE BILL 2129**

**March 12, 2001 2:30 p.m.**

Chairman Price, members of the committee, I am Stacey Pflieger, Executive Director of the North Dakota Right to Life Association. I am here today in support of SB 2129 relating to abandoned infants.

- SB 2129 provides overwhelmed, panicky new mothers a safe haven for their newborn, no questions asked.
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- Most importantly, SB 2129 prevents infanticide.

Some may question whether or not this type of legislation is needed in our state, are infants really being abandoned in North Dakota?

- Remember the baby boy believed to be two weeks old found in a suitcase on the Fort Berthold Indian Reservation-dead. His parents never found.
- Remember Laura Rafferty, the student at NDSU, who was charged with negligent homicide two years after giving birth to a daughter and then dumping her in a dumpster. The daughter's body never found.

While these incidents sound like a story line from the latest episode of "Law & Order", they are not. They are real stories of overwhelmed, panicky new mothers.

Opponents to SB 2129 may argue that this bill encourages mothers to dump their babies, encourages irresponsibility, as well as questioning the rights of fathers. I acknowledge these concerns; however, my focus is on the woman and the child.

The North Dakota Right to Life Association supports and strongly encourages legislation that would permit anonymous relinquishment, without criminal prosecution, of newborns into some safe location. I urge this committee to give SB 2129 a do pass recommendation.

At this time I would be available for any questions you may have.