

Legal Abandonment of Newborns: North Carolina's Safe Surrender Law

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Child abandonment” does not have one, clear legal definition. Sometimes it refers to a specific act, such as leaving a baby in a basket on a stranger’s doorstep.¹ It also may refer to a parent’s neglect of a child over an extended period.² In North Carolina, the definition cited most frequently is that of the North Carolina Supreme Court: parental conduct that “evinces a settled purpose and a wilful intent to

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forego all parental duties and obligations and to relinquish all parental claims to the child.”³

“Safe surrender laws,” which exist in some form in every state, represent efforts to prevent deaths and injuries that may occur when a parent physically abandons an infant. The proliferation of laws directed specifically at abandoned infants is explainable in part by the publicity that has surrounded the most shocking cases. Everyone has read the headline or seen the news story: “Infant Abandoned in Motel Room”; “Unidentified Mother Leaves Newborn at Hospital”; “Teen Gives Birth in Bathroom

during Prom”; “Baby Found in Dumpster.” Safe surrender laws aim to increase awareness of the problem of infant abandonment, meet the special and immediate needs of the infants, and provide safe alternatives for parents who may be tempted in a crisis or in desperation to abandon their newborns.

A North Carolina study of the deaths of infants up to four days of age, during the years 1985–2000, found thirty-four known instances of newborns killed or discarded by a parent. In cases in which the perpetrator’s identity was known, it was the infant’s mother. In cases in which the parent’s age was known,

it ranged from fourteen to thirty-five years, with a mean of just over nineteen. The most common causes of death were strangulation and drowning.⁴

In more recent years, most published data on child deaths, or on infants who are abandoned but survive, do not provide information about newborns that is similar in detail. Published reports from the North Carolina Central Registry, which collects information from county departments of social services about child abuse and neglect, do not distinguish between abandonment and other forms of neglect, and do not include data specifically for infants or newborns.⁵ In reports of child deaths from the North Carolina Center for Health Statistics, the infant category includes children up to one year of age.⁶ The North Carolina Office of the Chief Medical Examiner also characterizes children in the first year of life as infants, but in some instances, it makes finer distinctions. In 2007, for example, the office reported that four infant deaths “occurred when the newborns were abandoned or unwanted.”⁷ (For the preliminary results of a study on protective services for children age seven days or younger, see the sidebar on page 33).

This article explains North Carolina’s safe surrender law, its effect on the possible criminal consequences of abandoning a newborn, and its relationship to civil child-protection cases in juvenile court. In addition to answering frequently asked questions about the law, the article compares safe surrender with the procedure for relinquishing a child to an agency for adoption. It concludes with a summary of the state of knowledge on how the law is working.

Federal and State Laws on Abandoned Infants

More than two decades ago, Congress enacted the Abandoned Infants Assistance Act of 1988 to direct resources specifically toward infants who were abandoned in hospitals.⁸ Sometimes called “boarder babies,” these children often have been exposed perinatally to illicit drugs or HIV.⁹ The act, as amended, continues to fund the National Abandoned Infants Assistance Resource Center at the University of

California at Berkeley, as well as direct-service programs for this category of abandoned children.¹⁰

More recently, attention also has been focused on a smaller group of infants who are abandoned in ways that are much less safe than leaving a child in the hospital. Through the Promoting Safe and Stable Families Amendments of 2001, for example, Congress changed the definition of “family preservation services” in Title IV-B of the Social Security Act to clarify that states may use federal family-preservation funds to support safe haven programs for infants.¹¹

A “safe haven” is a place designated by state law where a parent may safely and legally abandon an infant or new-

born child. In 1999, Texas became the first state to adopt such a law.¹² With the passage of Nebraska’s safe haven law in 2008, all fifty states have some form of legislation providing parents a way to surrender children informally and safely without risking criminal liability.¹³ In addition to being called safe surrender or safe haven laws, these statutes have been called homicide prevention, legal abandonment, baby drop-off, and even Baby Moses laws. They vary substantially from state to state, reflecting each state’s attempt to strike a balance between protecting infants and holding parents accountable, usually in narrowly prescribed circumstances.



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In 2001 the North Carolina General Assembly enacted its safe surrender law.¹⁴ Ordinarily a parent’s abandon-

Illustrations of the Different Legal Consequences of Leaving an Infant

The following scenarios illustrate the operation of North Carolina’s safe surrender law and contrast the legal con-

sequences for a parent who acts according to that law and those for a parent who makes other choices. M.C., the woman in the scenarios, could be of any childbearing age. She could be rich, poor, or in between. She could have minimal or extensive education, varied or very limited life experiences, and any level of intellectual capacity. She probably is unmarried, and she may have hidden her pregnancy from her family and friends. The three scenarios illustrate criminal abandonment, safe surrender, and relinquishment for adoption.

M.C. is shopping when she starts feeling sharp pains. She fears that the baby that she is expecting is about to arrive, although she had assumed it would not come for at least six weeks.

She has made no plans and has kept putting off talking with someone about her condition. She leaves the store, starts driving, and thinks about going to a hospital. But she is afraid of all sorts of things—how her family will react, whether the baby will be “normal” because she has not seen a doctor, and how people will judge her. When the pains are even sharper, M.C. pulls off the road near a park where she sees no other cars. She walks into the woods behind the visitors’ center and gives birth to the baby there. His physical appearance and his crying frighten M.C. even more.

In North Carolina, a parent who leaves an infant safely with an adult is exempt from criminal prosecution under the child abandonment statutes.

Criminal Abandonment

Scenario 1: Panicking, M.C. wraps the baby in her sweater, lays him in a soft, sheltered area under a tree, then drives herself home. If a hiker finds the baby the next morning, the lead news story that evening could be either “Infant Survives Night in Woods” or “Hiker Finds Dead Baby in Park.”

Obviously, M.C.’s decision may cause serious harm to or even the death of the baby. The emotional impact on M.C. herself is likely to be severe and long-lasting. In addition, M.C. could face criminal charges for abandoning her child. If the baby dies, depending on other facts, M.C. could be prosecuted for murder or manslaughter.¹⁵ If the baby survives, criminal laws on abandonment, child abuse, and neglect could be relevant.

Abandonment. One statute, Section 14-322.1 of the North Carolina General Statutes (hereinafter G.S.), specifically makes willful child abandonment a crime. However, the statute applies only when the abandonment lasts at least six months, and it focuses on a parent’s failure to provide adequate support for a child for that length of time.¹⁶ A related offense, identified in G.S. 14-322, although titled “Abandonment and failure to support spouse and children,” makes it a misdemeanor for a parent willfully to neglect or refuse to provide

adequate support for a child, without regard to whether the parent abandons the child.¹⁷ G.S. 14-322.1 would not apply to M.C. immediately, given its emphasis on a parent’s failure to provide support for a child over a period of time. (The offense could be charged six months later, if M.C. had assumed no responsibility for the child and her parental rights had not been terminated during that time.) Neither statute is truly

aimed at a parent’s physical abandonment of a child: neither would apply if M.C., anonymously or otherwise, provided financial support for the baby.

Child abuse. Most forms of criminal child abuse involve physical injury to a child. Misdemeanor child abuse occurs when a parent inflicts or allows someone else to inflict physical injury on a child, or creates or allows a substantial risk of nonaccidental physical injury to a child.¹⁸ Felony child abuse occurs if the parent intentionally inflicts serious physical or bodily injury on the child or if a parent’s willful act or grossly negligent omission in caring for a child “shows a reckless disregard for human life” and results in serious physical or bodily injury to the child.¹⁹

M.C. did not assault or intentionally inflict harm on the infant, but her conduct was willful, or at least grossly negligent, and it almost certainly showed a reckless disregard for the baby’s life. Therefore, if the baby suffers a serious injury as a result of being left in the woods, M.C. could be prosecuted for felony child abuse. If the baby is found unharmed, a child abuse charge would be unlikely.²⁰

Neglect. The only criminal statute that addresses child neglect makes it a misdemeanor for any person to contribute to a child’s being a neglected juvenile. In the North Carolina Juvenile Code, which provides for civil child-protection actions in juvenile court, the definition of “neglected juvenile” includes a child who has been abandoned as well as a child who does not receive proper care or supervision from a parent.²¹ Any person, including a parent, who knowingly or willfully causes a child to be in a place or a condition that

could result in a juvenile court’s finding the child to be a neglected juvenile is guilty of a Class 1 misdemeanor.²² This offense occurs regardless of whether a juvenile court action is filed.

A newborn left in the woods by a parent clearly is a “neglected juvenile” for purposes of the Juvenile Code. The offense of contributing to the neglect of a minor can occur regardless of whether the child suffers any physical injury and is the offense most likely to apply immediately to M.C.

Whether M.C. is criminally charged and, if she is, with what offense, would be determined by a magistrate or the district attorney in the county where M.C. abandoned the baby.

The likely civil consequences of M.C.’s abandonment of her baby are described later under “Social Services and Juvenile Court.”

Safe Surrender

Scenario 2: Panicking, M.C. wraps the baby in her sweater and lays him in a soft, sheltered area under a tree. She considers leaving him there, but remembers a brochure and a recent discussion about a law that says she can leave the baby with almost anyone, and not even identify herself, without getting into trouble. The brochure mentioned a number of possible places, and she tries to think of one where there will not be a lot of people and no one will know her or her family. Taking the baby with her, she drives into the next county and stops at a fire station just outside a small town. She takes the baby to the door, hands him to a fireman, and says, “Please take my baby. I can’t take care of him.” The fireman tries to talk to M.C. and offer her help, but she returns to the car and drives home. The fireman immediately calls the county department of social services.

In this scenario, both M.C. and the fireman have acted in conformity with North Carolina’s safe surrender law. The primary thrust of the law is to exempt from criminal prosecution a parent who leaves an infant safely with an adult instead of abandoning it in a way that could result in harm or death to the child. Because M.C. voluntarily delivered

the baby to the fireman and did not express an intent to return for him, she cannot be criminally prosecuted under the child abandonment statutes described earlier (G.S. 14-322 and G.S. 14-322.1) or for misdemeanor child abuse.²³

Ironically, no statute gives M.C. immunity from prosecution for contributing to the neglect of a minor, the offense that most squarely fits the facts in Scenario 1.²⁴ The policy underlying the safe surrender legislation suggests that M.C. should be immune from prosecution under that statute as well. But the legislature did not make such a provision, and the issue has not been addressed by the appellate courts.

M.C.'s surrender of the infant to the fireman does not give her immunity from prosecution for felony child abuse. So, if before surrendering the baby to the fireman, she had tried to smother him, causing a serious injury, she could be prosecuted for a felony. Or if she had not taken the baby to the fire station until the next day, and the baby had been

seriously injured before she returned to the park to get him, she could be prosecuted for felony child abuse. However, if convicted in either instance, her safe surrender of the baby could be considered as a mitigating factor at sentencing.²⁵

The likely civil consequences of M.C.'s safe surrender are described later under "Social Services and Juvenile Court."

Parameters of North Carolina's Safe Surrender Law

The immunity from criminal prosecution or the existence of a mitigating factor at sentencing described earlier is available only in limited circumstances. The scope of North Carolina's safe surrender law involves the answers to the following questions.²⁶

Who may surrender an infant?

Only a parent may surrender a child under the safe surrender law. When the surrender takes place, however, no proof of parental status is required.

At what age may a child be surrendered?

A safe surrender may occur only within the first seven days of the child's life.²⁷

A parent who surrenders a child does not have to identify himself or herself. That fact does not assure the parent of anonymity, though.

However, a parent is not required to provide proof of the infant's age at the time of surrender. The maximum age at which a child may be surrendered under other states' laws ranges from three days in

more than a dozen states, to one year in North Dakota.²⁸ The Nebraska statute initially did not specify any age limit and was used by some parents to surrender children who were in their teens. The law was amended before it had been in place a year, to allow the surrender only of children under the age of thirty days.²⁹

Where, or to whom, may a child be surrendered?

In North Carolina, a parent may surrender the infant to "any adult."³⁰ Most other states' laws require that the surrender be made at a specified safe haven or to a specified professional who works at such a place.³¹ Some states allow surrenders only at hospitals. Others allow a parent to surrender an infant also at a fire station, a police station, a social services agency, a health department, or similar places specified in the statute. New York, on the other hand, requires only that the child be left "with an appropriate person or in a suitable location."³²

Although it is permissible in North Carolina to surrender an infant to any adult, only four categories of people are

required to accept custody of an infant whom a parent wants to surrender:³³

- A health care provider who is on duty or is at a hospital, a local or district health department, or a nonprofit community health center
- A law enforcement officer who is on duty or is at a police station or a sheriff's department
- A social services worker who is on duty or is at a local department of social services
- A certified emergency-medical-services worker who is on duty or is at a fire or emergency-medical-services station

Is a parent who surrenders an infant required to provide or disclose any information?

No. A person who accepts custody of a surrendered infant—whether it is one of the professionals listed earlier or another adult—may ask about the identities of the infant's parents and any relevant medical history. The parent is not required to provide that or any other information, however, and the person accepting the infant must inform the parent that he or she is not required to provide information.³⁴

What are the duties of a person who accepts a surrendered infant?

The person accepting a surrendered infant from a parent must do the following:³⁵

- Do anything that is necessary to protect the infant's physical health and well-being

Resources on Safe Surrender and Safe Haven Laws

Child Welfare Information Gateway (U.S. Department of Health and Human Services): www.childwelfare.gov/systemwide/laws_policies/statutes/safehaven.cfm

National Safe Haven Alliance: <http://nationalsafehavenalliance.org/>

National Safe Surrender Site: www.safesurrendersite.com/

North Carolina Department of Health and Human Services: www.safesurrender.net/

North Carolina Bar Association, Health Law Section: <http://health.ncbar.org/Legal+Resources/Infant+Abandonment+Packet/default.aspx>

"Officials: More Information Needed on Safe Haven Laws," news stories and video posted February 8, 2007, by WRAL.com at www.wral.com/news/local/story/1197636/

Research on Protective Services Involving Children Age Seven Days or Younger

Recent research looks at data on child protective services in North Carolina for 1993–2008 relating to child abuse, neglect, and dependency reports involving children who were seven days of age or younger at the time of the report.¹ For the year 2008, the research shows the following profile of cases in which safe surrender was a legal option:

- Of 72,921 reports to county departments of social services, 1,974 involved children seven days of age or younger.²
- Most of those, 1,859, were reports of neglect, and in 235 cases, the county departments of social services determined that the child was neglected. It found abuse in 2 of 19 cases reported; abuse and neglect, in 19 of 35 cases reported; and dependency, in 54 of 61 cases reported.
- In the 174 substantiated cases in which the mother was found to be responsible for the child's condition, the average age of the mother was twenty-eight. In the 17 substantiated cases in which the father was found to be responsible, the average age of the father was thirty.
- Five children were surrendered pursuant to the safe surrender law.

1. Terri Reichert, "Evaluation of the Utilization of the Infant Homicide Prevention Act (Safe Surrender) of 2001" (unpublished preliminary results of study, North Carolina State University, April 2009).

2. This is a count as of April 2009. Some counties were still entering data for 2008, so the number may increase.

- Contact the county department of social services or a local law enforcement agency immediately

An assessment by child protective services (part of the county department of social services) follows every safe surrender. If the person to whom the infant was surrendered knows the identity of the baby's parents or has other information about the child, he or she is required to disclose that information to the department.³⁶

Is there a legal risk involved for someone who accepts an infant from a parent who wants to surrender him or her?

The statute provides immunity from civil or criminal liability for an adult who accepts an infant from a parent who wants to surrender him or her, as long as the adult acts in good faith. The immunity does not apply to gross negligence, wanton conduct, or intentional wrongdoing.³⁷

Is a parent who surrenders an infant guaranteed anonymity?

The physical act of surrender may be done anonymously: the parent is not required to identify himself or herself or

disclose any information about himself or herself, his or her circumstances, or the infant. Interpreting that fact as an assurance of anonymity would be a mistake, however. As explained in the next section, "Social Services and Juvenile Court," a county department of social services is required to make a diligent effort to identify and locate the infant's parents.

If a mother surrenders an infant under the safe surrender law, does the child's father have any rights?

A mother's surrender of an infant has no immediate effect on the legal rights or responsibilities of the child's father. (The same is true of the mother's rights if the father surrenders the infant.) As described later, however, a juvenile court action will follow almost every safe surrender. If the father can be identified, located, and served with court documents, he can assert or defend his parental rights in the juvenile court proceeding. If he chooses not to do so, or if diligent attempts to identify or locate him are not successful and he can be notified only through a notice

published in a newspaper, the court may enter orders that affect or terminate his parental rights. This may occur even if the father is unable to assert his rights because he does not know of the child's existence.³⁸

Social Services and Juvenile Court

The answers to the last two questions just posed are contrary to the assumptions that many people make about safe surrender. It is not unusual for safe surrender laws to be described as allowing the parent to remain anonymous or as allowing a parent to surrender an infant without any legal repercussions. In North Carolina, though, as soon as the safe surrender occurs and the county department of social services is notified, that agency assumes physical custody of the child and proceeds as it would in any other case of child abuse, neglect, or dependency.³⁹ Thus, although the safe surrender statute exempts a surrendering parent from most criminal consequences that otherwise might result from abandoning a child, with respect to the civil protective action in juvenile court, the consequences do not differ from those that would follow an "unsafe" surrender or the abandonment of a child more than seven days of age.

The county department of social services is required, within twelve hours of assuming custody of the child (twenty-four hours if that period includes any part of a holiday or a weekend), to file a petition initiating a juvenile court action. The department also must obtain a court order authorizing it to retain custody of the child pending a full hearing.⁴⁰ The parents, or at least one of them, must be given notice of the court action, the hearing date, and their right to appointed counsel if they are indigent and want counsel.⁴¹ If a parent cannot be identified or is identified but cannot be located, notice to the parent may be given through publication of a newspaper notice, which can occur only after diligent efforts have been made to locate the parent and serve court papers on him or her personally.⁴²

In the juvenile court proceeding, if the court adjudicates the child to be

abused, neglected, or dependent and also finds that the child cannot be placed safely in the custody of a parent, the court may place the child in the custody of a relative, the county department of social services, or another suitable person or agency.⁴³ Sixty days after a parent's voluntary surrender of an infant, if the parent has not sought the return of the child, legal grounds exist for the court to terminate that parent's rights, allowing the child to be adopted without his or her consent.⁴⁴ Adoption cannot occur, however, without either the consent of the other parent or a court's termination of the other parent's rights. Should the surrendering parent change his or her mind and seek to have the child returned to him or her before rights have been terminated, the court in the juvenile proceeding would determine where the child should be placed and whether the county department of social services should provide services to reunify the child with the parent.⁴⁵

Planned, informed relinquishment of a child for adoption is almost always better than safe surrender.

Relinquishment for Adoption

Scenario 3: M.C. takes the baby to the door, hands him to a fireman, and says, "Please take my baby. I can't take care of him." The fireman tries to talk to M.C. and offer her help. Because M.C. does talk with the fireman, she ends up at a hospital where she and the baby receive medical attention, although M.C. refuses to identify herself. There a social worker talks to her about the baby and M.C.'s plans and options. The social worker describes the supports and the services that are available if M.C. keeps the baby. When M.C. says she plans to leave the baby at the hospital, the social worker tells her that would be a safe surrender and is one of her options. She also explains the alternative of relinquishment and the steps involved in formally relinquishing the baby to the county department of social services or another agency for adoption. The social worker stresses that she cannot give M.C. legal advice

and encourages M.C. to talk to an attorney before making a final decision either to surrender or to relinquish the child. On her own or after consulting others, on the same day or sometime later, M.C. decides to sign documents relinquishing the baby to the county department of social services for adoption.

M.C.'s relinquishment must be in writing and acknowledged under oath, and she must be given a copy.⁴⁶ The law

specifies a number of provisions that a written relinquishment must include, a few of which are as follows:⁴⁷

- The date and the place of the relinquishment
- The parent's name, date of birth, and permanent address
- The baby's date of birth, sex, and name if known
- Statements that the relinquishing parent—
 - ♦ voluntarily consents to the permanent transfer of legal and physical custody of the child to the agency for the purpose of adoption
 - ♦ understands that he or she may revoke the relinquishment within seven days
 - ♦ waives notice of any adoption proceeding
 - ♦ has been advised that counseling services are available through the agency and
 - ♦ has been advised that he or she may employ independent legal counsel

In addition, the agency will obtain extensive medical and other information about M.C., the baby, and, to the extent possible, the baby's father, so that important nonidentifying information can be given to the adoptive parents.⁴⁸ M.C. may not relinquish the baby anonymously, but the social services and adoption records and information are confidential.⁴⁹

As with criminal abandonment or safe surrender, M.C.'s act of relinquishing the child for adoption does not af-

fect the legal rights of the baby's father. A parent's relinquishment is not effective until the agency formally accepts it, and an agency should not accept a parent's relinquishment unless it appears that adoption is the best plan for the child. Unless the baby's father is located and consents to the child's adoption, an adoption may not occur until a court terminates his rights. M.C., once she relinquishes the child, will not be notified of or required to participate in any juvenile court proceeding. However, if the child's father seeks custody, the fact that M.C. has relinquished the child will not affect her right to participate in the court action.⁵⁰

Compared with safe surrender, which may be a desperate or crisis-driven decision, relinquishment is more likely to represent an informed choice. By relinquishing the child, M.C. ensures that future adoptive parents will have important medical and family background information. Although relinquishment requires more involvement by M.C. initially, it may provide her with more privacy than she would have after a safe surrender, when the county department of social services would be required to make diligent efforts to identify and locate her and make her a party to a juvenile court proceeding. Neither safe surrender nor relinquishment will affect the rights or the options of the baby's father.

Implementation of the Law

Since the enactment of North Carolina's safe surrender legislation in 2001, efforts have been made at both the state and the local level to ensure that people know about it. In 2007 the General Assembly enacted laws to require local boards of education to have policies to ensure that students in grades nine through twelve receive information each year on the procedure for lawfully abandoning a newborn baby.⁵¹ News stories, public service announcements, and numerous websites have called attention to the issue of abandoned infants and provided information about safe surrender and safe haven laws (see the sidebar on page 32).

No good measure of the law's success exists. The North Carolina Division

of Social Services, which collects data about child abuse, neglect, and dependency in the state, has initiated procedures for systematically collecting safe surrender information from counties.⁵² The division is “anecdotally aware” of eleven cases of safe surrender since the law went into effect in 2001, including one in 2007 and five in 2008.⁵³ The total number is probably low, given the lack of uniform reporting from counties, possible confusion about when to classify a case as a safe surrender, and the fine line in some cases between a safe surrender and other instances of neglect or dependency.

Conclusion

A parent’s decision to hand his or her newborn baby to a fireman is immeasurably better than a decision to abandon the baby in the woods. But a planned, informed relinquishment is almost always better still, for both the child and the parent. A parent like M.C., who thinks she cannot or does not want to keep her baby, is unlikely to relinquish her child formally for adoption, however, unless she has good information and a connection with at least one supportive person who can help her identify, weigh, and choose responsibly from the options available. If she has that information and that connection, she may conclude that she or a relative *can* care for the child, or decide that she wants to consent to the child’s adoption by people whom she, rather than an agency, selects. The most effective efforts to address the problem of infant abandonment will be those that reach parents and potential parents early with information, support, and resources to prepare them to make decisions that are not directed by fear and desperation. For the few cases in which the parent of a newborn is going to abandon the child, however, the safe surrender law removes the criminal sanctions that might deter him or her from doing that in a way that keeps the baby safe.

Notes

1. North Carolina law addresses this kind of abandonment when it requires a county department of social services to act

immediately when it receives a report alleging that a child has been abandoned. The department is required to “immediately initiate an assessment” and take appropriate steps to assume custody of the child and obtain a court order authorizing the department to retain custody. In addition, the department must ask law enforcement to investigate through state and national resources whether the child has been reported missing. N.C. GEN. STAT. § 7B-302(a) (hereinafter G.S.).

2. See, e.g., *Whittington v. Hendren*, 156 N.C. App. 364, 576 S.E.2d 372 (2003) (holding that abandonment occurred when incarcerated father had no meaningful contact with child for five years).

3. *Pratt v. Bishop*, 257 N.C. 486, 503, 126 S.E.2d 597, 609 (1962).

4. Marcia E. Herman-Giddens et al., “Newborns Killed or Left to Die by a Parent: A Population-Based Study,” *JAMA* 289: 1425–9 (2003).

5. Dean F. Duncan et al., North Carolina Longitudinal Cohort Data of Abuse and Neglect, http://sasweb.unc.edu/cgi-bin/broker?_service=default&_program=cwwweb.icans.sas&county=North%20Carolina&label. Procedures have been modified to begin capturing instances of abandonment pursuant to the safe surrender law. See Charisse S. Johnson (chief, Child Welfare Services, North Carolina Division of Social Services), letter to county social services directors, March 17, 2009, www.ncdhhs.gov/dss/dcdl/famsupchildwelfare/CWS-15-09.pdf.

6. North Carolina State Center for Health Statistics, “Technical Notes for 2007 Child Deaths in North Carolina,” www.schs.state.nc.us/SCHS/deaths/child/cd2007.html.

7. North Carolina Office of the Chief Medical Examiner, North Carolina Child Fatality Prevention Team, *Annual Report 2007: Summary and Analysis of Child Deaths Investigated by the Office of the Chief Medical Examiner and the North Carolina Child Fatality Prevention Team* (Raleigh, NC: North Carolina Child Fatality Prevention Team, North Carolina Office of the Chief Medical Examiner, 2009), www.ocme.unc.edu/nccfpp/2007childfatalityreport.pdf.

8. Abandoned Infants Assistance Act of 1988, Pub. L. No. 100-505 (codified as amended at 42 U.S.C. §§ 5117aa *et seq.* (2008)). A White Paper indicated that 30,800 babies were abandoned in hospitals in 1997. Evan B. Donaldson Adoption Institute, *Unintended Consequences: “Safe Haven” Laws Are Causing Problems, Not Solving Them* (New York: Evan B. Donaldson Adoption Institute, 2003), www.adoptioninstitute.org/whowe/Last%20report.pdf.

9. See National Abandoned Infants Assistance Resource Center, *Boarder Babies, Abandoned Infants, and Discarded Infants* (Berkeley, CA: National Abandoned Infants Assistance Resource Center, 2005), http://aia.berkeley.edu/media/pdf/abandoned_infant_fact_sheet_2005.pdf. Citing the U.S. Department of Health and Human Services’ 2001 definitions, the article describes boarder babies as “infants under the age of twelve months who remain in the hospital past the date of medical discharge” and who eventually may be “claimed by parents and/or be placed in alternative care”; abandoned infants as “newborn children who are not medically cleared for hospital discharge, but who are unlikely to leave the hospital in the custody of their biological parents”; and discarded infants as “newborns who have been abandoned in public places, other than hospitals, without care or supervision.” *Ibid.*, 1.

10. The center’s website, at <http://aia.berkeley.edu/>, includes a link to currently funded direct-service programs. See also the 2009 announcement of funding opportunities from the federal Administration for Children and Families at www.acf.hhs.gov/grants/open/HHS-2009-ACF-ACYF-CB-0060.html.

11. Promoting Safe and Stable Families Amendments of 2001, Pub. L. No. 107-133, 42 U.S.C. § 629h(c) (2007). See Grace Antebi, *Information Packet: Promoting Safe and Stable Families* (New York: National Resource Center for Foster Care and Permanency Planning, Hunter College School of Social Work, 2002), 10, www.hunter.cuny.edu/socwork/nrcfcpp/downloads/information_packets/safe_and_stable_families-pkt.pdf. Section 102 of Public Law Number 107-133 amended 42 U.S.C. 629a(a)(1) to add this provision.

12. Child Welfare Information Gateway, “Infant Safe Haven Laws, State Statutes Series, 2007,” www.childwelfare.gov/systemwide/laws_policies/statutes/safehaven.cfm.

13. In July 2008, Nebraska Legislative Bill 157 went into effect, providing that “[n]o person shall be prosecuted for any crime based solely upon the act of leaving a child in the custody of an employee on duty at a hospital licensed by the State of Nebraska.” NEB. REV. STAT. § 29-121 (2008). In November 2008, the governor of Nebraska called a special session of the state’s legislature to amend the law after several parents used it to legally “abandon” teenagers at hospitals. See, e.g., Claire Suddath, “Nebraska’s Abandoned-Kid Law,” *Time.com*, November 12, 2008, www.time.com/time/nation/article/0,8599,1858355,00.html.

14. S.L. 2001-291 (H 275) (codified at G.S. 7B-302(a), G.S. 7B-500, G.S. 7B-

1111(a)(7), G.S. 14-318.2, G.S. 14-318.4, G.S. 14-322.3). The full text of the bill is available at www.ncga.state.nc.us/Sessions/2001/Bills/House/HTML/H275v7.html.

15. See G.S. 14-17, -18. For an explanation of the elements of these crimes, see Jessica Smith, *North Carolina Crimes* (6th ed., School of Government, University of North Carolina at Chapel Hill, 2007), ch. 6, "Homicide," pp. 65-76. If the baby died shortly after birth and M.C. left or buried the body in the woods, she could be guilty of a Class I felony for concealing the birth of a child. This offense occurs when someone undertakes to conceal the birth of a child by secretly burying or otherwise disposing of the dead body of a newborn child. G.S. 14-46.

16. G.S. 14-322.1. The full definition of this offense, a Class I felony, describes a parent who willfully, and without just cause or provocation, abandons a child for six months, willfully fails or refuses to provide adequate support for the child during that period, and attempts to conceal his or her whereabouts from the child with the intent of escaping his or her lawful obligation to support the child.

17. G.S. 14-322. A first offense under this statute is a Class 2 misdemeanor, and any subsequent offense is a Class 1 misdemeanor.

18. G.S. 14-318.2. Misdemeanor child abuse is a Class A1 misdemeanor.

19. G.S. 14-318.4. Felony child abuse also occurs if a parent's intentional assault causes serious physical or bodily injury to the child. The offense of intentional assault may be a Class C or Class E felony, depending on the injury to the child. The statute defines serious physical injury as "[p]hysical injury that causes great pain and suffering" and specifies that the term also includes serious mental injury. The statute defines "serious bodily injury" as "[b]odily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization." The offense of showing reckless disregard may be a Class E or Class H felony, depending on the injury to the child.

20. Although M.C. may have created a substantial risk of nonaccidental physical injury to the child and therefore be

subject to prosecution for misdemeanor child abuse under G.S. 14-318.2, it is not clear that injuries the child might suffer after M.C.'s departure would be "nonaccidental" as that term generally is understood.

21. G.S. 7B-101(15).

22. G.S. 14-316.1.

23. G.S. 14-322.3.

24. G.S. 14-316.1.

25. G.S. 14-318.4(c).

26. The website of the Child Welfare League of America includes a chart showing the characteristics of other states' safe surrender laws. See www.cwla.org/programs/pregprev/flocrittsafehaven.htm. The chart covers all fifty states, although when retrieved on August 10, 2009, it contained a heading that indicated otherwise. The chart includes the 2008 enactment of the Nebraska law, but not the addition to that law of a thirty-day age limit.

27. As first introduced, the North Carolina safe surrender legislation would have allowed surrender of infants under the age of fifteen days. HR 275, introduced February 27, 2001. The bill history and other editions of the bill can be found at www.ncga.state.nc.us/gascripts/BillLookUp/BillLookUp.pl?Session=2001&BillID=h+275&submitButton=Go.

28. See the chart described in note 26.

29. See "Nebraska Lawmakers OK Age Limit for Safe-Haven Law," Safe Surrender Site, November 21, 2008, www.safesurrender.com/news/27.

30. G.S. 7B-500(d).

31. See the chart described in note 26.

32. NEW YORK PENAL CODE § 260.03 (2008).

33. G.S. 7B-500(b).

34. G.S. 7B-500(c), (d).

35. *Ibid.*

36. See G.S. 7B-301, which describes the required contents of a mandated report of child abuse or neglect, and G.S. 7B-303, which allows a county department of social services to seek a court order against someone who obstructs or interferes with a required assessment.

37. G.S. 7B-500(e).

38. See, e.g., *A Child's Hope, LLC v. Doe*, 178 N.C. App. 96, 630 S.E.2d 673 (2006); *In re T.L.B.*, 167 N.C. App. 298, 605 S.E.2d 249 (2004).

39. See G.S. ch. 7B, subch. I. See also North Carolina Department of Health and Human Services, Division of Social Services, *Family Support and Child Welfare*

Manual (Raleigh, NC: Division of Social Services, North Carolina Department of Health and Human Services), ch. 8, § 1411 Safe Surrender (June 2008), <http://info.dhhs.state.nc.us/olm/manuals/dss/csm-60/man/CS1411.htm#TopOfPage>.

40. G.S. 7B-501.

41. See G.S. 7B-406, -407.

42. The North Carolina Supreme Court has held that a court may proceed in an abuse, neglect, or dependency proceeding even if only one of the parents has been served. See *In re Poole*, 151 N.C. App. 472, 568 S.E.2d 200 (2002) (Timmons-Goodson, J., dissenting), *adopted per curiam*, 357 N.C. 151, 579 S.E.2d 248 (2003). At various hearings, however, the court must inquire "as to the identity and location of any missing parent and as to whether paternity is at issue," and the court's order "may provide for specific efforts aimed at determining the identity and location of any missing parent, as well as specific efforts aimed at establishing paternity." G.S. 7B-506(h). In every case, the parent must be served, even if service by publication is necessary, before the court may terminate the parent's rights. G.S. 7B-1101, -1106, -1106.1.

43. G.S. 7B-903.

44. G.S. 7B-1111(a)(7).

45. See G.S. 7B-507, -903, -906, -907.

46. G.S. 48-3-702.

47. G.S. 48-3-703. The form provided by the North Carolina Department of Health and Human Services for a parent's relinquishment of a child for adoption is DSS-1804, available at <http://info.dhhs.state.nc.us/olm/forms/dss/dss-1804-ia.pdf>.

48. See G.S. 48-3-205. When the child reaches age eighteen, he or she may obtain the same nonidentifying information from the agency.

49. G.S. 48-9-102.

50. See G.S. 50-13.2, which provides that "[i]f, within a reasonable time, one parent fails to consent to adoption pursuant to Chapter 48 of the General Statutes or parental rights have not been terminated, the consent of the other consenting parent shall not be effective in an action for custody of the child."

51. S.L. 2007-126 (H 485), amending G.S. 115C 47(50), 238.29F(a), 548, 556, 565. The act applies to schools beginning with the 2008-9 school year.

52. See Johnson, letter to county social services directors.

53. *Ibid.*