

Frequently Asked Questions Regarding Safe Surrender of a Baby Born in a Hospital

Since the inception of the SSB law, several questions have been raised regarding its interpretation, particularly when determining whether a baby has been surrendered or abandoned. Answers to some common questions and information regarding the SSB law can be found at the CDSS SSB homepage: www.babysafe.ca.gov. The following are common scenarios that have raised questions when determining whether the situation might be considered a safe surrender as opposed to a case of abandonment or relinquishment for adoption:

Does the birth mother need to be familiar with the SSB law in order to safely surrender her baby?

- The statute does not state that the mother must be familiar with the law. It follows that there is no basis to exclude her right to safely surrender if she is not familiar with the law.
- If a birth mother indicates she would like to voluntarily relinquish her baby for adoption, but subsequently decides to surrender her baby within the 72-hour timeframe, the baby must be considered safely surrendered if all other conditions are met.

If the birth mother leaves the hospital premises while the baby is in care of hospital staff, but she does not verbally indicate her intent to surrender, is it still considered a safe surrender?

- The hospital is a safe surrender site.
 - The intent of the law is to ensure that the baby is safe; remaining in the care of the hospital would be considered as such.
- Statute simply states that physical custody must be voluntarily surrendered to personnel on duty at the safe surrender site, and it does not indicate that this voluntary surrender must be stated verbally.
- Though she has not verbally indicated voluntary surrender of the infant, it has been implied by her action. Moreover, since the baby has been left in the care of authorized personnel at a safe surrender site, it is more consistent with statute to consider this a safe surrender rather than a case of abandonment.

What if the mother leaves against medical advice?

- Statute does address this action that is more pertinent to the safety of the mother than the safety of the child, who is in the care of authorized personnel at the hospital (i.e., safe surrender site). Depending on the circumstances and the safety of the baby, this may be considered a safe surrender.

If a baby is safely surrendered but then tests positive on a toxicology screening, is it considered a case of abuse or neglect, rather than a safe surrender?

According to Penal Code 11165.13, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect, so it follows that the case may be considered a safe surrender. However, if in addition to the positive toxicology screening other factors are present that indicate risk to the child, the Penal Code would require a report to be made.