

CITY OF CARLSBAD – Ordinance 2023-04
ORDINANCE FOR SAFE AND ANONYMOUS
SURRENDER OF INFANTS.

ALLOWING PERSONS TO LEAVE INFANTS NOT MORE THAN NINETY (90) DAYS OF AGE IN SAFETY DEVICES FOR SURRENDER, UNDER CERTAIN CONDITIONS, WITHOUT CRIMINAL PROSECUTION FOR ABANDONMENT OR ABUSE OF CHILD; ALLOWING THE INSTALLATION AND OPERATION OF SAFETY DEVICES FOR THE SURRENDER OF INFANTS.

WHEREAS, the City of Carlsbad is committed to save the lives of children by providing mothers in crisis with a safe and anonymous plan for surrender;

WHEREAS, the State of New Mexico has already enacted a Safe Haven Law providing the foundation for this ordinance; and.

WHEREAS, it is in the interest of the public health, welfare and safety to eliminate unsafe and unlawful surrender of infants;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARLSBAD, NEW MEXICO, THAT:

SECTION 1.

A. A parent subject to the provisions of this act shall not be prosecuted for child abandonment or child neglect under the provisions of any statute which makes child abandonment or child neglect a crime, when the allegations of child abandonment or child neglect are based solely on the relinquishment of a child (90) days of age or younger to a medical services provider or a first responder as defined in this section.

B. The following entities shall, without a court order, take possession of a child ninety (90) days of age or younger if the child is voluntarily delivered to the entity by the parent of the child and the parent did not express an intent to return the child:

1. A medical services provider;
2. First Responder; or
3. With medical staff after delivery in a hospital or other medical facility when the child's parent notifies the medical staff that the parent is voluntarily relinquishing the child.

C. Delivery of the child may be effectuated by an in-person transfer of the child to the medical services provide or first responder or by leaving the child in a newborn safety device that is:

1. Voluntarily installed by the medical services provider
2. Physically located inside a police station, fire station, hospital or other medical facility that is staffed 24 hours per day, 7 days a week and
3. Located in an area that is conspicuous and visible to the employees

D. A medical services provider or first responder that installs a newborn safety device shall:

1. Be responsible for the cost of the installation; and

2. Install an adequate dual alarm system connected to the physical location of the newborn safety
 - a. tested at least one time per week to insure the alarm system is in working order, and
 - b. visually checked at least two times per day to ensure the alarm system is in working order.

E. Once a child has been relinquished to an entity identified in this ordinance, the entity receiving the child shall:

1. Perform or provide for the performance of any act necessary to protect the physical health of the child and
2. Notify the local office that a parent of a child ninety (90) days or younger has relinquished such child that the entity has taken possession of the child.

F. Upon being made aware that a medical service provider or first responder has possession of a child under the provisions of this ordinance, the Department of Child Services shall immediately check with law enforcement authorities to determine if a child has been reported missing and whether the missing child could be the relinquished child.

G. The Department shall design and disseminate:

1. Easily understood printed materials that give information about parents' rights with regard to reunification with a child including, but not limited to, information on how a parent can contact the appropriate entity regarding the child reunification and information on sources of counseling.
2. Media information, including printed material that creates public awareness about the provisions of this act.

H. For purposes of this section:

1. "Medical service provider" means a person authorized to practice the healing arts including a physician's assistant, nurse practitioner registered or practical nurse, or a nurse aide.
2. A "first responder" means an employee or other designated person on duty at a police station, fire station, hospital or other medical facility.

I. A medical services provider or first responder with responsibility for performing duties pursuant to this ordinance shall be immune from any criminal liability that might otherwise result from the actions of the entity, if acting in good faith in receiving a relinquished child. In addition, such medical provider or first responder shall be immune from any civil liability that might otherwise result from merely receiving a relinquished child.

SECTION 2

It is an affirmative defense to a prosecution under this section that a parent voluntarily delivered a child under the age of ninety (90) days and left the child with, or voluntarily

arranged for another person to deliver a child to and leave the child with, a medical services provider or first responder.

SECTION 3

This Ordinance shall be effective five (5) days after adoption and publication as provided by law.

PASSED, ADOPTED AND APPROVED THIS 28 th DAY OF March, 2023.

CITY OF CARLSBAD:

ATTEST:

/s/Dale Janway
Mayor, Dale Janway

/s/Nadine Mireles
City Clerk, Nadine Mireles