



A T T O R N E Y S

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N.C.G.S. 14-322.3 ABANDONMENT OF AN INFANT UNDER SEVEN DAYS OF AGE.

By

Reece Trimmer

Ralph B. Strickland, Jr.

Just a Couple of Good Ol' Boys

Never Meanin' No Harm

Purpose of the Statute

This statute was enacted in 2001 by the North Carolina General Assembly to encourage parents to, rather than abandon the infant in a manner that would be dangerous to the health, safety or life of the infant, legally abandon their newborn infant to a person of some responsibility.

This statute was enacted specifically as a result of the Cumberland County Sheriff's Office investigation into the infant death of "Baby Michael." That Office was alerted to a deceased infant beside a county road. The baby had apparently been tossed from a moving vehicle, and was found partially in and out of a brown plastic garbage bag. True.

Even after an incredibly thorough investigation by the Sheriff's Office, the identity of the boy remains unknown. The detectives named him after Saint Michael the Archangel. He is buried in a small church graveyard in Cumberland County next to Baby Christopher, also an unknown boy infant, whose body was discovered one Christmas Eve by that same Sheriff's Office (hence the name, given by the detectives in the Cumberland County Sheriff's Office.) Sad.

- Saint Michael is the patron saint of law enforcement officers.

[Greg here: Ralph and his wife Drusylla named their son Stephen Michael Strickland, after the first Christian martyr Saint Stephen, stoned to death for his Christian beliefs and whose story appears in Acts, Chapter 6, in the New Testament, and Saint Michael the Archangel, who appears in Daniel in the Old Testament and in Revelations in the New Testament. Bible trivia? Nope. *Nothing in the Bible is trivial!*]

Reece and I have decided to make this statute a topic for one of our co-authored writings because of its importance in protecting newborn infants. Ralph and I have provided your agency with a sample policy on this subject that contains a checklist. Reece and Ralph are enamored of checklists because an officer can place one on a clipboard and follow it instead of having to reread an entire policy while some incident is actually occurring. Follow a well-crafted checklist and you will always be correct.

REECE & RALPH

Reece Trimmer

Ralph B. Strickland, Jr.

The two mature geezers of SR&S

SEPTEMBER 11, 2005

**N.C.G.S. 14-322.3 Abandonment of an
infant under seven days of age.**

When placing this policy (or some version of this policy) in your office or departmental policy manual, please add your agency's name where you see

[Sheriff's Office/Police Department]

and you will have a quick and easy addition to that manual controlling a serious matter. No one wants to ever investigate another abandoned infant death, or any type of child death.

You are most welcome for the assistance of the SR&S legal team.

[Kevin here: I have been asked a number of times how the R&R boys ("never meanin' no harm") are able to co-author lengthy and complex legal articles and still have them make sense. Greg and I have surreptitiously watched them a number of times and it is really quite simple. Ralph and Reece each take turns writing every other word.

Greg and I tried this and came up with the following sentence on probable cause to search the hard drive of a computer:

Shoe chicken Tuesday baseball toenail King Tut epicenter loyal Wisconsin banana tweezers.

So clearly this approach isn't for everyone.]

POLICY ABANDONED INFANTS

General Purpose

To establish [Sheriff's Office/Police Department] policies on the receiving by members of this [Office/Department] an infant under seven days of age as authorized by N.C.G.S. 14-322.3, *Abandonment of an infant under seven days of age*. This statute was enacted in 2001 by the North Carolina General Assembly to encourage parents inclined to abandon a newborn child to do so only by delivering the infant into the care of some person of suitable discretion and responsibility. Obviously the goal is to avoid having parent(s) abandon infants in a manner that is dangerous to the child's health and survival.

Policy

This [Sheriff's Office/Police Department] expects all employees to be familiar with G.S. 14-322.3 and to comply with the dictates of the statute designed to protect newborn infants.

The Statutes

§ 14-322.3. *Abandonment of an infant under seven days of age.*

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under G.S. 14-322 or G.S. 14-322.1.

§ 7B-500. Taking a juvenile into temporary custody; civil and criminal immunity.

(b) The following individuals shall, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

(1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.

(2) A law enforcement officer who is on duty or at a police station or sheriff's office.

(3) A social services worker who is on duty or at a local department of social services.

(4) A certified emergency medical service worker who is on duty or at a fire or emergency medical services station.

(d) Any adult may, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant. Any individual who takes an infant into temporary custody under this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. An individual who takes an infant into temporary custody under this subsection may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

Response

When a parent approaches any member of this [Office/Department], whether sworn, certified or civilian, at any time of the day or night, on duty or off, in [This City/County], and wishes to deliver to this [Office/Department] and thereby abandon an infant of less than seven days of age, the member is authorized by statute and ordered by this policy to receive and accept the infant.

Statutory Mandate

G.S. 7B-500(c) provides direction to any person who receives such an infant.

(c) An individual who takes an infant into temporary custody under subsection (b) of this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. Any individual who takes an infant into temporary custody under subsection (b) of this section may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

Statutory Immunity

G.S. 7B(e) offers immunity from suit for any person who receives such an infant.

(e) An individual described in subsection (b) or (d) of this section is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of any omission or action taken pursuant to the requirements of subsection (c) or (d) of this section as long as that individual was acting in good faith. The immunity established by this subsection does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

Procedure

In order to be certain of performing the right procedure in such a situation, you shall act as follows:

1. As soon as you are certain that the parent wishes to abandon the infant to you and you reasonably believe the infant is in its first week of life, and the parent has expressed no intent to return for the infant, take the child from the parent.

2. Without any delay, physically examine the infant to determine to the best of your ability that the infant is not in immediate need of medical care. Whatever the physical condition of the infant, contact the 911 Center for EMS dispatch to your location.
3. If the infant appears to be in medical distress, make certain the dispatcher knows you are dealing with a newborn medical emergency. If you are certified as a first responder or have any medical training that would guide you in this situation, provide appropriate treatment to the infant.
4. If the infant appears to be medically stable, tell the parent that while the parent is not required to answer, it would be helpful to have the parents' identities and medical history. Also tell the parent that even if the identities of the parents are known, they will not be prosecuted for abandonment of the infant. If the parent refuses to answer, and wishes to leave, the law provides for the parent to do so. You shall allow that parent to leave.
5. At this point, you should contact the 911 Center (assuming you have not already done so) and ask for medical assistance for a newborn infant. Explain to the dispatcher your situation.
6. Next contact the [Your] County Department of Social Services and report your situation to them (consider having the dispatcher do this for you, as necessary to devote full attention to the infant).
7. As soon as the infant is under the care of another responsible adult, you shall write an appropriate report if you are sworn or certified. If you are a civilian, you shall write a simple but complete narrative of the events. That narrative shall be delivered to the deputy assigned to investigate this matter.

See checklist included with this policy to assist you in meeting the mandates of the statute and this policy.

CHECKLIST
Abandoned Newborn Infant
[Sheriff's Office/Police Department]
NCGS 14-322.3

- Does the person wishing to abandon the infant state that they are (or do they appear to be) the parent of the child?

ASK.

- Does the infant appear to be newborn and seven days older or less?

ASK.

- Does the newborn appear to be in need of immediate medical assistance?

ASK AND THOROUGHLY EXAMINE THE INFANT IMMEDIATELY.

- Have I called 911 Center for EMS dispatch for a newborn infant, and provided notification to DSS?

DO IT.

- Have I told the parent that I need to ask two questions, but advised there is no requirement to answer the questions?

DO IT.

- Names of both parents: _____

- Relevant medical history of the parents:

- If the parent will answer the questions, did I advise that abandoning the infant in this manner is legal and they will not be charged or prosecuted?

DO IT.

- Have I written my report or narrative of the events of this matter?

DO IT.