

similarly situated the equal protection and due process of law guaranteed by the Fourteenth Amendment. In discussing the Illinois procedure under the due process clause the Court recognized that whether a prior hearing will be required by due process before a particular deprivation may occur, and what type of hearing will be called for, may vary with the circumstances. Resolution of such questions must begin with a determination of the nature of the governmental interest involved, as well as the private interest affected by the statute or governmental action in question. In light of Stanley v. Illinois and similar decisions of the Supreme Court, we have great doubts as to whether the provisions of subsection (b) of House Bill 1065 could be constitutionally applied to a parent who had not received notice of the operative facts and thus was not afforded the opportunity to agree to accept parental rights and responsibilities in accordance with the bill. In the event House Bill 1065 should be signed into law on the grounds that it is facially constitutional, at least as applied in most situations, we would advise the Department of Health and Mental Hygiene, to the extent that it is involved in implementing the provisions of the bill and informing others as to its import, that we do not believe that the Constitution would permit application of the provisions of subsection (b) to a parent without notice.<sup>4</sup> We cannot guarantee, however, that situations will not arise in a particular hospital where parental rights and responsibilities will be considered to have been surrendered by a parent without notice.

In conclusion, while we perceive a number of constitutional issues and interpretive ambiguities in House Bill 1065, we believe that it is facially constitutional and susceptible to a reasonable construction in the majority of circumstances.

Very truly yours,  
Francis B. Furch  
Attorney General

---

1. We construe the statute as making both the status of the child as an abandoned ward and the presence or absence of parental rights or obligations dependent upon the absence of an agreement within thirty days to accept parental rights and responsibilities.

2. Our view that the child does not become an abandoned ward of the State until the expiration of thirty days is supported by the use of the phrase "shall become an abandoned ward".