

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1454
 INTRODUCER: Senator Garcia
 SUBJECT: Treatment of a Surrendered Newborn Infant
 DATE: March 17, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Stovall	HR	Pre-meeting
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides that when a surrendered newborn infant is admitted to a hospital under s. 383.50, F.S., the birth mother who bore the infant, until the time of discharge from the hospital, is presumed eligible for coverage under Medicaid, subject to federal rules. This presumptive Medicaid eligibility for the birth mother is provided in conjunction with the newborn infant’s presumptive Medicaid eligibility under current law, which is also subject to federal rules.

This bill substantially amends the following sections of the Florida Statutes: 383.50.

II. Present Situation:

Infant “safe haven” legislation has been enacted in most states as “an incentive for mothers in crisis to safely relinquish their babies to designated locations where the babies are protected and provided with medical care until a permanent home is found.”¹ Safe haven laws generally allow the parent to remain anonymous and avoid prosecution for abandonment or neglect in exchange for safely surrendering the baby.²

Florida passed newborn safe haven legislation in 2000.³ Regarding the treatment of a surrendered newborn infant, current Florida law in s. 383.50, F.S., provides:

¹ Child Welfare Information Gateway, Infant Safe Haven Laws (May 2010), available at http://www.childwelfare.gov/systemwide/laws_policies/statutes/safehaven.pdf (last visited March 17, 2011).

² *Id.*

³ See s. 1, ch. 2000-188, Laws of Florida.

- The term “newborn infant” means a child who a licensed physician reasonably believes is approximately 7 days old or younger at the time the child is left at a hospital, emergency medical services station, or fire station.
- The parent who leaves the newborn infant is presumed to have intended to leave the newborn infant and consented to termination of parental rights. If a parent seeks to claim the newborn after surrendering the infant, this presumption can be reversed until a Florida circuit court enters a judgment to terminate parental rights.
- Each emergency medical services station or fire station staffed with full-time firefighters, emergency medical technicians, or paramedics is required to accept any newborn infant left with a firefighter, emergency medical technician, or paramedic. Such personnel are required to provide emergency medical services to the extent he or she is trained to provide those services and to arrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services.
- Except when there is actual or suspected child abuse or neglect, any parent who surrenders a newborn infant and expresses intent to leave the newborn infant and not return, has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed unless the parent seeks to reclaim the newborn infant. When an infant is born in a hospital and the mother expresses intent to leave the infant and not return, upon the mother’s request, the hospital or registrar shall complete the infant’s birth certificate without naming the mother on the birth certificate.
- Any newborn infant admitted to a hospital in accordance with these provisions is presumed eligible for coverage under Medicaid, subject to federal rules.⁴
- A criminal investigation will not be initiated solely because a newborn infant is left at a hospital under these provisions unless there is actual or suspected child abuse or neglect.

The Department of Children and Families (DCF) does not collect statistical data that specifies how many infants come into state care after being surrendered under s. 383.50, F.S. According to the Gloria M. Silverio Foundation’s website, “A Safe Haven for Newborns,” 11 infants were left at safe havens (hospitals, emergency medical service stations, or fire stations) in Florida in 2010. A total of 156 newborns have been left since the implementation of the law in 2000.⁵

Presumptive Eligibility for Medicaid: Adults

The only provision for presumptive eligibility for Medicaid currently in effect in Florida is presumptive eligibility for pregnant women. Medicaid services for presumptively eligible pregnant women are restricted by federal statute to prenatal care only.

In order to be eligible for labor, delivery, or other Medicaid services in addition to prenatal care, the woman must be eligible under one of the full Medicaid coverage groups. As part of the presumptive eligibility determination process for a pregnant woman, an application for full

⁴ See s. 383.50(8), F.S.

⁵ *Safe Haven for Newborns Statistics*, available at

http://www.asafehavenfornewborns.com//index.php?option=com_content&view=article&id=63&Itemid=165 (last visited March 17, 2011).

Medicaid benefits is filed with the DCF. The woman's presumptive eligibility period ends when the DCF approves or denies the application for full Medicaid benefits. If the application for full Medicaid benefits is approved for the pregnant woman, full Medicaid coverage is available for all covered services during the prenatal period, labor, delivery, and the two-month postpartum period.

There are currently no federal rules permitting presumptive eligibility for inpatient hospital care for adults.

Presumptive Eligibility for Medicaid: Children

Federal rules give states the option to provide presumptive eligibility to children; however, if a state chooses presumptive eligibility for children, it must be applied to *all* children. Florida has not chosen presumptive eligibility for children.

Under the provisions of s. 383.50, F.S., if federal Medicaid rules were to allow for *selective* presumptive eligibility for children, then surrendered newborn infants in Florida could be made presumptively eligible under current Florida policy.

Currently, if surrendered newborn infants come under state care, DCF policy provides for expedited Medicaid determinations. Upon a determination of eligibility, the eligibility is retroactive to the date the DCF received the application. Therefore, eligible infants under these circumstances become Medicaid eligible back to the date of application submission.

III. Effect of Proposed Changes:

Under current federal rules, Florida is unable to presumptively assume Medicaid eligibility on behalf of birth mothers who surrender their newborn infants. Federal rules currently only permit coverage of prenatal services for pregnant women. There is no provision in current federal rules to allow for presumptive eligibility of other adults for other services. Florida could do so only if federal rules change or if Florida were granted a federal waiver, and only then could the bill have any practical effect.

The Agency for Health Care Administration advises that even if federal policy were changed to permit presumptive eligibility for adults other than pregnant women, it is unlikely it would be limited solely to birth mothers of surrendered infants and solely for the period of hospitalization.

Additionally, given the provisions of s. 383.50, F.S., that grant the absolute right to remain anonymous to parents who safely surrender their newborn infants, Medicaid eligibility could be authorized only for those mothers who choose to forfeit their anonymity.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under current federal rules, the bill would have no immediate effect, other than to allow for presumptive eligibility for birth mothers of surrendered infants as provided by the bill in case federal law ever does change in this regard. This is similar to the effects of the presumptive eligibility for surrendered newborns under the current provisions of s. 383.50(8), F.S., which provides for selective presumptive eligibility for those newborns, subject to federal rules that currently do not allow selective presumptive eligibility for children. In order for these provisions to have practical effect, the federal rules must change or Florida must be granted a waiver.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
