

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 Appropriations Subcommittee on Health and Human Services

BILL: SB 122

INTRODUCER: Senator Baxley and others

SUBJECT: Surrendered Newborn Infants

DATE: February 8, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>Howard</u>	<u>Kidd</u>	<u>AHS</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 122 modifies statutory provisions relating to surrendered newborn infants. The bill increases the age at which an infant may be lawfully relinquished, from approximately seven days old to approximately 30 days old. The bill authorizes the placement of surrendered infants in a newborn safety device at a hospital, emergency medical services (EMS) station, or fire station, if such facility is staffed 24 hours per day. The bill provides specifications for the use of such devices.

The bill has no fiscal impact on state revenues or state expenditures.

The bill takes effect on July 1, 2021.

II. Present Situation:

Infant Safe Haven Laws

Every state legislature has enacted laws to address infant abandonment and endangerment in response to a reported increase in the abandonment of infants in unsafe locations, such as public restrooms or trash receptacles. Beginning with Texas in 1999, states have enacted these safe haven laws as an incentive for mothers in crisis to safely relinquish their babies at designated locations where the babies are protected and provided with care until a permanent home is found.¹

While there is great variability in the laws across states, safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from criminal liability

¹ See Infant Safe Haven Laws (Current through December 2016) available at <https://www.childwelfare.gov/pubPDFs/safehaven.pdf> (last visited Jan. 19, 2021).

and prosecution for child endangerment, abandonment, or neglect in exchange for surrendering the baby to a safe haven.²

According to the nonprofit organization known as the National Safe Haven Alliance (NSHA), 4,126 safe haven relinquishments have occurred since 1999 nationwide.³ Fifty-one relinquishments occurred in 2020.⁴ These statistics are unofficial estimates, as there is no federally mandated safe haven reporting requirement. Therefore, the NSHA relies on county and state reporting. Illegal abandonments have also occurred during that time span, with some newborns found alive and others deceased.

Surrender of Newborn Infants in Florida

The Florida Legislature enacted Florida's initial abandoned newborn infant law in 2000.⁵ The law created s. 383.50, F.S., and authorized the abandonment of a newborn infant, up to three days old or younger, at a hospital or a fire station and addressed: presumption of relinquishment of parental rights; implied consent to treatment; anonymity; and physical custody of the infant.⁶ The law also directed the Department of Health, in conjunction with the Department of Children and Families, to produce a media campaign to promote safe placement alternatives for newborn infants.

In 2001, the law was amended to authorize EMS stations, in addition to hospitals and fire stations, to be used as optional locations for the lawful relinquishment of a newborn infant.⁷ A firefighter, emergency medical technician, or paramedic is required to provide emergency medical services to the newborn infant to the extent he or she is trained to provide those services, and arrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services. Upon admitting a newborn infant, a hospital must immediately contact a licensed child-placing agency or alternatively contact the statewide central abuse hotline for the name of a licensed child-placing agency for purposes of transferring physical custody of the newborn infant. The receiving hospital must also notify the licensed child-placing agency that a newborn infant has been left with the hospital and when the agency can take physical custody of the child.⁸

In 2008, multiple provisions of statute were modified to refer to a "surrendered newborn infant" rather than "abandoned newborn infant." The three-day age limit for surrender of a newborn infant was increased to a seven-day age limit. Additionally, a provision was added to indicate that when an infant is born in a hospital and the mother expresses intent to leave the infant and not return, the hospital or registrar is directed, upon her request, to complete the infant's birth certificate without naming the mother.

² *Id.*

³ *See* Our Cause, National Safe Haven Alliance available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited Jan. 19, 2021).

⁴ *Id.*

⁵ Chapter 2000-188, Laws of Fla.

⁶ Section 383.50, F.S.

⁷ Chapter 2001-53, s. 15, Laws of Fla.

⁸ Section 383.50, F.S.

According to the NSHA, since 2000 there have been approximately 324 surrendered newborns in Florida. Of those, approximately 244 newborns were surrendered at hospitals and approximately 74 were surrendered at fire rescue or emergency medical service stations.⁹ In 2020, approximately 14 newborns were surrendered in Florida.¹⁰ On the following page is a table outlining the approximate number of surrendered newborns in Florida from 2000 through January 20, 2021.

⁹ Safe Haven for Newborns, *Safe Haven for Newborns Statistics* (updated Jan. 25, 2021) (on file with the Senate Committee on Health Policy).

¹⁰ *Id.*

Newborns surrendered since 2000¹¹			
County	Surrendered Safely	Abandoned in Unsafe Places	Total
Alachua	17	0	17
Bay	4	1	5
Brevard	5	2	7
Broward	38	8	46
Charlotte	4	0	4
Clay	4	0	4
Collier	3	1	4
Columbia	5	0	5
Duval	22	3	25
Escambia	7	0	7
Flagler	3	0	3
Hernando	8	0	8
Highlands	3	2	5
Hillsborough	10	2	12
Indian River	2	1	3
Lake	4	0	4
Lee	16	1	17
Leon	6	1	7
Manatee	7	1	8
Marion	4	2	6
Martin	1	0	1
Miami-Dade	51	8	59
Monroe	5	2	7
Nassau	2	0	2
Okaloosa	2	1	3
Orange	18	8	26
Osceola	2	0	2
Palm Beach	21	6	27
Pasco	2	1	3
Pinellas	7	3	10
Polk	6	3	9
Putnam	1	1	2
St. Johns	2	0	2
St. Lucie	3	0	3
Santa Rosa	6	1	7
Seminole	11	1	12
Sumter	0	1	1
Taylor	1	0	1
Volusia	10	1	11
Wakulla	1	0	1
TOTAL	324	62	386

¹¹ *Id.*

Safe Haven Baby Boxes

Safe Haven Baby Boxes, Inc. is a nonprofit corporation incorporated in Indiana.¹² The nonprofit has patented a device for receiving a surrendered baby,¹³ trademarked as a “Safe Haven Baby Box.”¹⁴ The federal Food and Drug Administration has determined that a Safe Haven Baby Box is not a medical “device” under the federal Food, Drug, and Cosmetic Act, and therefore is not required to comply with the requirements of the act.¹⁵

Ten babies have been surrendered inside Safe Haven Baby Boxes since the first was installed in 2016.¹⁶ There are 56 active baby boxes – 50 in Indiana, 4 in Ohio, 1 in Arkansas, and 1 in Florida.¹⁷ Florida’s Safe Haven Baby Box is located at the Martin Luther King, Jr., First Responder Campus in Ocala and was dedicated by their City Council on December 15, 2020.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 383.50, F.S., relating to treatment of a surrendered newborn infant. The bill revises the definition of “newborn infant” to increase the allowable age of a relinquished newborn infant from approximately seven days old to approximately 30 days old. The bill defines the term “newborn safety device,” as “a fixture installed in an exterior wall of a building which has an exterior point of access that locks and automatically triggers an alarm inside the building upon placement of a newborn infant inside and which has an interior point of access that allows individuals inside the building to safely retrieve the newborn infant.”

Currently, s. 383.50, F.S., provides for the relinquishment of a newborn from a parent to a firefighter, emergency medical technician, or paramedic at a fire station or emergency medical services station, or brings a newborn infant to an emergency room of a hospital. The bill authorizes a hospital, an EMS station, or a fire station, that is staffed 24 hours per day, to utilize a newborn safety device for accepting surrendered newborn infants if the device is:

- Physically part of the hospital, EMS station, or fire station;
- Located such that the interior point of access is in an area that is conspicuous and visible to facility employees; and
- Equipped with a dual alarm system connected to the physical location of the device.

Under the bill, facilities that use a newborn safety device are also required to:

¹² See United States Patent (dated Apr. 28, 2020) available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Patent%20.pdf?ver=1610398180477> (last visited Jan. 19, 2021).

¹³ *Id.*

¹⁴ See Trademark Certificate (registered Oct. 15, 2019) available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Trademark%20Certificate.pdf?ver=1610398180478> (last visited Jan. 19, 2021).

¹⁵ See Letter from U.S. Food and Drug Administration to Safe Haven Baby Boxes, Inc. (dated Feb. 15, 2019) available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/C180100.Letter.pdf?ver=1610398180478> (last visited Jan. 19, 2021).

¹⁶ See Safe Haven Baby Boxes available at <https://shbb.org/> (last visited Jan. 19, 2021).

¹⁷ See Our Donors, Safe Haven Baby Boxes available at <https://shbb.org/donors-sponsors> (last visited Jan. 19, 2021).

¹⁸ See Ocala to Become First Florida City to Install Safe Haven Baby Boxes, Health News Florida by Caitlyn McLaughlin and Jessica James (published Dec. 10, 2020) available at <https://health.wusf.usf.edu/health-news-florida/2020-12-10/ocala-to-become-first-florida-city-to-install-safe-haven-baby-boxes> (last visited Jan. 19, 2021).

- Check the device at least twice a day; and
- Test the device at least once a week to ensure that the alarm system is in working order.

The bill authorizes EMS stations and fire stations to accept newborn infants via a newborn safety device in addition to acceptance by a firefighter, an emergency medical technician or a paramedic, and to indicate that placement of a newborn infant in a newborn safety device is considered consent for treatment and transport of the infant.

The bill specifies that, except when there is actual or suspected child abuse or neglect, any person who leaves a newborn infant in a newborn safety device has the absolute right to remain anonymous, consistent with the current process for surrender of a newborn infant.

The bill clarifies that a criminal investigation shall not be initiated solely because a newborn infant is left at an EMS station or a fire station, unless there is actual or suspected child abuse or neglect, consistent with the current process for newborn infants surrendered at a hospital.

Section 2 amends s. 63.0423, F.S., to make conforming and technical changes and revise a cross-reference.

Section 3 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will need to fund the acquisition and installation of the new device.

C. Government Sector Impact:

Public sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will need to fund the acquisition and installation of the new device.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.50 and 63.0423.

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

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

None.

B. Amendments:

None.