

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 133 Surrendered Newborn Infants

SPONSOR(S): Harding and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 122

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	16 Y, 1 N	Woodruff	Brazzell
2) Health & Human Services Committee			

SUMMARY ANALYSIS

Florida law allows parents who are unwilling or unable to care for their infants to safely relinquish them at hospitals, fire stations, and emergency medical services stations. This 'safe haven law' allows parents to anonymously surrender infants up to seven days old and grants the parents immunity from criminal prosecution unless there is actual or suspected child abuse or neglect.

A newborn safety device, or baby box, provides a place for a parent in crisis to safely, securely, and anonymously surrender an unwanted newborn. The concept of a baby box has existed for centuries throughout Europe, and over 20 countries still utilize some form of a baby box today.

HB 133 increases the age that an infant may be surrendered from seven days old to 30 days old. The bill authorizes hospitals, emergency medical service stations, and fire stations that are staffed 24 hours a day to opt to utilize newborn safety devices, and specifies the requirements for such devices.

The bill also grants the Department of Health rulemaking authority to approve the newborn infant safety device used at a hospital, fire station or emergency medical services station.

The bill has no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Safe Haven Laws

Safe haven laws allow parents or agents of the parents to safely relinquish babies at designated locations while remaining anonymous, and confer immunity from criminal liability and prosecution for child endangerment, abandonment, or neglect.¹ The purpose of safe haven laws is to ensure that abandoned infants are left with those who can provide immediate care necessary for the children's safety and wellbeing.²

In 1999, Texas was the first state to enact safe haven legislation.³ Now each of the 50 states, the District of Columbia, and Puerto Rico all have variations of safe haven laws.⁴ In 11 states and Puerto Rico, only infants who are up to 72 hours old may be relinquished to a designated site, and in 19 states infants are accepted up to one month old.⁵ Additionally, 16 states and Puerto Rico require parents to surrender their infants only to a hospital, emergency medical services provider, or healthcare facility.⁶ In 27 states, fire stations are also designated as safe haven providers.⁷ Personnel at police stations or other law enforcement agencies may accept infants in 25 states.⁸

Thirty-five states and the District of Columbia expressly preserve the anonymity of the person relinquishing an infant.⁹

Newborn Safety Devices

For centuries, mothers throughout Europe have surrendered their babies in hatches or crib structures, commonly referred to as "foundling wheels" or "baby boxes," at the entrance of a place of worship, a charity organization, or hospital.¹⁰ The modern-day newborn safety device was created in South Africa in 1999, in which mothers placed their child in a hatch in a church wall and the door automatically locked, sending a signal to care workers inside.¹¹

¹ *Infant Safe Haven Laws*, Child Welfare Information Gateway (Dec. 2016), <https://www.childwelfare.gov/pubPDFs/safehaven.pdf>

² *Id.*

³ NY Legislative Counsel Bureau, *A Study of Infant Abandonment Legislation*, <https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP01-03.pdf> (last visited Feb. 4, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ *Supra* note 1.

⁷ *Id.*

⁸ *Id.*

⁹ *Infant Abandonment*, Guttmacher Institute (Feb. 2021), <https://www.guttmacher.org/state-policy/explore/infant-abandonment>.

¹⁰ Atsushi Asai, *Should We Maintain Baby Hatches in Our Society?*, BMC Med. Ethics (Feb. 22, 2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3586365/#B1>

¹¹ *Baby Boxes Allow Mothers to Drop-off Unwanted Children*, APOLITICAL (Aug. 22, 2019), https://apolitical.co/solution_article/baby-boxes-allow-mothers-to-drop-off-unwanted-children

Over 20 countries currently have some form of baby boxes, including Austria, Germany, Italy, Poland, Portugal, and Slovakia.¹² Approximately 200 baby boxes have been installed across Europe in the past decade.¹³

Safe Haven Baby Boxes

Safe Haven Baby Boxes, Inc. is a nonprofit corporation in Indiana.¹⁴ The nonprofit has patented a device for receiving a surrendered baby,¹⁵ trademarked as a “Safe Haven Baby Box”.¹⁶ 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.¹⁷

There are currently 56 Safe Haven Baby Boxes across five states.¹⁸

Florida Safe Haven Law

Florida enacted safe haven legislation in 2000 in response to tragedies of newborn abandonment at unsafe locations, such as public restrooms or trash receptacles.¹⁹ The law authorizes parents to surrender a newborn infant up to seven days old at a hospital, fire station or emergency medical service station. It creates a presumption that the parent consents to the termination of their parental rights²⁰ and for the transport and medical treatment for the child.²¹ The law expressly grants the parents a right to anonymity and to not be pursued, unless the parent seeks to reclaim the newborn infant.²² If the newborn infant is born in a hospital, the hospital registrars must complete the infant’s birth certificate without naming the mother, if she requests it and expresses an intent to leave without the infant and not return.²³ The law also grants the parents immunity from criminal prosecution unless there is actual or suspected abuse or neglect of the infant.²⁴

The Florida safe haven law requires hospitals, fire stations, and emergency medical services stations that are staffed with full-time firefighters or emergency medical technicians to accept any newborn infant left with a firefighter or emergency medical technician. The law does not specify any training required for personnel who might receive infants at these facilities, nor does it direct them on how to interact with individuals surrendering infants other than specifying that those relinquishing infants have a right to remain anonymous and not be pursued or followed unless the parent seeks to reclaim the infant. The law grants emergency medical technicians, paramedics and fire department staff immunity from criminal and civil liability, except in situations of negligence, when acting in good faith for a surrendered infant.²⁵

¹² European Commission, *Child Abandonment and Its Prevention*, http://ec.europa.eu/justice/grants/results/daphne-toolkit/content/child-abandonment-and-its-prevention_en (last visited Feb. 4, 2021).

¹³ Amber Hildebrandt, *The Revival of 'Baby Boxes' for Unwanted Infants*, CBC NEWS (May 07, 2013), <https://www.cbc.ca/news/canada/the-revival-of-baby-boxes-for-unwanted-infants-1.1357615>

¹⁴ United States Patent (dated Apr. 29, 2020), available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Patent%20.pdf?ver=1610398180477> (last visited Feb. 9, 2021).

¹⁵ *Id.*

¹⁶ 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 Feb 9, 2021).

¹⁷ 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 Feb. 9, 2021).

¹⁸ Safe Haven Baby Boxes, *Baby Box Locations*, <https://shbb.org/locations> (last visited Feb. 4, 2021).

¹⁹ S. 383.50, F.S.; see Ch. 2000-188, Laws of Fla.

²⁰ S. 63.0423, F.S.

²¹ S. 383.50, F.S.

²² S. 383.50(5), F.S.

²³ *Id.*

²⁴ S. 383.50(10), F.S.

²⁵ S. 383.50(3), F.S.

Since 2000, approximately 324 newborns have been surrendered at a safe haven in Florida. In that time, 62 infants are known to have been unsafely abandoned, of which 32 died.²⁶

Florida's Baby Box

In December, an Ocala fire department unveiled the first baby box installed in Florida.²⁷ The fire department utilizes the Safe Haven Baby Box. It is electronically monitored and equipped to notify 911 as soon as the outer door is open. Once a parent has placed the baby in the padded box, the door will automatically lock and a silent alarm is triggered alerting personnel that a baby needs to be picked up.²⁸ The box is similar to an incubator, with heating and cooling functions to keep the baby safe until help arrives.²⁹ The baby box cost approximately \$15,000 to install.³⁰

Florida Department of Health

The purpose of the Department of Health (DOH) is to protect and promote the health of all residents and visitors in Florida.³¹ Under current law, the DOH must:

- Identify, diagnose, and conduct surveillance of diseases and health conditions in the state and accumulate the health statistics necessary to establish trends.
- Implement interventions that prevent or limit the impact or spread of diseases and health conditions.
- Collect, manage, and analyze vital statistics and other health data to inform the public and formulate public health policy and planning.
- Maintain and coordinate preparedness for and responses to public health emergencies in the state.
- Provide or ensure the provision of quality health care and related services to identified populations in the state.
- Regulate health practitioners for the preservation of the health, safety, and welfare of the public.

DOH does not currently have any statutory function of approving any medical or other type of device.

When Florida's safe haven law was first passed in 2000, it required DOH to work in conjunction with the Department of Children and Families to produce a media campaign. This campaign promotes safe placement alternatives for newborn infants, informs the public of the confidentiality and limited immunity from criminal prosecution offered to a parent who leaves a newborn infant at a hospital or a fire station, educates parents of their rights to reclaim or claim their newborn infant within specified time periods, and publicizes adoption procedures.³² In accordance with specific appropriation, line 529, of the 2020-21 General Appropriations Act, DOH currently has a contract with the non-profit organization A Safe Haven for Newborns to provide statewide community outreach and awareness to prevent the loss of infant life by educating the public on where to obtain and the identification of safe venues for parents considering abandoning their infants.³³

²⁶ A Safe Haven for Newborns, Safe Haven Statistics, <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited Feb. 4, 2021).

²⁷ *Ocala Fire Rescue Unveils Florida's First Haven Baby Box* (Dec. 15, 2020), <https://www.ocalafl.org/Home/Components/News/News/13495/577?npage=3>

²⁸ Safe Haven Baby Boxes, *How Does It Work*, <https://shbb.org/resources> (last visited Feb. 4, 2021).

²⁹ Jennie Runevitch, *Safe Haven Baby Boxes: Here's How They Work*, WTHR-TV CHANNEL 13 (Oct. 18, 2019), <https://www.wthr.com/article/safe-haven-baby-boxes-heres-how-they-work>

³⁰ Austin L. Miller, *Ocala gets Florida's First Baby Box, A Safe Drop-Off When Parents Can't Care for Baby*, Ocala Star Banner (Dec. 16, 2020), <https://www.ocala.com/story/news/2020/12/16/baby-box-safe-haven-ocala-florida/3912696001/>.

³¹ S. 20.43, F.S.

³² Ch. 2000-188, Laws of Fla.

³³ Florida Department of Health Agency Bill Analysis for HB 133; *See also* 2019, HB 5001, General Appropriations Act in specific appropriations 529.

Effect of Proposed Changes

HB 133 amends Florida's safe haven law to increase the infant age limit for a parent to surrender a newborn infant at a safe haven location from seven days old to 30 days old. This gives parents more time to make this decision, possibly preventing the unsafe abandonment of infants older than seven days.

The bill also authorizes the use of newborn safety devices, or baby boxes, at the designated safe haven sites, if they are staffed 24 hours a day.

The bill also requires the Department of Health to approve the newborn infant safety device used at a hospital, fire station or emergency medical services station.

The boxes must be physically part of the hospital, fire station or emergency medical services station, and installed in an exterior wall. The boxes must have an exterior point of access that locks. The boxes must have an interior point of access in an area that is conspicuous and visible to facility employees. Placing an infant inside the box must automatically trigger an alarm inside the building to alert individuals inside the building to safely retrieve the newborn infant.

The bill requires facilities that use a newborn safety device to check the device at least twice daily and test the device at least once weekly to ensure that the alarm system is in working order.

The bill makes all the provisions in the current safe haven law applicable to surrendering an infant using a baby box, including parental consent for the child's transport and medical treatment, consent to termination of parental rights, the right to anonymity and non-pursuit, and the immunities for both the parents and the receiving facility's staff.

B. SECTION DIRECTORY:

Section 1: Amends s. 383.50, F.S., relating to the treatment of a surrendered newborn infant.

Section 2: Amends s. 63.0423, F.S., relating to procedures with respect to surrendered newborn infants.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local government facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will incur the cost of acquisition and installation of the new device. Costs may vary by the newborn safety device used. For example, the use of the Safe Haven Safety Box costs approximately \$15,000 to install.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will incur the cost of acquisition and installation of the new device. Costs may vary by the newborn safety device used. For example, the use of the Safe Haven Safety Box costs approximately \$15,000 to install.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 133 requires the Department of Health to approve the newborn infant safety device used at a hospital, fire station or emergency medical services station.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Health does not approve medical or other type of devices. The department does not have any division or office with the expertise to implement any rules or guidance to govern approval and inspection of these devices.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES