

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 Committee on Children, Families, and Elder Affairs

BILL: SB 1306

INTRODUCER: Senator Harrell

SUBJECT: Placement of Surrendered Newborn Infants

DATE: March 20, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Favorable
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1306 amends s. 63.039, F.S., to require licensed child-placing agencies (CPA) that accept surrendered infants for adoption to establish and maintain a registry of prospective adoptive parents of infants. This registry must:

- Maintain the names and addresses of prospective adoptive parents who have received a favorable preliminary home study and indicated a desire to only adopt a newborn infant surrendered under s. 383.50, F.S.
- Remove the name and address of prospective adoptive parents from the registry when the favorable home study is no longer valid.

The bill amends s. 63.0423, F.S., and updates the procedures that a CPA must follow with respect to surrendered infants. A CPA must immediately place a surrendered infant with an identified prospective adoptive parent from their registry or the registry of another CPA without seeking an order for emergency custody. The bill makes that prospective adoptive parent the guardian of the surrendered infant, pending termination of parental rights and finalization of adoption, or until ordered otherwise. The bill requires a CPA to seek an order for emergency custody only if a prospective adoptive parent from the registry is not available and requires the court to order the CPA to make all reasonable efforts to identify an appropriate prospective adoptive parent as soon as practicable, including contacting all other CPAs in this state to facilitate the identification of a prospective adoptive parent from their registries.

The bill also amends s. 383.50, F.S., to make conforming changes to the required processes and procedures for the treatment of surrendered newborn infants by a hospital, emergency medical services station, or fire station.

The bill may have an indeterminate fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

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 and prosecution for child endangerment, abandonment, or neglect in exchange for surrendering the baby to a safe haven.² Most states designate hospitals, emergency medical services providers, health care facilities, and fire stations as a safe haven. In ten states, emergency medical personnel responding to 911 calls may accept an infant.³ Laws in nine states, allow a parent to voluntarily deliver the infant to a newborn safety device that meets certain safety standards.⁴

The age in which a baby may be lawfully surrendered also varies significantly from state to state. Approximately 23 states accept infants up to 30 days old.⁵ Ages in other states range from up to 72 hours to 1 year.⁶

According to the nonprofit organization known as the National Safe Haven Alliance (NSHA), 4,505 safe haven relinquishments occurred during 1999-2021 nationwide,⁷ and 4,709 nationally as of this writing.⁸ Illegal abandonments have also occurred during that time span, with some newborns found alive and others deceased. These statistics are unofficial estimates, as there is no federally mandated safe haven report requirement.

¹ See U.S. Department of Health and Human Services Administration for Families, Children's Bureau, Child Welfare Information Gateway, *Infant Safe Haven Laws*, 2022 (Current through September 2021), available at <https://www.childwelfare.gov/pubPDFs/safehaven.pdf> (last visited March 13, 2023).

² *Id.*

³ *Id.* Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, New Hampshire, Vermont, and Wisconsin.

⁴ *Id.* Arkansas, Indiana, Kentucky, Louisiana, Maine, Missouri, Ohio, Oklahoma, and Pennsylvania.

⁵ *Id.* Arizona, Arkansas, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, and West Virginia.

⁶ *Id.*

⁷ See National Safe Haven Alliance, *2021 Impact Report*, available at https://www.nationalsafehavenalliance.org/files/ugd/d98b71_3b9795ec5f784b93aba04a6ad560e2f4.pdf (last visited March 13, 2023).

⁸ See Nation Safe Haven Alliance, available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited March 13, 2023).

Surrender of Newborn Infants in Florida

The Florida Legislature enacted Florida's initial abandoned newborn infant law in 2000.⁹ 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.¹⁰

In 2001, s. 383.50, F.S., was amended to authorize EMS stations, in addition to hospitals and fire stations, as optional locations for the lawful relinquishment of a newborn infant.¹¹

In 2008, multiple provisions of the section were modified to refer to "surrendered newborn infant" rather than "abandoned newborn infant."¹² 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.

Under current law a firefighter, emergency medical technician, or paramedic at a fire station or EMS station that accepts a surrendered newborn infant must arrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services.¹³ Upon admitting a surrendered newborn infant, each hospital in this state with emergency services shall provide all necessary emergency services and care for the surrendered newborn infant and immediately contact a local licensed child-placing agency (CPA) or the Department of Children and Families' (DCF) statewide abuse hotline for the name of a CPA and transfer custody of the surrendered newborn infant.¹⁴

A Safe Haven for Newborns¹⁵ reports that over the past 23 years approximately 424 newborns have been surrendered or abandoned in Florida.¹⁶ Since 2000, 361 newborns have been surrendered in a safe haven hospital, emergency medical services station, or a fire station, and approximately 63 newborns have been abandoned in unsafe places.¹⁷ In 2022, 14 newborns were surrendered to a safe haven and none were abandoned in an unsafe place.¹⁸

⁹ Chapter 2000-188, L.O.F.

¹⁰ Section 383.50, F.S.

¹¹ Chapter 2001-53, s. 15, L.O.F.

¹² Chapter 2008-90, s. 4, L.O.F.

¹³ Sections 383.50(3) and 395.1041, F.S.

¹⁴ Sections 395.50(4) and 395.50(7), F.S.

¹⁵ A Safe Haven for Newborns is a program of The Florida M. Silverio Foundation, a 501(c)(3) organization located in Miami, Florida.

¹⁶ A Safe Haven for Newborns, *Safe Haven Statistics*, (last updated February 9, 2023), available at <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited March 13, 2023).

¹⁷ *Id.*

¹⁸ *Id.*

The Florida Adoption Act

The Florida Adoption Act, ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities:¹⁹

- DCF;
- CPAs licensed by DCF under s. 63.202, F.S.;
- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida acting as an adoption intermediary; or
- A child-placing agency licensed in another state that is licensed by the DCF to place children in Florida.

Surrendered Newborn Infants under the Florida Adoption Act

Section 63.0423, F.S., details the procedures and requirements for the handling of surrendered infants under the Florida Adoption Act. The law requires a licensed child-placing agency (CPA) to seek an immediate order from the circuit court for emergency custody of the surrendered newborn to remain in effect until the court orders approval of placement with a prospective adoptive parent, at which time the prospective adoptive parent becomes the guardian pending the termination of parental rights and finalization of adoption.²⁰ The law explicitly bars the DCF from taking custody of a properly surrendered infant unless reasonable efforts by the hospital to contact a CPA to accept the surrendered infant have not been successful.²¹

Section 63.039, F.S., details the duties of adoption entities to a prospective adoptive parent to protect and promote the well-being of persons being adopted, his or her parents, and prospective adoptive parents. The section requires certain disclosures, consents, and petitions be filed; termination of parental rights to be obtained; and time limits be maintained.

Current law related to the surrender of newborn infants does not mention or require any specific timelines or processes for the identification or transfer of custody to a prospective adoptive parent. However, the law does contemplate that a CPA may *immediately seek to place* a surrendered infant with a prospective adoptive parent.²² There is no requirement of CPAs to communicate with each other, maintain any form of registry or database, or otherwise coordinate identification of and placement with prospective adoptive parents statewide.

III. Effect of Proposed Changes:

The bill amends s. 63.039, F.S., to require a CPA to establish and maintain a registry of prospective adoptive parents of infants. This registry must:

- Maintain the names and addresses of prospective adoptive parents who have received a favorable preliminary home study and indicated a desire to only adopt a newborn infant surrendered under s. 383.50, F.S.

¹⁹ Section 63.032(3), F.S.

²⁰ Section 63.0423(2), F.S.; The prospective adoptive parent's guardianship is subject to the right of the licensed child-placing agency to remove the infant if deemed to be in the best interest of the child.

²¹ Section 63.0432(4), F.S.

²² *Id.*

- Remove the name and address of such prospective adoptive parents from the registry when the favorable home study is no longer valid.

The bill bars a CPA from transferring the cost of establishing and maintaining the registry to a prospective adoptive parent through the cost of the home study or the cost of adoption of a newborn under this section.

The bill amends 63.0423, F.S., and updates the procedures that a CPA must follow with respect to surrendered infants. Upon taking custody of a surrendered infant, a CPA must immediately place the surrendered infant with an identified prospective adoptive parent. The bill makes that prospective adoptive parent the guardian of the surrendered infant, pending termination of parental rights and finalization of adoption or until ordered otherwise. This changes the current requirement that a CPA must immediately seek an emergency custody order upon surrender of an infant.

The bill requires a CPA to seek an order from the circuit court for emergency custody only if a prospective adoptive parent from the registry is not available. The bill requires the emergency order to require the CPA to make all reasonable efforts to identify an appropriate prospective adoptive parent as soon as practicable, including contacting all other CPAs in this state to facilitate the identification of a prospective adoptive parent from their registries.

The bill also amends s. 383.50, F.S., that details the required processes and procedures for the treatment of surrendered newborn infants by a hospital, emergency medical services station, or fire station to conform with the changes in the bill.

The bill takes effect July 1, 2023.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely have an indeterminate negative fiscal impact on private sector CPAs to implement and maintain the surrendered infant registry.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 63.039, 63.0423, and 383.50 of the Florida Statutes.

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.