

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: CS/SB 306

INTRODUCER: Children, Families, and Elder Affairs and Senator Harrell

SUBJECT: Placement of Surrendered Newborn Infants

DATE: January 31, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	FP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Florida law allows a parent who is unwilling or unable to care for their newborn infant to safely relinquish the infant at a specified, safe, location without fear of criminal liability. The “safe haven law” allows parents to anonymously surrender a newborn infant at a hospital, fire station, or emergency medical services station and grants the parent immunity from criminal prosecution unless there is actual or suspected child abuse or neglect.

CS/SB 306 requires each Community-Based Care (CBC) to create and maintain a registry of prospective adoptive parents who have received a favorable home study and are willing to adopt a surrendered newborn infant. The bill requires CBCs to choose the licensed child-placing agencies that can take physical custody of a surrendered newborn infant on a rotating basis.

The bill has no fiscal impact on state government and an indeterminate, but likely, insignificant fiscal impact on the private sector. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

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 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

Although policy choices vary among states, safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and shielded from criminal liability, unless there is evidence of abuse or neglect. Most states designate hospitals, emergency medical service providers, health care facilities, and fire stations as a safe haven.² Forty-three states authorize emergency services personnel to accept an infant or allow relinquishment through the 911 emergency system.³ Laws in nine states allow a parent to voluntarily deliver the infant to a newborn safety device that meets certain safety standards.⁴

According to the nonprofit organization National Safe Haven Alliance, almost 5,000 safe haven relinquishments have occurred since 1999.⁵

Florida Safe Haven Law

The Legislature enacted Florida's safe haven law in 2000. The law created s. 383.50, F.S., and authorized the surrender of a newborn infant at a hospital or fire station. In 2001, the Legislature amended s. 383.50, F.S., to authorize emergency medical services stations (EMS), in addition to hospitals and fire stations, to receive surrendered newborn infants.⁶

Current law authorizes a parent to surrender a newborn infant up to seven days old at a hospital, fire station, or emergency medical services station. The law expressly grants a parent surrendering a newborn infant the right to anonymity and to not be pursued or followed unless a

¹ U.S. Department of Health and Human Services Administration for Families, Children's Bureau, Child Welfare Information Gateway, *Infant Safe Haven Laws*, 2022, available at <https://www.childwelfare.gov/pubPDFs/safehaven.pdf> (last viewed Jan. 25, 2024).

² *Id.* See also Guttmacher Institute, *Infant Abandonment*, available at <https://www.guttmacher.org/state-policy/explore/infant-abandonment> (last visited Jan. 25, 2024).

³ *Id.* Ten states allow for emergency medical personnel responding to 911 calls to accept an infant (Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, New Hampshire, Vermont, and Wisconsin).

⁴ *Id.* Arkansas, Indiana, Kentucky, Louisiana, Maine, Missouri, Ohio, Oklahoma, and Pennsylvania. Newborn safety devices may also be called "baby boxes." Safe Haven Baby Boxes are also found in Florida, New Mexico, Tennessee, Mississippi, North Carolina, Iowa, and West Virginia. See Safe Haven Baby Boxes, *Locations*, available at <https://www.shbb.org/location> (last visited Jan. 25, 2024).

⁵ National Safe Haven Alliance, *2022 Impact Report*, available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited Nov. 21, 2023).

⁶ Chapter 2000-188, Laws of Fla.; Chapter 2001-52, Laws of Fla.

parent seeks to reclaim the newborn infant.⁷ The law also grants a surrendering parent immunity from criminal prosecution unless there is actual or suspected child abuse or neglect.⁸

Since 2000, approximately 376 newborns have been surrendered at safe haven locations in Florida. In that time, 64 infants are known to have been unsafely abandoned.⁹

Procedures for Surrendered Newborn Infants

Florida's safe haven law outlines procedures for what happens after a newborn is surrendered. The 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 so that the newborn infant can receive any necessary immediate medical treatment, including transport to a hospital.¹⁰ Upon admitting a surrendered newborn infant, the hospital must provide all necessary emergency services and care for the surrendered newborn infant and immediately contact a local licensed child-placing agency¹¹ or the Department of Children and Families' (DCF) statewide central abuse hotline (Hotline) for the name of a local licensed child-placing agency and transfer custody of the surrendered newborn infant to the child-placing agency.¹²

A child-placing agency that takes physical custody of a surrendered newborn infant pursuant to s. 383.50, F.S., must:

- Request assistance from law enforcement to investigate whether the infant is a missing child within 24 hours of taking custody of the infant.¹³
- Immediately seek an order for emergency custody of the infant.¹⁴ The emergency order stays in effect until the court approves of a placement in a prospective adoptive home, at which time the prospective adoptive parent becomes the guardian of the infant pending termination of parental rights and finalization of adoption.¹⁵ The child-placing agency may remove the infant from the prospective adoptive if removal is in the child's best interest.¹⁶

⁷ Section 383.50(5), F.S.

⁸ Section 383.50, F.S.

⁹ A Safe Haven for Newborns, *Safe Haven for Newborns, Truly Making a Difference*, available at <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/#:~:text=376%20newborns%20not%20abandoned%20in%20Florida%2C%20left%20at,were%20helped%20to%20successfully%20regain%20their%20parental%20rights> (last visited Jan. 25, 2024).

¹⁰ Section 383.50, F.S.

¹¹ Section 39.01(42), F.S., defines "licensed child-placing agency" as a person, society, association, or institution licensed by the DCF to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

¹² Sections 395.50(4) and 395.50(7), F.S.

¹³ Section 63.0423(3), F.S.

¹⁴ Section 63.0423(2), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

Florida's Child Welfare System

The DCF contracts with local non-profit agencies, known as community-based care lead agencies (CBCs), to provide child welfare services for children in the community. There are 17 CBCs statewide that provide services throughout Florida's 20 judicial circuits.¹⁷ The CBCs are responsible for providing adoption services for children in the foster care system by facilitating services for prospective adoptive families and conducting adoptive home studies.

A child-placing agency is an entity that receives a child and arranges for the child's placement in a family foster home, residential child-caring agency, or adoptive home.¹⁸ The DCF Office of Quality and Innovation (Office) is responsible for licensing child-placing agencies.¹⁹ The Office annually inspects all licensed child-placing agencies and investigates complaints.²⁰

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 63.032, F.S., to add the definition of "community-based care lead agency" or "lead agency" to the section as the same meaning as provided in s. 409.986(3), F.S.²¹

Section 2 of the bill amends s. 63.0423, F.S., to require each CBC to establish and maintain a registry of prospective adoptive parents that have passed a home study under s. 63.092, F.S., and have indicated a desire to adopt a surrendered newborn infant. The bill requires the registries to include the names, addresses, telephone numbers, and email addresses of prospective adoptive parents as well as any known licensed child-placing agency representing the prospective adoptive parent. The bill requires the CBCs to remove the information of a prospective adoptive parent when their home study is no longer valid, or they request removal from the registry.

The bill requires the CBCs to provide prospective adoptive parents information on the private adoption process and referrals to local licensed child-placing agencies that perform surrendered newborn infant adoptions, at the prospective adoptive parent's request.

The bill prohibits a CBC from transferring the cost of establishing and maintaining the registry to prospective adoptive parents.

The bill requires each CBC lead agency registry to maintain a rotating list of licensed child-placing agencies that are willing to take physical custody of surrendered newborn infant. The bill requires the child-placing agencies to report the following information to the CBC lead agency within 30 days after the final adoption order:

¹⁷ The Department of Children and Families, *Lead Agency Information*, available at: <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited Jan. 25, 2024).

¹⁸ Section 39.01(42), F.S.

¹⁹ The Department of Children and Families, *Child-Placing Agency Licensing*, available at: <https://www.myflfamilies.com/services/licensing/child-placing-agency-licensing> (last visited Jan. 25, 2024).

²⁰ Rule 65C-15, F.A.C.

²¹ Section 409.986(3), F.S. defines community-based care lead agency or lead agency as a single entity with which the DCF has a contract for the provision of care for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits. The secretary of the DCF may authorize more than one eligible lead agency within a single county if doing so will result in more effective delivery of services to children.

- The length of time between taking physical custody of the surrendered newborn infant and the issuance of a final adoption order.
- Whether the named prospective adoptive parent from the registry adopted the surrendered newborn infant.
- The affidavit of and order approving adoption expenses.

The bill requires each CBC lead agency to utilize the registry to connect the child-placing agency that has physical custody of the surrendered newborn infant with a prospective adoptive parent from the registry. The bill requires the CBC lead agency to utilize another CBC lead agency's registry if there is no appropriate prospective adoptive parent on the CBC lead agency's registry. The bill requires the CBCs to name the licensed child-placing agency that will take physical custody of the surrendered newborn infant.

Section 3 of the bill amends s. 383.50, F.S., to define community-based care lead agency for use in this section as it is in s. 409.986(3). The bill makes conforming changes to require hospitals to notify the CBC lead agency of a surrendered newborn infant, and to require the CBC lead agency to name a licensed child-placing agency that can take physical custody of the surrendered newborn infant.

Section 4 of the bill amends s. 39.201, F.S., to require the Department of Children and Families Abuse Hotline to provide the person making a report of a surrendered newborn infant from a safe haven provider with the name of a CBC lead agency, if the report does not indicate child abuse, abandonment, or neglect. The bill requires the CBC lead agency to then choose a licensed child-placing agency from its registry to accept physical custody of the surrendered newborn infant.

Section 5 provides an effective date of July 1, 2024.

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:**Community-Based Care Lead Agencies**

Because the number of potential surrendered newborn infants is unknown, there is an indeterminate, but likely insignificant, negative fiscal impact on CBCs. The bill requires a CBC to establish and maintain a registry of prospective adoptive parents and requires the CBC to perform all duties related to a surrendered newborn infant, to include placement, care, and adoption. However, numbers of surrendered newborn infants are extremely low; only 376 in the past 24 years.²²

C. Government Sector Impact:

None. Surrendered newborn infants are not considered abandoned or dependent children under Ch. 39, F.S., therefore child welfare specific funding received through contract with the DCF and federal Title IV-E dollars are not able to be used to implement the requirements of this bill.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 63.032, 63.0423, 383.50, and 39.201 of the Florida Statutes.

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

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

CS by Children, Families, and Elder Affairs on January 30, 2024:

The CS makes the following changes:

- Removes language that shifted the responsibility of custody and placement of a surrendered newborn infant from a child-placing agency to a CBC lead agency.

²² *Supra* note 9.

²³ The Department of Children and Families, *SB 306 Agency Bill Analysis* (December 9, 2023), pp. 5-7 (on file with the Senate Committee on Children, Families, and Elder Affairs).

CS/SB 306 requires CBCs to choose the licensed child-placing agency that may take custody of a surrendered newborn infant.

- Removes changes to s. 63.039, F.S., that requires the clerk of court to forward any order that imposes sanctions related to CBCs to the DCF, maintaining current law. This change reflects that child-placing agencies will still be responsible for the custody of surrendered newborn infants.
- Requires hospitals to immediately contact the local CBC lead agency, rather than the licensed child-placing agency, upon admitting a surrendered newborn infant. This allows the CBC to choose a licensed child-placing agency that can take custody of the surrendered newborn infant.

B. Amendments:

None.