

**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.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 306

INTRODUCER: Senator Harrell

SUBJECT: Placement of Surrendered Newborn Infants

DATE: January 29, 2024      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rao	Tuszynski	CF	<b>Pre-meeting</b>
2.	_____	_____	JU	_____
3.	_____	_____	FP	_____

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**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.

The Department of Children and Families’ central abuse hotline must receive reports involving surrendered newborn infants and provide the reporter with the name of a local licensed child-placing agency for transfer of custody and placement responsibility if the report does not indicate child abuse, abandonment, or neglect.

SB 306 shifts the responsibility of custody and placement of a surrendered newborn infant from a child-placing agency to a community-based care lead agency (CBC). The bill requires each 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. Each CBC is required to utilize its registry during the placement of a newborn infant and reference other CBC registries to locate alternative adoptive placements when it is in the best interest of the child.

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.<sup>1</sup>

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.<sup>2</sup> Forty-three states authorize emergency services personnel to accept an infant or allow relinquishment through the 911 emergency system.<sup>3</sup> Laws in nine states allow a parent to voluntarily deliver the infant to a newborn safety device that meets certain safety standards.<sup>4</sup>

According to the nonprofit organization National Safe Haven Alliance, almost 5,000 safe haven relinquishments have occurred since 1999.<sup>5</sup>

### *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.<sup>6</sup>

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

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<sup>1</sup> 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).

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

<sup>3</sup> *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).

<sup>4</sup> *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).

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

<sup>6</sup> Chapter 2000-188, Laws of Fla.; Chapter 2001-52, Laws of Fla.

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

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.<sup>9</sup>

### ***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.<sup>10</sup> 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 agency<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup>
- Immediately seek an order for emergency custody of the infant.<sup>14</sup> 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.<sup>15</sup> The child-placing agency may remove the infant from the prospective adoptive if removal is in the child's best interest.<sup>16</sup>

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<sup>7</sup> Section 383.50(5), F.S.

<sup>8</sup> Section 383.50, F.S.

<sup>9</sup> 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).

<sup>10</sup> Section 383.50, F.S.

<sup>11</sup> 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.

<sup>12</sup> Sections 395.50(4) and 395.50(7), F.S.

<sup>13</sup> Section 63.0423(3), F.S.

<sup>14</sup> Section 63.0423(2), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *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.<sup>17</sup> 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.<sup>18</sup> The DCF Office of Quality and Innovation (Office) is responsible for licensing child-placing agencies.<sup>19</sup> The Office annually inspects all licensed child-placing agencies and investigates complaints.<sup>20</sup>

### 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 Ch. 63, F.S., to conform with the changes made throughout the bill that shifts the duties from licensed child-placing agencies to community-based care lead agencies (CBCs). This change will increase the responsibilities of CBCs related to a surrendered newborn infant and reduce those responsibilities for licensed child-placing agencies.

**Section 2** of the bill amends s. 63.069, 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 and requires the CBCs to keep this contact information until their home study is no longer valid, or they request removal from the registry.

The bill prohibits a CBC from transferring the cost of establishing and maintaining the registry to prospective adoptive parents through the cost of the home study or the cost of the adoption.

The bill requires the clerk of court to forward to DCF any order that imposes sanctions related to the CBCs, rather than child-placing agencies.

**Section 3** of the bill amends s. 63.0423, F.S., by shifting the entity responsible for surrendered newborn infants from licensed child-placing agencies to CBCs. The bill requires CBCs, rather than licensed child-placing agencies, to:

- Assume responsibility for the medical and other costs associated with the emergency services and care of the surrendered newborn infant from the time the CBC takes physical custody of the surrendered newborn infant.

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<sup>17</sup> 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).

<sup>18</sup> Section 39.01(42), F.S.

<sup>19</sup> 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).

<sup>20</sup> Rule 65C-15, F.A.C.

- Immediately seek an order from the circuit court for emergency custody of the surrendered newborn infant.
- Request assistance from law enforcement officials to determine if the surrendered newborn infant is a missing child within 24 hours after taking physical custody of the surrendered newborn infant.
- Conduct the proceedings for the termination of parental rights and subsequent adoption of a surrendered newborn infant left at a hospital, emergency medical services station, or fire station.

The bill requires CBCs to utilize the registry of prospective adoptive parents to determine a placement for a surrendered newborn infant and allows the CBC to move a surrendered newborn infant to another placement if the removal is deemed to be in the best interest of the child. If a CBC cannot find a prospective adoptive placement for the surrendered newborn infant on its registry, the bill requires the CBC to contact another CBC and attempt to place the infant with a prospective adoptive parent on that CBC's registry.

The bill prohibits CBCs from attempting to pursue, search for, or notify the parent who surrenders the newborn infant, unless there is actual or suspected child abuse or neglect.

The bill prohibits the DCF from assuming custody of the surrendered newborn infant without reasonable efforts to contact a CBC to accept the infant.

**Section 4** of the bill amends s. 383.50, F.S., to require hospitals to immediately contact the local CBC to transfer physical custody of a surrendered newborn infant, rather than a licensed child-placing agency or the Hotline.

**Section 5** of the bill amends s. 39.201, F.S., to reflect the shift in the entity responsible for a surrendered newborn infant after the Hotline receives a report of a surrendered newborn infant. If the report does not indicate child abuse, abandonment, or neglect, the bill requires the Hotline to provide the person making the report with the name of a local CBC that is required to accept physical custody of and to place surrendered newborn infants, rather than a licensed child-placing agency.

The bill requires DCF to provide names of eligible CBCs on a rotating basis.

**Section 6** 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.<sup>21</sup>

**Child-Placing Agencies**

There is also an indeterminate, but likely insignificant, negative fiscal impact on child placing agencies that currently receive, place, and perform surrendered newborn infant adoptions. The bill removes all duties related to a surrendered newborn infant from these private entities. These child-placing agencies will no longer be able to bill for or receive income from prospective adoptive placements. However, numbers of surrendered newborn infants are extremely low; only 376 in the past 24 years.<sup>22</sup>

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.<sup>23</sup>

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<sup>21</sup> *Supra* note 9.

<sup>22</sup> *Id.*

<sup>23</sup> 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).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends ss. 63.032, 63.039, 63.0423, 383.50, and 39.201 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.