

**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 Health Regulation Committee

**BILL:** CS/SB 1454

**INTRODUCER:** Health Regulation Committee and Senator Garcia

**SUBJECT:** Treatment of Surrendered Newborn Infants

**DATE:** April 6, 2011                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Stovall	HR	<b>Fav/CS</b>
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill amends Florida Statutes to create provisions relating to the Medicaid application process for the birth mother of a surrendered newborn infant born in a hospital. The bill requires a hospital assisting the birth mother with a Medicaid application to provide notification to the mother about the application process and to obtain a signed acknowledgment. The bill authorizes the hospital to seek applicable reimbursement from the Medicaid program if Medicaid eligibility is affirmed. The bill authorizes the hospital to seek charity care status for services relating to labor and delivery of the surrendered infant if the services are not reimbursable under Medicaid. The bill prohibits the hospital from seeking payment from the mother of a surrendered newborn infant or any individual financially responsible for the mother.

This bill substantially amends the following sections of the Florida Statutes: 383.50 and 409.911.

## II. Present Situation:

### Safe Haven Laws

Infant “safe haven” legislation has been enacted in most states as “an incentive for mothers in crisis to safely relinquish their babies to designated locations where the babies are protected and provided with medical care until a permanent home is found.”<sup>1</sup> Safe haven laws generally allow the parent to remain anonymous and avoid prosecution for abandonment or neglect in exchange for safely surrendering the baby.<sup>2</sup>

Florida passed newborn safe haven legislation in 2000.<sup>3</sup> Regarding the treatment of a surrendered newborn infant, current Florida law in s. 383.50, F.S., provides:

- The term “newborn infant” means a child who a licensed physician reasonably believes is approximately 7 days old or younger at the time the child is left at a hospital, emergency medical services station, or fire station.
- The parent who leaves the newborn infant is presumed to have intended to leave the newborn infant and consented to termination of parental rights. If a parent seeks to claim the newborn after surrendering the infant, this presumption can be reversed until a Florida circuit court enters a judgment to terminate parental rights.
- Each emergency medical services station or fire station staffed with full-time firefighters, emergency medical technicians, or paramedics is required to accept any newborn infant left with a firefighter, emergency medical technician, or paramedic. Such personnel are required to provide emergency medical services to the extent he or she is trained to provide those services and to arrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services.
- Except when there is actual or suspected child abuse or neglect, any parent who surrenders a newborn infant and expresses intent to leave the newborn infant and not return, has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed unless the parent seeks to reclaim the newborn infant. When an infant is born in a hospital and the mother expresses intent to leave the infant and not return, upon the mother’s request, the hospital or registrar shall complete the infant’s birth certificate without naming the mother on the birth certificate.
- Any newborn infant admitted to a hospital in accordance with these provisions is presumed eligible for coverage under Medicaid, subject to federal rules.<sup>4</sup>
- A criminal investigation will not be initiated solely because a newborn infant is left at a hospital under these provisions unless there is actual or suspected child abuse or neglect.

The Department of Children and Families (DCF) does not collect statistical data that specifies how many infants come into state care after being surrendered under s. 383.50, F.S. According to the Gloria M. Silverio Foundation’s website, “A Safe Haven for Newborns,” 11 infants were left

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<sup>1</sup> Child Welfare Information Gateway, Infant Safe Haven Laws (May 2010), available at [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/safehaven.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/safehaven.pdf) (last visited March 17, 2011).

<sup>2</sup> *Id.*

<sup>3</sup> See s. 1, ch. 2000-188, Laws of Florida.

<sup>4</sup> See s. 383.50(8), F.S.

at safe havens (hospitals, emergency medical service stations, or fire stations) in Florida in 2010. A total of 156 newborns have been surrendered since the implementation of the law in 2000.<sup>5</sup>

If surrendered infants come under state care, there are provisions in DCF policy for expediting Medicaid determinations for emergency shelter applications. Eligibility is retroactive to the date the DCF receives such an application.

### **Charity Care**

Florida Statutes define “charity care” or “uncompensated charity care” to mean:

That portion of hospital charges reported to the Agency for Health Care Administration for which there is no compensation, other than restricted or unrestricted revenues provided to a hospital by local governments or tax districts regardless of the method of payment, for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 200 percent of the federal poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal poverty level for a family of four be considered charity.<sup>6</sup>

A hospital’s level of charity care is used in several ways to determine the hospital’s eligibility to receive funding from the Medicaid program or other sources designed to compensate hospitals for providing a higher-than-average amount of care to Medicaid recipients and other low-income individuals or uncompensated care.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 383.50, F.S., to provide that when an infant is born in a hospital and the mother expresses intent to leave the infant and not return, if the mother considers applying for Medicaid with the assistance of the hospital, the hospital is required to:

- Notify the mother that the act of applying for Medicaid will cause her personal information included on the Medicaid application to be submitted to the DCF and that she will be contacted by DCF or the Medicaid program, or both, about her eligibility status;
- Confirm that the mother who wishes to apply for Medicaid understands the notification by obtaining her signature on a written acknowledgment of having received the notice, if she chooses to apply.

The bill provides that the hospital is authorized to seek applicable reimbursement from Medicaid for care provided to a surrendered newborn and the infant’s mother related to labor and delivery of the infant if the infant is determined to be Medicaid-eligible but the mother has either not applied for Medicaid or has been deemed not eligible for Medicaid. For such care not

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<sup>5</sup> *Safe Haven for Newborns Statistics*, available at [http://www.asafehavenfornewborns.com//index.php?option=com\\_content&view=article&id=63&Itemid=165](http://www.asafehavenfornewborns.com//index.php?option=com_content&view=article&id=63&Itemid=165) (last visited March 17, 2011).

<sup>6</sup> See s. 409.911(1)(c), F.S.

reimbursable under Medicaid, the hospital is authorized to seek charity care status for that care under s. 409.911(1)(c), F.S.

The bill prohibits the hospital from seeking payment for such care from the mother of a surrendered newborn infant or from any individual financially responsible for the mother of a surrendered newborn infant.

**Section 2** amends s. 409.911(1)(c), F.S., to redefine “charity care” to include care provided by a hospital to a surrendered newborn infant and the mother of a surrendered newborn infant under s. 383.50(5)(b), F.S., for which the hospital has received no compensation.

**Section 3** provides an effective date for the bill of July 1, 2011.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill could help protect the anonymity of a woman who surrenders her newborn infant when the baby is born in a hospital by ensuring she is aware ahead of time that if she applies for Medicaid, her personal information will be submitted to the state and the state will contact her. Such efforts to contact the mother could compromise her anonymity.

##### **C. Government Sector Impact:**

The Agency for Health Care Administration advises that the bill represents no fiscal impact to the Medicaid program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Regulation on April 4, 2011:**

The bill as drafted sought presumptive Medicaid eligibility for birth mothers of surrendered newborn infants. The CS is the result of a strike-all amendment, the effects of which are described in section III. Effect of Proposed Changes.

- B. **Amendments:**

None.