

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1217 Surrendered Newborn Infants

SPONSOR(S): Beltran and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 864

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	12 Y, 0 N	Cunningham	Calamas
2) Health Care Appropriations Subcommittee	8 Y, 1 N	Mielke	Clark
3) Health & Human Services Committee	15 Y, 0 N	Cunningham	Calamas

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 mother in crisis to safely, securely, and anonymously surrender her 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 1217 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 has no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

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

Since the initial enactment of safe haven legislation in 1999, there have been an estimated 4,015 surrenders at safe havens and 1,465 illegal abandonments across the United States.⁹

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.¹⁰ 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 parents consent to the termination of their parental rights¹¹, and for the transport and medical treatment for the child¹². The law expressly grants the parents a right to anonymity and to not be pursued, and requires hospital registrars to 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. The law also grants the parents immunity from criminal prosecution unless there is actual or suspected abuse or neglect of the infant.¹³

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

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 Jan. 22, 2020).

⁴ *Id.*

⁵ *Id.*

⁶ *Supra* note 1.

⁷ *Id.*

⁸ *Id.*

⁹ A SAFE HAVEN FOR NEWBORNS, *Safe Haven Statistics*, <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited Jan. 29, 2020).

¹⁰ S. 383.50, F.S.; see ch. 2000-188, Laws of Fla.

¹¹ S. 63.0423, F.S.

¹² S. 383.50, F.S.

¹³ *Id.*

infant left with a firefighter or emergency medical technician. The law grants emergency medical technicians, paramedics and fire department staff immunity from criminal and civil liability when acting in good faith for a surrendered infant.¹⁴

Since 2000, approximately 310 newborns have been surrendered at a safe haven in Florida. In that time, 64 infants are known to have been unsafely abandoned, of which 34 died.¹⁵

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.¹⁶ 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.¹⁷

Over 20 countries currently have some form of baby boxes, including Austria, Germany, Italy, Poland, Portugal, and Slovakia.¹⁸ Approximately 200 baby boxes have been installed across Europe in the past decade.¹⁹ There are about 30 baby boxes located throughout the United States.²⁰

Indiana’s Baby Boxes

Indiana’s safe haven law authorizes the use of newborn safety devices, called Safe Haven Boxes.²¹ Indiana has utilized the Safe Haven Baby Box since 2016, and there are currently 19 baby boxes in use throughout the state.²²

The box is installed on the exterior wall of a designated safe haven, with an interior access door attached.²³ Once a parent has placed the baby in the padded box, the door will automatically lock and an alarm is triggered alerting personnel that a baby needs to be picked up.²⁴ The boxes are similar to incubators, with heating and cooling functions to keep the baby safe until help arrives.²⁵ The boxes cost between \$10,000 and \$15,000.²⁶

¹⁴ *Id.*

¹⁵ *Supra* note 9.

¹⁶ 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>

¹⁷ *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

¹⁸ 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 Jan. 22, 2020).

¹⁹ 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>

²⁰ A SAFE HAVEN FOR NEWBORNS, *Baby Box Locations*, <https://shbb.org/locations> (last visited Jan. 22, 2020).

²¹ Associated Press, *Northwest Indiana to Get More Baby Boxes for Abandoned Newborns*, WGN9 (Nov. 9, 2019),

<https://wgntv.com/2019/11/09/northwest-indiana-to-get-more-baby-boxes-for-abandoned-newborns/>

²² *Indiana Nears 20 Baby Boxes for Surrendering Newborns*, WBIW (Jan. 2, 2020),

<http://www.wbiw.com/2020/01/02/indiana-nears-20-baby-boxes-for-surrendering-newborns/>

²³ A SAFE HAVEN FOR NEWBORNS, *What is a Safe Haven Baby Box?*, <https://shbb.org/> (last visited Jan. 22, 2020).

²⁴ *Id.*; See also <https://www.usatoday.com/story/life/parenting/2019/09/13/safe-haven-laws-things-you-didnt-know-surrendering-newborn/2031516001/>

²⁵ 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>

²⁶ *Supra* note 14.



Effect of Proposed Changes

HB 1217 amends Florida's safe haven law to increase the infant age limit 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 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 box 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 has 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 a day and test the device at least once a week 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., to incorporate a conforming cross-reference revision.

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:

None.

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.

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:

Rulemaking is not authorized by the bill and is not necessary to implement it.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES