

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 870

INTRODUCER: Senator Burton

SUBJECT: Surrendered Newborn Infants

DATE: March 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stovall</u>	<u>Brown</u>	<u>HP</u>	<u>Favorable</u>
2.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	<u>Pre-Meeting</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 870 modifies statutory provisions relating to surrendered newborn infants. The age of a newborn infant who may be lawfully surrendered is increased from up to approximately seven days old to approximately 30 days old.

The bill authorizes a hospital, an emergency medical services (EMS) station, or a fire station that is staffed 24 hours per day to use a newborn infant safety device to accept surrendered newborn infants in accordance with safety procedures specified in the bill.

The bill provides an additional method of lawful surrender by allowing the parent of a newborn infant to dial 911 to request that an EMS provider meet at a specified location for surrender of the newborn infant directly to the EMS provider. The manner in which a parent may relinquish a newborn infant at a hospital after delivery is clarified.

The bill extends immunity from criminal investigation solely because a newborn infant is left at an EMS station or a fire station.

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.

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

¹ 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 National Safe Haven Alliance, *2021 Impact Report*, available at https://www.nationalsafehavenalliance.org/files/ugd/d98b71_3b9795ec5f784b93aba04a6ad560e2f4.pdf (last visited March 13, 2023).

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

⁹ Chapter 2000-188, L.O.F.

¹⁰ Section 383.50, F.S.

¹¹ Chapter 2001-53, s. 15, L.O.F.

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

Safe Haven Baby Boxes

A Baby Box is a safety device provided for under a state’s Safe Haven Law to legally and safely facilitate a mother in crisis to safely, securely, and anonymously surrender a newborn infant if she is unable to care for her newborn. A Baby Box is installed in an exterior wall of a designated fire station or hospital. It has an exterior door that automatically locks upon placement of a newborn inside, an alarm system to alert that a baby is inside, and an interior door which allows a medical staff member to secure the surrendered newborn from inside the designated building.¹⁹

Safe Haven Baby Boxes, Inc. is a nonprofit incorporated in Indiana,²⁰ which has patented a device for receiving a surrendered baby,²¹ trademarked as a “Safe Haven Baby Box.”²² The

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.*

¹⁹ *Safe Haven Baby Boxes* available at <https://shbb.org/> (last visited March 13, 2023).

²⁰ Indiana Secretary of State Corporation and Business Entity Search; search by entity name at: <https://bsd.sos.in.gov/publicbusinesssearch> (last visited March 13, 2023).

²¹ United States Patent, dated Apr. 28, 2020, available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Patent%20.pdf?ver=1610398180477> (last visited March 13, 2023).

²² Trademark Certificate, registered Oct. 15, 2019, available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Trademark%20Certificate.pdf?ver=1610398180478> (last visited March 13, 2023).

federal Food and Drug Administration has determined that a Safe Haven Baby Box is not a medical “device” pursuant to s. 201 of the federal Food, Drug, and Cosmetic Act, and therefore is not required to comply with the requirements of the act.²³

Over 120 babies have been surrendered nationwide inside Safe Haven Baby Boxes since the first was installed in 2016.²⁴ There are over 130 active baby boxes – 93 in Indiana, 6 in Ohio, 16 in Kentucky,²⁵ 11 in Arkansas, and 1 each in New Mexico, North Carolina, Tennessee, Pennsylvania, and Florida, plus four Baby Drawers introduced by Banner Hospital in Arizona.²⁶ Florida’s Safe Haven Baby Box is located at the Martin Luther King, Jr., First Responder Campus in Ocala and was dedicated by their City Council on December 15, 2020.²⁷ In January 2023, the first newborn infant was surrendered at the Baby Box at the fire station in Ocala.²⁸

III. Effect of Proposed Changes:

The bill amends s. 383.50, F.S., to revise the definition of “newborn infant” to increase the allowable age of a surrendered newborn infant from approximately seven days old or younger to approximately 30 days old or younger.

A definition of “newborn infant safety device” is added to mean a device that is installed in a supporting wall of a hospital, an emergency medical services (EMS) station, or a fire station and that has an exterior point of access allowing an individual to place a newborn infant inside and an interior point of access allowing individuals inside the building to safely retrieve the newborn infant.

The bill authorizes a hospital, an EMS station, or a fire station that is staffed 24 hours per day to use a newborn infant safety device to accept surrendered newborns if the device is:

- Physically part of the hospital, EMS station, or fire station.
- Temperature-controlled and ventilated for the safety of newborns.
- Equipped with a dual alarm system which automatically triggers an alarm inside the building when a newborn infant is placed inside.

²³ See *Letter from U.S. Food and Drug Administration to Safe Haven Baby Boxes, Inc.*, Feb. 15, 2019, available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/C180100.Letter.pdf?ver=1610398180478> (last visited March 15, 2023).

²⁴ See Safe Haven Baby Boxes, available at <https://shbb.org/> (last visited March 15, 2023).

²⁵ An Associated Press article published in the Tallahassee Democrat on February 12, 2023, reported an infant was recently surrendered in a Safe Haven Baby Box at a fire station in Kentucky. Fire department staff was able to tend to the baby in less than 90 seconds. Approximately 24 newborns have been surrendered in baby boxes. (Article is on file with the Senate Health Policy Committee).

²⁶ Safe Haven Baby Boxes, *Baby Box Locations*, available at <https://shbb.org/locations> (last visited March 15, 2023).

²⁷ Health News Florida, *Ocala to Become First Florida City to Install Safe Haven Baby Boxes*, Health News Florida by Caitlyn McLaughlin and Jessica James, published Dec. 10, 2020, available at <https://health.wusf.usf.edu/health-news-florida/2020-12-10/ocala-to-become-first-florida-city-to-install-safe-haven-baby-boxes>; See also Ocala News, *Ocala Fire Rescue unveils Florida’s first Safe Haven Baby Box*, Dec. 15, 2020, available at <https://www.ocala-news.com/2020/12/15/ocala-fire-rescue-unveils-floridas-first-safe-haven-baby-box/> (all sites last visited March 15, 2023).

²⁸ Fox 13 News, *Newborn surrendered at Florida fire station is first baby save by state’s only “Baby Box”*, January 10, 2023, available at <https://www.fox13news.com/news/newborn-surrendered-at-florida-fire-station-is-first-baby-saved-by-states-only-baby-box> (last visited March 15, 2023).

- Equipped with a surveillance system that allows employees of the hospital, EMS station, or fire station to monitor the inside of the device 24 hours per day.
- Located such that the interior point of access is conspicuous and visible for employees.

Under the bill, a hospital, EMS station, or fire station that uses the device to accept surrendered newborn infants must use the device's surveillance system to monitor the inside of the device 24 hours per day, physically check the device at least twice daily, and test the device at least weekly to ensure that the alarm system is in working order. A fire station that is staffed 24 hours per day except when all firefighter first responders are dispatched from the fire station for an emergency must use the dual alarm system of the device to immediately dispatch the nearest first responder to retrieve a newborn infant left in the device.

The bill clarifies the manner in which a parent may surrender a newborn infant at a hospital. The newborn infant may be left with medical staff or a licensed health care professional after the delivery of the newborn infant in a hospital, if the parent notifies medical staff or a licensed health care professional that the parent is voluntarily surrendering the infant and does not intend to return. A person seeking to surrender a newborn infant after delivery of the infant in the hospital may use this method or the newborn infant safety device, if available.

The bill provides another avenue for lawfully surrendering a newborn infant. If the parent is unable to surrender the newborn infant by leaving it in a newborn infant safety device or surrendering it to appropriate persons at a hospital, EMS station, or fire station, the parent may dial 911 to request that an EMS provider meet the surrendering parent at a specified location. The surrendering parent must stay with the newborn infant until the EMS provider arrives to take custody of the newborn infant.

Existing provisions relating to the presumption that the parent intended to leave the newborn infant, consented to appropriate medical treatment and care, and to termination of parental rights; the care and custodial processing of an infant upon lawful surrender; and the parent's anonymity upon surrender are extended to occasions when newborn infants are surrendered in a newborn infant safety device.

The bill further provides that a criminal investigation may not be initiated solely because a newborn infant is left at an EMS station or a fire station in accordance with this section of statute unless there is actual or suspected child abuse or neglect. This provision currently applies only to a newborn infant left at a hospital.

The bill also amends s. 63.0423, F.S., relating to the termination of parental rights procedures with respect to surrendered newborn infants to make conforming and technical changes.

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.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 383.50 and 63.0423 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
