

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 899 Surrendered Newborn Infants

SPONSOR(S): Canady and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 870

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	17 Y, 0 N	Guzzo	McElroy
2) Health & Human Services Committee			

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' currently 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 parent in crisis to safely, securely, and anonymously surrender an unwanted newborn. The concept of a baby box has existed for centuries throughout Europe, and many countries still utilize some form of a baby box today.

HB 899 increases the age that an infant may be surrendered from seven days old to 30 days old, preventing unsafe abandonment by allowing more time for parents to decide whether to surrender a child. 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 authorizes a parent, after delivery of a newborn infant in a hospital, to leave the infant with medical staff or a licensed health care professional. The parent of the newborn must notify the staff or professional that the parent is voluntarily surrendering the infant and does not intend to return. The bill also authorizes a parent to call 911 and request that an emergency medical services provider meet the surrendering parent at a specified location.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2023.

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 Today, all 50 states, the District of Columbia, and Puerto Rico have variations of safe haven laws which designate the places or personnel authorized to accept an infant.⁴ Thirty-five states and the District of Columbia expressly preserve the anonymity of the person relinquishing an infant.⁵

In 2021, approximately seven states and Puerto Rico required infants be 72 hours old or younger to be relinquished at a designate safe haven,⁶ while 23 states and Guam accepted infants up to 30 days old.⁷ As of February 2023, the District of Columbia and 46 states authorize health care providers, such as hospitals or health clinic employees, to accept an infant, and 38 states authorize emergency services personnel, including emergency medical technicians, firefighters and law enforcement officers, to accept an infant or allow relinquishment through the 911 emergency system.⁸

Florida Safe Haven Law

In 2000, Florida enacted safe haven legislation in response to tragedies concerning newborn abandonment at unsafe locations, such as public restrooms or trash receptacles.⁹ The legislation 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 parent consents to the termination of their parental rights¹⁰ and for the transport and medical treatment for the child.¹¹ The law expressly grants the parents a right to anonymity and to not be pursued, unless the parent seeks to reclaim the newborn infant.¹² The law also grants the parents immunity from criminal prosecution unless there is actual or suspected abuse or neglect of the infant.¹³ If the newborn infant is born in a hospital, the hospital registrars must 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.¹⁴

¹ *Infant Safe Haven Laws*, Child Welfare Information Gateway (Sept. 2021), <https://www.childwelfare.gov/pubPDFs/safehaven.pdf>, (last visited March 6, 2023).

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 March 6, 2023).

⁴ *Infant Safe Haven Laws*, Child Welfare Information Gateway (Sept. 2021), <https://www.childwelfare.gov/pubPDFs/safehaven.pdf>, (last visited March 6, 2023).

⁵ *Infant Abandonment*, Guttmacher Institute (Feb. 2021), <https://www.guttmacher.org/state-policy/explore/infant-abandonment>.

⁶ *Infant Safe Haven Laws*, Child Welfare Information Gateway (Sept. 2021), <https://www.childwelfare.gov/pubPDFs/safehaven.pdf>, (last visited March 6, 2023).

⁷ *Id.*

⁸ *Id.*

⁹ S. 383.50, F.S.; see Ch. 2000-188, Laws of Fla.

¹⁰ S. 63.0423, F.S.

¹¹ S. 383.50, F.S.

¹² S. 383.50(5), F.S.

¹³ S. 383.50(10), F.S.

¹⁴ *Id.*

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 infant left with a firefighter or emergency medical technician. The law does not specify any training required for personnel who might receive infants at these facilities, nor does it direct them on how to interact with individuals surrendering infants other than specifying that those relinquishing infants have a right to remain anonymous and not be pursued or followed unless the parent seeks to reclaim the infant. The law grants emergency medical technicians, paramedics, and fire department staff immunity from criminal and civil liability, except in situations of negligence, when acting in good faith for a surrendered infant.¹⁵

Since 2000, approximately 361 newborns have been surrendered at a safe haven in Florida.¹⁶ In that time, 63 infants are known to have been unsafely abandoned, of which 32 died.¹⁷

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.¹⁸ 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.¹⁹

Various countries currently have some form of baby boxes, including Germany, Malaysia, Pakistan, and Switzerland.²⁰ Studies suggest approximately 200 baby boxes were installed across Europe from 2003-2013.²¹

Safe Haven Baby Boxes

The federal Food and Drug Administration has determined that a “Safe Haven Baby Box” is not a medical “device” under the federal Food, Drug, and Cosmetic Act, and therefore is not required to comply with the requirements of the Act.²²

Safe Haven Baby Boxes, Inc. is a nonprofit corporation in Indiana. The nonprofit has patented a device for receiving a surrendered baby, trademarked as a “Safe Haven Baby Box”. There are currently more than 130 Safe Haven Baby Boxes across ten states.²³

In December 2020, an Ocala fire department unveiled the first baby box, a Safe Haven Baby Box, installed in Florida.²⁴ It is electronically monitored and equipped to notify 911 as soon as the outer door is open. Once a parent has placed the baby in the padded box, the door automatically locks and a silent alarm is triggered alerting personnel that a baby needs to be picked up.²⁵ The box is similar to an

¹⁵ S. 383.50(3), F.S.

¹⁶ A Safe Haven for Newborns, Safe Haven Statistics, <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited March 6, 2023).

¹⁷ *Id.*

¹⁸ 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>

¹⁹ *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

²⁰ BBC News, *Drop-off baby boxes: Can they help save lives in the US?*, (Jan. 23, 2019), <https://www.bbc.com/news/world-us-canada-46801838>, (last visited March 6, 2023).

²¹ 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>

²² Letter from U.S. Food and Drug Administration to Safe Haven Baby Boxes, Inc. (dated Feb. 15, 2019) <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/C180100.Letter.pdf?ver=1610398180478> (last visited March 6, 2023).

²³ Safe Haven Baby Boxes, *Baby Box Locations*, <https://shbb.org/locations> (last visited March 6, 2023).

²⁴ *Ocala Fire Rescue Unveils Florida's First Haven Baby Box* (Dec. 15, 2020), <https://www.ocala-news.com/2020/12/15/ocala-fire-rescue-unveils-floridas-first-safe-haven-baby-box/>.

²⁵ Safe Haven Baby Boxes, *How Does It Work*, <https://shbb.org/resources> (last visited Feb. 4, 2021).

incubator, with heating and cooling functions to keep the baby safe until help arrives.²⁶ The baby box cost approximately \$15,000 to install.²⁷

Florida Department of Health

The purpose of the Department of Health (DOH) is to protect and promote the health of all residents and visitors in Florida.²⁸ Under current law, the DOH must:

- Identify, diagnose, and conduct surveillance of diseases and health conditions in the state and accumulate the health statistics necessary to establish trends.
- Implement interventions that prevent or limit the impact or spread of diseases.
- Collect, manage, and analyze vital statistics and other health data to inform the public and formulate public health policy and planning.
- Maintain and coordinate preparedness for and responses to state public health emergencies.
- Provide or ensure the provision of quality health care and related services to identified populations in the state.
- Regulate health practitioners for the preservation of the health, safety, and welfare of the public.

When Florida's safe haven law was first passed in 2000, it required DOH to work in conjunction with the Department of Children and Families to produce a media campaign. This campaign promotes safe placement alternatives for newborn infants, informs the public of the confidentiality and limited immunity from criminal prosecution offered to a parent, educates parents of their rights to reclaim their newborn infant within specified time periods, and publicizes adoption procedures.²⁹ In accordance with specific appropriation, line 527 of the 2022-2023 General Appropriations Act, DOH currently has a contract with the non-profit organization A Safe Haven for Newborns to provide statewide community outreach and awareness to prevent the loss of infant life by educating the public of safe venues for parents considering abandoning their infants.³⁰

Effect of Proposed Changes

HB 899 amends Florida's safe haven law to increase the infant age limit for a parent to surrender a newborn infant at a safe haven location from seven days old to 30 days old. This gives parents more time to make a decision, possibly preventing the unsafe abandonment of infants older than seven days.

The bill 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 bill requires the boxes to 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 boxes 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 to alert individuals inside the building to safely retrieve the newborn infant. The bill requires a fire station that is staffed 24 hours per day except when all firefighter first responders are dispatched to use the dual alarm system of the newborn infant safety device to immediately dispatch the nearest first responder to retrieve any newborn infant left in the safety device.

The bill requires facilities that use a newborn safety device to check the device at least twice daily and test the device at least once weekly 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

²⁶ 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>

²⁷ Austin L. Miller, *Ocala gets Florida's First Baby Box, A Safe Drop-Off When Parents Can't Care for Baby*, Ocala Star Banner (Dec. 16, 2020), <https://www.ocala.com/story/news/2020/12/16/baby-box-safe-haven-ocala-florida/3912696001/>.

²⁸ S. 20.43, F.S.

²⁹ Ch. 2000-188, Laws of Fla.

³⁰ Correspondence from Florida Department of Health to the Healthcare Regulation Subcommittee dated March 7, 2023, on file with subcommittee staff.

termination of parental rights, the right to anonymity and non-pursuit, and the immunities for both the parents and the receiving facility's staff.

The bill authorizes a parent, after delivery of a newborn infant in a hospital, to leave the infant with medical staff or a licensed health care professional. The parent of the newborn must notify the medical staff or a licensed health care professional that the parent is voluntarily surrendering the infant and does not intend to return.

The bill also authorizes a parent to call 911 and request than an emergency medical services provider meet the surrendering parent at a specified location. The bill requires the surrendering parent to stay with the newborn infant until the medical services provider arrives to take custody of the newborn infant.

The bill's effective date is July 1, 2023.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 383.50, F.S., relating to treatment of surrendered newborn infants.
- Section 2:** Amends s. 63.0423, F.S., relating to procedures with respect to surrendered infants
- 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:
Local government 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. Costs may vary by the newborn safety device used. For example, the use of the Safe Haven Safety Box costs approximately \$15,000 to install.

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. Costs may vary by the newborn safety device used. For example, the use of the Safe Haven Safety Box costs approximately \$15,000 to install.

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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES