

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 899 Surrendered Newborn Infants  
**SPONSOR(S):** Health & Human Services Committee, 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	20 Y, 0 N, As CS	Speas	Calamas

### SUMMARY ANALYSIS

Florida law allows parents who are unwilling or unable to care for their newborn infants to safely relinquish them at hospitals, fire stations, and emergency medical services stations. This 'safe haven law' currently allows parents to anonymously surrender newborn 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 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 hospital medical staff. The parent of the newborn must notify the staff 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 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.<sup>1</sup> 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 well-being.<sup>2</sup>

In 1999, Texas was the first state to enact safe haven legislation.<sup>3</sup> 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.<sup>4</sup>

Policy choices vary among the states. For example, thirty-five states and the District of Columbia expressly allow the person relinquishing an infant to remain anonymous.<sup>5</sup> Seven states and Puerto Rico require infants be 72 hours old or younger to be relinquished at a designate safe haven,<sup>6</sup> while 23 states and Guam include infants up to 30 days old.<sup>7</sup> 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.<sup>8</sup>

#### Florida Safe Haven Law

In 2000, Florida enacted safe haven legislation in response to tragedies<sup>9</sup> concerning newborn abandonment at unsafe locations, such as public restrooms or trash receptacles.<sup>10</sup> Current law authorizes parents to surrender a newborn infant up to seven days old at a hospital, fire station, or emergency medical service station.

Since 2000, approximately 361 newborns have been surrendered at a safe haven in Florida.<sup>11</sup> In that time, 63 infants are known to have been unsafely abandoned, of which 31 survived and 32 died.<sup>12</sup>

#### *Procedures and Protections for Surrendered Newborn Infants and Parents*

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

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

<sup>3</sup> 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).

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

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

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

<sup>7</sup> *Id.* This data is as of 2021.

<sup>8</sup> *Id.*

<sup>9</sup> The Orlando Sentinel, "Teen Mom Charged with Attempted Murder," March 9, 2000, <https://www.orlandosentinel.com/news/os-xpm-2000-03-09-0003090076-story.html>, (last visited March 16, 2023), See also, Meyer, C. L., Oberman, M., White, K., Rone, M., Batra, P., & Proano, T. C. (2001). *Mothers Who Kill Their Children: Understanding the Acts of Moms from Susan Smith to the "Prom Mom"*. New York: New York University Press.

<sup>10</sup> S. 383.50, F.S.; see Ch. 2000-188, Laws of Fla.

<sup>11</sup> *A Safe Haven for Newborns*, Safe Haven Statistics, <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited March 6, 2023).

<sup>12</sup> *Id.*

The Florida safe haven law outlines procedures and protections concerning what happens after a baby is surrendered. If the parent surrenders a newborn infant 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.<sup>13</sup>

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, if necessary.<sup>14</sup> The law holds emergency medical technicians, paramedics, and fire department staff accountable for criminal and civil liability for treatment and custody of a surrendered newborn infant, except in situations where the individual has acted in good faith concerning the surrendered infant.<sup>15</sup>

The law expressly grants parents surrendering a newborn infant the right to anonymity and to not be pursued, unless the parent seeks to reclaim the infant. The law also grants surrendering parents immunity from criminal prosecution unless there is actual or suspected abuse or neglect of the infant.

Current law creates a presumption that the parent consents to the termination of their parental rights<sup>16</sup> and to transport and medical treatment for the child.<sup>17</sup> A court may not terminate parental rights solely on the basis that the parent left the infant at a hospital, emergency medical services station, or fire station in accordance with Florida's safe haven provisions.<sup>18</sup>

Florida law also has procedures outlining the process for parents to seek to either claim or reclaim a surrendered newborn infant.<sup>19</sup> A parent who leaves a newborn infant at a hospital, emergency medical services station, or fire station under this section may claim his or her newborn infant up until the court enters a judgment terminating his or her parental rights, and a petition for termination of parental rights may not be filed until 30 days after the date the infant was surrendered.<sup>20</sup>

Current law<sup>21</sup> requires DOH to work in conjunction with the Department of Children and Families to prevent the unsafe abandonment of newborns through a media campaign,<sup>22</sup> funded by a \$300,000 appropriation of recurring General Revenue.<sup>23</sup>

## Newborn Infant 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.<sup>24</sup> 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.<sup>25</sup>

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<sup>13</sup> *Id.*

<sup>14</sup> S. 383.50, F.S.

<sup>15</sup> S. 383.50(3), F.S.

<sup>16</sup> S. 63.0423, F.S.

<sup>17</sup> S. 383.50, F.S.

<sup>18</sup> *Id.*

<sup>19</sup> S. 63.0423, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> S. 7, Ch. 2000-188, Laws of Fla.

<sup>22</sup> A Safe Haven for Newborns, Public Awareness, <https://asafehavenfornewborns.com/what-we-do/public-awareness-2/>, (last visited March 16, 2023).

<sup>23</sup> Fiscal Year 2022-2023, HB 5001, General Appropriations Act, line 527, 529. [https://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=CRA\\_.pdf&DocumentType=Amendments&BillNumber=5001&Session=2022](https://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=CRA_.pdf&DocumentType=Amendments&BillNumber=5001&Session=2022), (last visited March 16, 2023).

<sup>24</sup> 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>

<sup>25</sup> *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](https://apolitical.co/solution_article/baby-boxes-allow-mothers-to-drop-off-unwanted-children)

Various countries currently have some form of baby boxes, including Germany, Malaysia, Pakistan, and Switzerland.<sup>26</sup> Studies suggest approximately 200 baby boxes were installed across Europe from 2003-2013.<sup>27</sup>

### Safe Haven Baby Boxes

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.<sup>28</sup>

The device is electronically monitored and equipped to notify 911 as soon as the outer door opens. Once a baby is placed in the padded box, the door automatically locks and a silent alarm is triggered alerting personnel that a baby needs to be picked up.<sup>29</sup> The box is similar to an incubator, with heating and cooling functions to keep the baby safe until help arrives.<sup>30</sup>

The federal Food and Drug Administration determined in 2019 that a Safe Haven Baby Box product is not considered to be a medical “device” under the federal Food, Drug, and Cosmetic Act, and therefore, the products need not comply with the requirements of the Act.<sup>31</sup>

In December 2020, an Ocala fire department unveiled Florida’s first baby box, a Safe Haven Baby Box.<sup>32</sup> The device cost approximately \$15,000 to install.<sup>33</sup> Similar to Safe Haven Baby Boxes in Indiana, the box contains messaging in both English and Spanish. Ocala’s baby box displays the message: “Safe Haven Baby Box Drop Off. Please do not open the door unless you are in need of services. Silent Alarm Will Activate.” The box also displays information about the Safe Haven Crisis Line in both English and Spanish. An image of the box is below:<sup>34</sup>



### Effect of Proposed Changes

#### Florida Safe Haven Law

<sup>26</sup> 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).

<sup>27</sup> Amber Hildebrandt, *The Revival of 'Baby Boxes' for Unwanted Infants*, CBC NEWS (May 7, 2013), <https://www.cbc.ca/news/canada/the-revival-of-baby-boxes-for-unwanted-infants-1.1357615>, (last visited March 15, 2023).

<sup>28</sup> Safe Haven Baby Boxes, *Baby Box Locations*, <https://shbb.org/locations>, (last visited March 6, 2023).

<sup>29</sup> Safe Haven Baby Boxes, *Frequently Asked Questions*, <https://shbb.org/resources> (last visited March 16, 2023).

<sup>30</sup> 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>

<sup>31</sup> 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).

<sup>32</sup> *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/>, (last visited March 16, 2023).

<sup>33</sup> 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/>.

<sup>34</sup> Photo taken from: *Florida's first Safe Haven Baby Box unveiled*, Ocala Post, (Dec. 16, 2020), <https://www.ocalapost.com/floridas-first-safe-haven-baby-box-unveiled/> (last visited March 10, 2023).

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

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 that 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 extends the parental procedural protections in current law to apply to parents surrendering a newborn infant under the new options created in the bill (the use of 911 and newborn infant safety devices).

### Newborn Infant Safety Devices

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 a newborn infant inside the box must automatically trigger an alarm inside the building to alert the 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'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 of July 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

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, installation, and maintenance of the new device. Costs may vary by the newborn safety device used, but all boxes will generate ongoing costs associated with temperature control and technology maintenance.

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, installation, and maintenance of the new device. Costs may vary by the newborn safety device, but all boxes will generate ongoing costs associated with temperature control and technology maintenance.

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**

On March 17, 2023, the Health & Human Services Committee adopted two conforming amendments and reported the bill favorably as a committee substitute. The amendments:

- Expand the definition of “newborn infant” to conform to all the methods to surrender a newborn infant the safe haven law, which now includes the use of 911 or a newborn infant safety device.
- Make the parental procedural protections in current law applicable to the bill’s additional options for safely surrendering a newborn infant (the use of 911 or a newborn infant safety device).

This analysis is drafted to the committee substitute as passed by the Health & Human Services Committee.