

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 Health Policy

BILL: SB 790

INTRODUCER: Senator Yarborough

SUBJECT: Surrendered Infants

DATE: January 25, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|------------------|-----------|-------------------------|
| 1. | <u>Morgan</u> | <u>Brown</u> | <u>HP</u> | <u>Favorable</u> |
| 2. | <u>Rao</u> | <u>Tuszynski</u> | <u>CF</u> | <u>Favorable</u> |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 790 modifies statutory provisions relating to surrendered newborn infants, changing the term “newborn infant” to “infant.” The age of an infant who may be lawfully surrendered is increased by the bill from up to approximately seven days old to approximately 30 days old.

The bill provides an additional method of lawful surrender by allowing the parent of an infant to dial 911 to request that an emergency medical service (EMS) provider meet at a specified location for surrender of the infant directly to the EMS provider. The bill also clarifies the manner in which a parent may relinquish an infant at a hospital following delivery.

The bill extends immunity from criminal investigation solely because an infant is left with eligible EMS station personnel or at an EMS station or a fire station. The bill also extends immunity from criminal or civil liability to medical staff of a hospital for acting in good faith when accepting a surrendered infant at a hospital in accordance with statutory provisions.

The bill provides an effective date of July 1, 2024.

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, EMS 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

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.⁴ Ages in other states range from up to 72 hours to one year.⁵

According to the nonprofit organization known as the National Safe Haven Alliance (NSHA), nearly 5,000 safe haven relinquishments occurred during 1999-2022 nationwide,⁶ and 4,706 nationally as of this writing.⁷ 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 2000.⁸ 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.⁹

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.¹⁰

In 2008, multiple provisions of the section were modified to refer to "surrendered newborn infant" rather than "abandoned newborn infant."¹¹ 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

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/resources/infant-safe-haven-laws/> (last visited Jan. 24, 2024).

² *Id.*

³ *Id.* Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, New Hampshire, Vermont, and Wisconsin.

⁴ *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.

⁵ *Id.*

⁶ National Safe Haven Alliance, *2022 Impact Report*, available at https://www.nationalsafehavenalliance.org/files/ugd/da9676_2c6d678cd51e44528e73b6b0a64ebf49.pdf (last visited Jan. 24, 2024).

⁷ National Safe Haven Alliance, available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited Jan. 24, 2024).

⁸ Chapter 2000-188, L.O.F.

⁹ Section 383.50, F.S.

¹⁰ Chapter 2001-53, s. 15, L.O.F.

¹¹ Chapter 2008-90, s. 4, L.O.F.

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.¹² Upon admitting a surrendered newborn infant, each hospital in this state with emergency services must 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.¹³

A Safe Haven for Newborns¹⁴ reports that over the past 24 years, approximately 443 newborns have been surrendered or abandoned in Florida.¹⁵ Since 2000, 379 newborns have been surrendered in a safe haven hospital, EMS station, or a fire station, and approximately 64 newborns have been abandoned in unsafe places.¹⁶ In 2023, 18 newborns were surrendered to a safe haven and two were abandoned in an unsafe place.¹⁷

III. Effect of Proposed Changes:

SB 790 amends s. 383.50, F.S., to change the term "newborn infant" to "infant," as well as revise the definition to increase the allowable age of a surrendered infant from approximately seven days old or younger to approximately 30 days old or younger.

The bill clarifies the manner in which a parent may surrender an infant at a hospital. The infant may be left with medical staff or a licensed health care professional after the delivery of the 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.

The bill provides another avenue for lawfully surrendering an infant. If the parent is unable to surrender the infant to the 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 infant until the EMS provider arrives to take custody of the infant.

The bill further provides that a criminal investigation may not be initiated solely because an infant is left with eligible EMS station personnel, or 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.

¹² Sections 383.50(3) and 395.1041, F.S.

¹³ Sections 395.50(4) and 395.50(7), F.S.

¹⁴ A Safe Haven for Newborns is a program of The Florida M. Silverio Foundation, a 501(c)(3) organization located in Miami, Florida.

¹⁵ A Safe Haven for Newborns, *Safe Haven Statistics*, (last updated Jan. 1, 2024), available at <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited Jan. 24, 2024).

¹⁶ *Id.*

¹⁷ *Id.*

This provision currently applies only to an infant left at a hospital. The bill also extends immunity from criminal or civil liability to medical staff of a hospital for acting in good faith when accepting a surrendered infant at a hospital in accordance with statutory provisions.

The bill makes conforming and technical changes related to the revised terminology, immunity extension, and termination of parental rights procedures with respect to surrendered infants.

The bill provides an effective date of July 1, 2024.

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 identified.

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 the following sections of the Florida Statutes: 383.50, 39.01, 39.201, 63.0423, 63.167, 383.51, 827.035, and 827.10.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial 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.
