

HB

322

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 322 (JUD)
 () Publish Date: 4/26/2006

Revision Date/Time (Note if correction): _____ Dept. Affected: HSS
 Title Infants Safely Surrendered by a Parent RDL _____
Shortly After Birth Component _____
 Sponsor LeDoux _____
 Requester HJUD Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Shalon Szymanski
 Division: House Judiciary Committee
 Approved by: Rep. Lesil McGuire, Chair
 Agency: House Judiciary Committee

Phone 907-465-6841
 Date/Time 04/26/06 3:45 p.m.
 Date 4/26/2006

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Representative Gabrielle LeDoux

SPONSOR STATEMENT

HB 322

“An Act relating to infants who are safely surrendered by a parent shortly after birth.”

This is a bill that will allow parents to safely surrender an infant shortly after birth without fear of being criminally prosecuted. The parent may, without expressing an intent to return for the infant, leave the infant in the physical custody of a person who the parent reasonably believes is a peace officer, a physician or hospital employee in a hospital or hospital emergency room, or a volunteer with or employee of a fire station or emergency medical service who is performing activities within the scope of the volunteer's or employee's fire services or emergency medical services duties.

There are similar laws in other states and this is a way of encouraging people to not abandon infants in a way that could lead to injury or death. A record regarding the surrender of an infant is confidential and not subject to public inspection.

LEGAL SERVICES

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MEMORANDUM

April 21, 2006

SUBJECT: Sectional (CSHB 322() (Work Order No. 24-LS1110\F))

TO: Representative Gabrielle LeDoux
Attn: Christine

FROM: Jean M. Mischel
Legislative Counsel



You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides a short title.

Section 2. Adds a new section in title 11 prohibiting the criminal prosecution for surrendering a child under AS 47.10.013^(a) as added by sec. 3 of the Act.

Section 3. Provides an acceptable procedure for abandoning an infant under three days of age safely, including reporting requirements and immunity provisions.

Section 4. Makes a conforming amendment necessitated by sec. 5 of the Act.

Section 5. Provides an exception for providing family support services when an infant has been safely abandoned as described in the Act.

Section 6. Provides a definition of infant as a child who is less than three days of age.

JMM:med
06-329.med

Legislative Research Services

Alaska State Legislature
Legislative Affairs Agency
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January 27, 2006

Memorandum

TO: Representative Gabrielle LeDoux
FROM: Becky Taylor
Legislative Analyst
RE: Safe Haven Laws in Other States
LRS Report 06.118

You asked for an overview of safe haven laws. Specifically, you were interested in which states have such laws, when these laws were enacted, where and up until what age infants can be dropped off in different states, and how these laws address the issue of parental rights.

Safe Haven laws are intended to reduce infant abandonment and abuse by providing mothers in crisis with designated locations where they can leave an infant and know that the child will be safe and cared for. Hospitals, police and fire stations, and emergency medical service agencies are often used as safe haven locations. Age limits of 72 hours or 30 days are most common, although North Dakota's safe havens will accept children up to a year old. A few states require a check of the putative father registry, and include provisions to contact the putative father, but most do not require notification of fathers who may not be aware of the child's birth.

At least forty-six states have enacted safe haven laws. According to the Child Welfare League of America, forty-one of these states passed safe haven legislation between 1999 and August 2002. Currently, Alaska, Hawaii, Nebraska, and Vermont appear to be the only states that do not have safe haven laws. Massachusetts was the most recent state to enact this type of legislation with the 2004 Safe Haven Act of Massachusetts. A number of organizations have compiled information about these laws. We have attached the following publications that address your specific questions in more detail:

- "Infant Safe Haven Laws," *State Statute Series 2004*, National Adoption Information Clearinghouse, U.S. Department of Health and Human Services, current through November 2004.
- "Update: Safe Havens for Abandoned Infants," National Conference of State Legislatures, October 21, 2003.
- Williams-Mbengue, Nina, "Safe Havens for Abandoned Infants," *NCSL State Legislative Report*, Volume 26, Number 8, National Conference of State Legislatures, September 2001.
- "Baby Abandonment Project," Child Welfare League of America, August 2002. As you will see, this document provides brief summaries of the various laws current as of 2002, including information, in many cases, specific to your questions. The on-line version of this compilation of state laws includes links to the text of each state's bill, and is available at <http://www.cwla.org/programs/prev/flocrittsafehaven.htm>.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.



State Statutes Series 2004 Infant Safe Haven Laws

Who May Leave a Baby at a Safe Haven

Safe Haven Providers

State legislatures have felt the need to address infant abandonment and infanticide in response to a reported increase in the abandonment of infants.

Beginning in Texas in 1999, "Baby Moses laws" or infant safe haven legislation has been enacted as an incentive for mothers in crisis to safely relinquish their babies to a safe haven where the baby will be protected and provided with medical care until a permanent home can be found. Safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from prosecution for abandonment or neglect in exchange for safely surrendering the baby to a safe haven.

To date, approximately¹ 46² States have enacted safe haven legislation to provide a vehicle for the safe relinquishment of unwanted newborns.

In most States with safe haven laws, a parent may surrender the baby to a safe haven. In four States (Georgia, Maryland, Minnesota, and Tennessee),³ only the mother may relinquish the infant, while Idaho specifies that only a custodial parent may surrender the infant. Other States allow either parent of the baby, an agent of the parent (someone who has the parent's approval),⁴ or another person having custody of the child⁵ to take the baby to a safe haven. Five States⁶ do not specify the person who may relinquish an infant.

Safe haven providers include hospitals, emergency medical services, police stations, and fire stations. Generally, anyone on staff at these institutions can receive an infant, and the provider is authorized to provide any care and treatment the infant may require.

¹ The word *approximately* is used to stress the fact that the States frequently amend their laws, so this information is current only through November 2004.

² Alaska, Hawaii, Nebraska, Vermont, the District of Columbia, and the territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands have not yet addressed the issue of abandoned newborns in legislation.

³ Maryland and Minnesota do allow the mother to approve another person to deliver the infant on her behalf.

⁴ In 10 States: Arizona, Arkansas, Connecticut, Iowa, Missouri, North Dakota, Rhode Island, South Carolina, Utah, and Wyoming

⁵ In California and Kansas

⁶ Delaware, Maine, New Jersey, New Mexico, and New York



**Immunity
From
Liability**

In many States, the provider is required to ask the parent for family and medical history information. In some States, the provider is required to attempt to give the parent or parents information about the legal effects of leaving the infant and information about referral services. In all cases, the relinquishing parent may not be compelled either to provide personal information or to accept the information offered.

The focus of these laws is protecting newborns, and in approximately 16 States,⁷ infants who are 72 hours old or younger may be relinquished to a designated safe haven. Many other States accept infants up to 1 month old,⁸ while North Dakota's safe havens will accept a child as old as 1 year.⁹

Safe haven providers are given protection from liability for anything that might happen to the infant while in their care unless there is evidence of major negligence on the part of the safe haven.

**Protections
for the
Parents**

Anonymity for the parent or agent of the parent may be expressly guaranteed in statute,¹⁰ or the statute may state that the safe haven cannot compel the parent or agent of the parent to provide identifying information.¹¹ Some States provide an assurance of confidentiality for any information that is provided.¹²

In addition to the guarantee of anonymity, many States limit prosecution¹³ or provide that safe relinquishment of the infant is an affirmative defense¹⁴ in any prosecution¹⁵ of the parent or his/her agent for any crime against the child, such as abandonment, neglect, or child endangerment.

The privileges of anonymity and immunity will be forfeited in most States if there is evidence of abuse or neglect of the child.

⁷ Alabama, Arizona, California, Colorado, Florida, Illinois, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Ohio, Tennessee, Utah, Washington, and Wisconsin

⁸ In 14 States: Arkansas, Connecticut, Idaho, Louisiana, Maine, Missouri, Montana, Nevada, New Jersey, Oregon, Pennsylvania, Rhode Island, South Carolina, and West Virginia

⁹ Other States specify varying age limits in their statutes: 5 days (New York); 7 days (Georgia, Massachusetts, New Hampshire, North Carolina, and Oklahoma); 14 days (Delaware, Iowa, Virginia, and Wyoming); 45 days (Indiana and Kansas); 60 days (South Dakota and Texas); and 90 days (New Mexico).

¹⁰ In approximately 13 States: Arizona, Delaware, Florida, Illinois, Kentucky, Ohio, Oklahoma, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming

¹¹ In 26 States: Arizona, California, Connecticut, Delaware, Idaho, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, West Virginia, and Wyoming.

¹² In 12 States: Connecticut, Delaware, Idaho, Iowa, Kentucky, Maine, Michigan, Montana, New Mexico, Rhode Island, South Carolina, and Tennessee

¹³ In approximately 7 States (Arizona, Connecticut, Illinois, Louisiana, Nevada, Pennsylvania, and South Dakota), the statutes state that a safe relinquishment is not considered a violation of the law. In 21 States, the relinquishing parent is provided immunity from prosecution: California, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri (if the child is 5 days old or younger), Montana, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Wisconsin, and Washington.

¹⁴ In a State with an affirmative defense provision, a parent or agent of the parent can be charged and prosecuted, but the act of leaving the baby safely at a safe haven can be a defense to an accusation of abandonment, abuse, neglect, or child endangerment.

¹⁵ In 17 States: Alabama, Arkansas, Colorado, Delaware, Indiana, Maine, Michigan, Mississippi, Missouri (if the child is 6 days old or older, but less than 30 days old), New Jersey, New York, Oregon, Texas, Utah, Virginia, West Virginia, and Wyoming

Consequences of Relinquishment

In most States with safe haven laws, custody of the infant who has been relinquished will be transferred to the department that handles child protective or child welfare cases.

The department has responsibility for placing the child, usually in a pre-adoptive home, and for petitioning the court for termination of the birth parent's parental rights. Several States have procedures in place for a parent to reclaim the infant,¹⁶ usually within a specified time period and before any petition to terminate parental rights has been granted. A few States¹⁷ also have provisions for a nonrelinquishing father to petition for custody of the child.

This publication is a product of the State Statutes Series prepared by the National Adoption Information Clearinghouse (NAIC). While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

Electronic copies of this publication may be downloaded from the Clearinghouse website at <http://naic.acf.hhs.gov/general/legal/statutes/safehaven.cfm>.

- To find statute information for a particular State, go to <http://naic.acf.hhs.gov/general/legal/statutes/search> and select the specific State and topic.
- To find information on all of the States and territories, view the complete PDF at <http://naic.acf.hhs.gov/general/legal/statutes/safehavenall.pdf> or call the Clearinghouse at (888) 251-0075 or (703) 352-3488 to order a copy.

¹⁶ Approximately 16 States have provisions for the relinquishing parent to petition to reclaim the child: California, Connecticut, Delaware, Florida, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, New Mexico, Rhode Island, Tennessee, and Wyoming.

¹⁷ In approximately 4 States: Louisiana, South Dakota, Tennessee, and Utah.



Child Welfare Project

UPDATE: SAFE HAVENS FOR ABANDONED INFANTS

October 21, 2003

Forty-five states now have some type of safe haven legislation. (The following states do not have safe haven legislation: AK, HI (Vetoed 7/2/03), MA, NE and VT.) Most of the laws designate hospitals, emergency medical services, fire stations and police stations as safe locations. One exception is New York, which stipulates that the baby may be left with a suitable person or may be left in a suitable location so long as an appropriate person is promptly notified. Immunity is granted generally to employees who are required to accept and care for relinquished infants. About half of the states will not prosecute parents who relinquish unharmed infants. The remainder allows an affirmative defense to prosecution. State laws vary on the age of infants who may be relinquished. The ages range from 72 hours old or younger up to 5 days old or younger. The most common ages found in the statutes are 72 hours and 30 days.

How Effective are the Laws?

Areas of Concerns for Policymakers

Need for Examination of Statewide Services for Women at Risk

Lack of a Comprehensive Strategy for the Prevention of Infant Abandonment

Anonymity and Termination of Parental Rights

Relationship to Existing Child Welfare Statutes

Father's Rights

Adoption

Parental Irresponsibility

How Effective are the Laws?

The laws continue to have a limited effect. A number of states have begun to report on infants abandoned after the passage of the safe haven legislation. As of September 2001, approximately 33 babies had been legally relinquished including five each in Texas, Michigan and Alabama, six in New Jersey, four in California, two in Connecticut, Minnesota and Ohio and one each in Kansas and South Carolina. The numbers are approximate because officials in several states reported that they are not officially tracking the numbers of infants or that they had unofficial media counts of infants. Officials in New York, West Virginia and Florida reported that they were not sure that any infants had been relinquished because their laws do not require reporting or tracking that information. As of September 2002, state agency officials in California report that they have had 20 infants abandoned through the law since their legislation went into effect. New Jersey reported 10 safe haven infants, a 63% reduction in infant abandonment, since the passage of their law in 2000 (compared to 8 abandonments prior to the passage of the law). Illinois reported 2 safe haven abandonments since their law was enacted in 2001.

Unlawful abandonment continues to be a problem. As of September 2001, Texas reported at least 12 infants had been abandoned illegally since the passage of its law, but the abandonments occurred before the start of a public awareness campaign. None have been abandoned outside safe havens since this publicity. Louisiana reported that five infants had been abandoned illegally since passage of its law. Three babies died, and the parents were prosecuted. At least five babies were illegally abandoned in California; two more of them were found dead. In Connecticut, one baby was discarded near a highway. Three babies had been abandoned illegally in Colorado. In one case, the mother attempted to regain custody. Michigan reported nine attempts including one in which a judge ruled that the case was not a safe haven surrender because the parents had not been given enough information on their legal rights. As of September 2002, California reported 21 illegal abandonments and 17 infants abandoned found deceased. Illinois reported four infants illegally abandoned and found deceased. Illinois averaged 25 illegal abandonments over the previous four-year period.

Areas of Concerns for Policymakers

Child welfare experts, state agency officials and state lawmakers continue to examine a number of critical issues related to infant safe haven legislation:

Need for Examination of Statewide Services for Women at Risk

Many child welfare experts state that, although safe haven legislation may be a good idea, it needs to be part of a larger effort to enhance services for women who are at risk of abandoning their infants. Experts from the fields of child welfare, mental health, youth services, the medical establishment and teen pregnancy will want to work with young parents to examine the existing system of services. Such an examination might provide some answers about why this population of parents is unable -or unwilling- to use these services.

Lack of a Comprehensive Strategy for the Prevention of Infant Abandonment

Critics are concerned that states are not viewing safe haven programs as an integral part of child abuse prevention. Has infant abandonment been considered in the state's child abuse prevention efforts? Does the strategy target young women at risk of abandonment? These are just a few questions policymakers may want to ask as they work with public health, child protection, child abuse prevention, mental health, families and others to develop a comprehensive strategy to prevent infant abandonment.

Anonymity and Termination of Parental Rights

Child welfare experts are apprehensive that the anonymity provided to parents in the safe haven laws conflicts with biological parents' due process rights in termination of parental rights proceedings. As previously mentioned, states have attempted to address this critical issue by providing some type of notice or search for the biological parents of the abandoned infant in an effort to include them in judicial proceedings related to the adoption of the infant. States will want to carefully examine their termination of parental rights statutes to avoid conflicts with safe haven laws.

Relationship to Existing Child Welfare Statutes

Likewise, states may want to examine all their existing statutes related to adoption, paternity, custody and all judicial proceedings associated with child abandonment. It also is important that states clarify their definitions of infant abandonment. For example, several states with new laws exempt safe haven abandonment from the statutory definition of abandonment, child abuse or child neglect. Other states add safe haven abandonment to their existing definition of abandonment.

Father's Rights

A few states require a check of the putative father registry and include provisions to contact the putative father, but most do not contain provisions to address notification of fathers who may not be aware of the child's birth. Critics contend that denying notification unfairly presumes that these fathers do not want to care for their children. Utah's legislation addresses this concern by requiring a search of the confidential registry for unmarried biological parents and requiring that notice be sent to each potential father identified in the registry. The termination of parental rights hearing must be scheduled as soon as possible if no one has identified himself as the father (or if the mother has not identified herself) within two weeks after notice is complete. If a non-relinquishing parent is not identified, the surrender of the newborn shall be considered grounds for termination of parental rights of both parents.

Adoption

Adoption advocates are particularly concerned about the lack of medical and family history. They note that a lack of information about their backgrounds is often troublesome for adopted children and worry about the stability of the child and his or her adopted family later in life. They fear that the lack could be a setback to the trend in adoption policy to provide the adoptee with information about the birth family. Adoption and other child welfare experts also point out that the legislation may not be necessary because most states will not prosecute women who give birth and relinquish their newborns in the hospital. Additionally, every state allows women to voluntarily relinquish their infants for adoption.

Parental Irresponsibility

Many policymakers are concerned that these laws may only encourage parental irresponsibility. Since so little is known about the women who abandon their babies, there is no proof that the legislation will discourage mothers from leaving their infants in unsafe places. For women who might otherwise seek help from family, friends and social service agencies, the enactment of safe haven laws might encourage them to anonymously abandon their newborns rather than take advantage of their traditional network of support.



NCSL STATE LEGISLATIVE REPORT

ANALYSIS OF STATE ACTIONS ON IMPORTANT ISSUES

SEPTEMBER 2001

VOLUME 26, NUMBER 8

Safe Havens for Abandoned Infants

By Nina Williams-Mbengue, *Policy Specialist*

After 13 infants were abandoned in the Houston, Texas, area within a 10-month period in 1999, state lawmakers acted to encourage desperate parents to leave their children in a safe location rather than simply abandoning them. Since the Texas law was adopted, 34 more states have enacted so-called "safe haven" laws. All the statutes generally promise that women who relinquish unharmed infants in designated safe places will not be prosecuted or provide that abandonment in compliance with the law constitutes an affirmative defense to prosecution.

So far, the effects of the new laws appear to be limited. Although some newborns have been left at hospitals or police and fire stations, others continue to be found in unsafe places. Serious concerns remain regarding the general lack of research on abandoned babies and their mothers, the implications of these laws on states' adoption and child welfare practices, the rights of the infant's father and the relatively small number of infants involved. Some child welfare experts have expressed concern that the laws do not include an examination of existing statewide child abuse prevention strategies and services for women at risk.

This report examines what is known about infant abandonment, provides an overview of key aspects of the legislation, describes state experience with the new laws and discusses some policy implications for lawmakers.

The Scope of the Problem

What do we know about the incidence of infant abandonment? Unfortunately, national and state data on the number of abandoned infants are practically nonexistent. Most states do not keep track of these infants and, so far, the federal government does not require states to do so. A recent media survey

Discarded Infants and Hoarder Babies

The infants referred to are those abandoned in public places—other than hospitals—such as parks, roadsides and dumpsters. They also are known as "discarded infants" and should be distinguished from "hoarder babies," who are abandoned in hospitals due to pre- or perinatal drug or HIV exposure as described in the Abandoned Infants Assistance Act (P.L. 104-23). In the law, Congress defined abandoned infants as "...infants and young children who are medically cleared for discharge from acute care hospital settings but who remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives."

conducted by the U.S. Department of Health and Human Services (HHS) reported 65 babies abandoned in public places in 1991. This number increased to 105 in 1998, with 33 of the babies found dead. HHS officials state these numbers could simply reflect heightened media interest in the issue and do not necessarily indicate an actual increase in baby abandonment.

Abandonment of infants in public places appears to be part of a much larger problem. Due to parental drug addiction, 31,000 infants were abandoned in hospitals in 1998. The number of children who suffer abuse and neglect from parents or caretakers each year is even greater. According to HHS, 836,000 children were confirmed as abused in 1999. Of those children, 1,100 died.

What Do We Know about Mothers Who Abandon Their Infants?

Little is known about women who discard their newborns. Most of the women are never found. Anecdotal evidence indicates that most of the women are very young; their race and income vary. Most are very much in denial of their pregnancies and appear to be unaware of or afraid to use the resources available to help them before and during their pregnancies. Questions also exist about the fathers' role, the mothers' family situation and how often the pregnancy is the result of rape or sexual abuse.

Most women who discard their newborns are very much in denial of their pregnancies and appear to be unaware of or afraid to use the resources available to help them before and during their pregnancies.

Some experts suggest that women who are likely to abandon their infants also are the most likely to commit infanticide. In 1996, researcher Michelle Oberman studied women who commit infanticide. Her conclusions may shed light on women who abandon their babies. Oberman noted that the most fundamental shared characteristic of these women is their "seemingly self-imposed silence and isolation during pregnancy." Often, not even the woman's family and close friends are aware of her pregnancy. Oberman also asserted that women who commit infanticide are in "massive denial." The combination of denial and isolation means that these women do not seek prenatal care and do not make any plans for the birth or care of the baby.

The women Oberman studied represent every race, ethnicity and socioeconomic background. Most are young, single and live with parents, guardians or other relatives. If forced to live on their own, they would be poor and, presumably, financially unable to care

for an infant. The women may have suffered rape or abuse and the pregnancy is most likely their first. Surprisingly, women who commit infanticide are unlikely to have a history of substance abuse.

In response to the limited information on infant abandonment, Federal House Resolution 465, introduced and passed in April 2000, recommended that local, state and federal statistics be kept on the number of infants abandoned in public places. Federal House Resolution 422, also introduced in 2000, sought to establish a Baby Abandonment Task Force to collect information and maintain a database (through the Bureau of Justice Statistics) on incidents of child abandonment, including information on demographics, circumstances, outcomes and trends. The legislation was reintroduced in January 2001 as H.R. 7, the "Baby Abandonment Prevention Act of 2001." Additionally, the "Safe Havens Support Act of 2001," H.R. 2018, proposes using TANF funds to support infant safe haven programs and requires HHS to conduct a study to determine the number of infants relinquished, abandoned or found dead and the characteristics and demographics of parents who have abandoned an infant.

Thirty-five states (including 19 that passed laws in the 2001 session) now have some type of safe haven legislation.

Review of State Laws

Most states have child abandonment laws that allow authorities to prosecute parents or caretakers who willingly and permanently abandon their children. The goal of the new safe haven laws is to allow a parent to safely leave a baby without fear of prosecution for child abandonment and without resorting to the dangerous practice of leaving an infant in a trash bin, in a wooded area or beside a highway.

Thirty-five states (including 19 that passed laws in the 2001 session) now have some type of safe haven legislation. Most of the laws designate hospitals, emergency medical services, fire stations and police stations as safe locations. One exception is New York, which stipulates that the baby may be left with a suitable person or may be left in a suitable location so long as an appropriate person is promptly notified. Immunity is granted generally to employees who are required to accept and care for relinquished infants. About half of the states will not prosecute parents who relinquish unharmed infants. The remainder allow an affirmative defense to prosecution. State laws vary on the age of infants who may be relinquished. The ages range from 72 hours old or younger up to 5 days old or younger. The most common ages found in the statutes are 72 hours and 30 days.

Some of the issues addressed in statute include anonymity, parental rights public awareness and court procedure. (See sidebar for additional provisions.)

Anonymity

A number of states with safe haven legislation do not specifically mention anonymity. Twenty-four states do allow for anonymity, in which the person leaving the child is not required to disclose any information or may remain anonymous. The laws state that the receiving entity may request relevant medical history information about the infant and the infant's parents, but the parents are not required to provide that or any other information. Most of the laws also require that the receivers offer the parent written or verbal information about the safe haven law, what will happen to the baby, adoption alternatives and how to contact social services. They also may offer medical history forms that the parent may voluntarily and anonymously mail in later.

Anonymity provisions, while meant to encourage parents to safely drop off their newborns, create difficulties for the child welfare and legal systems.

The goal of the anonymity provisions is to encourage women to safely surrender their infants without fear of identifying themselves. South Carolina requires the person accepting the infant to offer information about the legal repercussions of relinquishment. The person receiving the infant also must attempt to obtain information about the infant, but the parent is not required to share anything. In addition, the parent must receive a self-addressed, stamped envelope to mail to the Department of Human Services with information about the child. Minnesota receivers must not inquire about identity, but may ask about medical history and may tell the parent how to contact social services. California, Connecticut, New Mexico and North Dakota issue the parent a numbered identification bracelet. If the parent changes his or her mind, possession of the bracelet in Connecticut, New Mexico and North Dakota creates a presumption that the parent has standing to participate in a custody hearing. In California, a parent can reclaim custody within 14 days of surrendering the child if he or she has a matching bracelet. Tennessee requires the facility receiving the infant to seek identifying and medical history information whenever possible and to inform the parent that such information will facilitate the infant's adoption. The parent is not required to provide the information.

Termination of Parental Rights

The anonymity provisions, while meant to encourage parents to safely drop off their newborns, create difficulties for the child welfare and legal systems. In order to free abandoned infants for adoption, states must hold termination of parental rights proceedings in court

to remove a parent's legal rights and obligations to his or her child. To abide by constitutional requirements for due process for parents, the state must attempt to locate and notify the parents of the termination proceeding and give them an opportunity to respond and appear in court.

Twenty-one states (see sidebar) address the termination of parental rights proceeding notification requirement in several different ways. Generally, they either state that the act of voluntarily surrendering the infant to a safe haven terminates parental rights or they provide for some type of notice to parents or require the department to conduct a reasonable search to locate the biological parents. South Carolina requires the Department of Social Services to publish notice of an abandoned newborn and to send a news release to broadcast and print media in the area with information about the infant, including the permanency hearing date and location. Iowa's law outlines the termination of parental rights process and the timelines for filing petitions. The legislation also requires notice to be provided to any known parent and to possible putative fathers registered with the state registrar of vital statistics. Florida's law creates a presumption that the parent leaving the newborn consents to the termination of his or her parental rights; however, the parent may claim the child up until the court enters a judgment terminating parental rights. The law also requires the department or a child-placing agency that has custody of the infant to initiate a diligent search to notify and obtain consent from the parent whose identity and location are unknown, other than the surrendering parent. Several states give parents a specified amount of time in which to claim maternity or paternity of the infant. If they do not petition for custody within that time period, they waive right to notice of, or participation in, any judicial proceeding for the adoption of the infant.

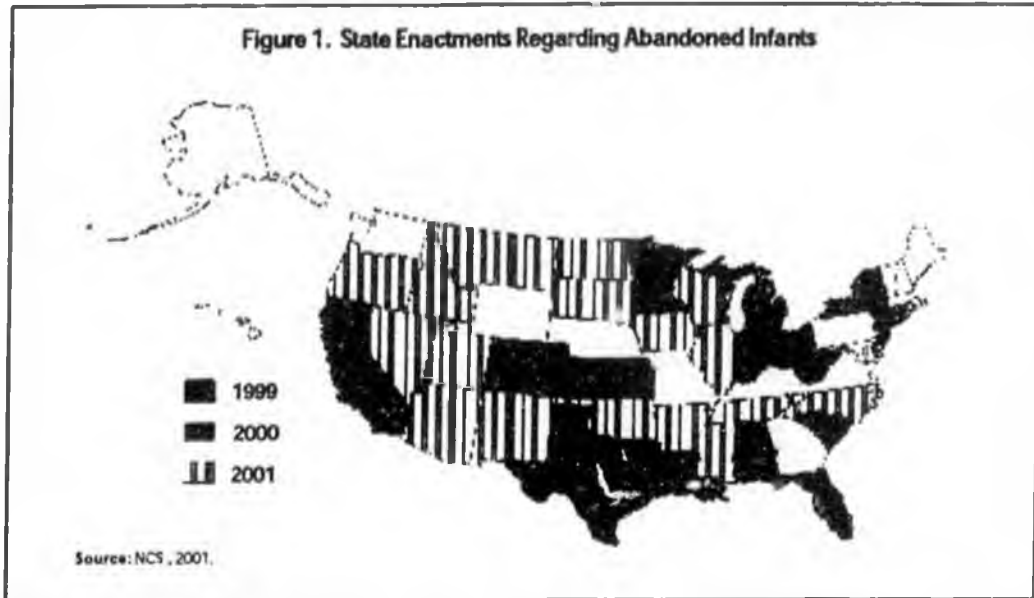
South Carolina requires the Department of Social Services to publish notice of an abandoned newborn.

Public Awareness

Thirteen states require media and public awareness campaigns to alert parents who are at risk of abandoning their infants to the new legal alternative. New Jersey's legislation requires the establishment of a public information program to promote safe placement alternatives for newborns, including a 24-hour, toll-free hotline. The law also appropriated \$500,000 for the program.

In addition to the 19 states that enacted legislation so far in 2001 (see figure 1), 11 considered bills. As was the case in 2000, the proposals seek to grant immunity to parents who

surrender unharmed infants in designated locations. Most of the provisions are similar to those already discussed.



State Experience: How Effective Are the New Laws?

So far, the laws appear to have had a limited effect. Several states have begun to report on infants abandoned after the passage of the safe haven legislation. Approximately 33 babies have been legally relinquished including five each in Texas, Michigan and Alabama, six in

Major Provisions of Safe Haven Legislation
Parent will not be prosecuted: Ariz., Calif., Conn., Fla., Idaho, Iowa, Ill., Kan., Minn., Mont., Nev., N.M., N.D., Ohio, Okla., R.I., S.C., S.D., Tenn. and Wis.
Affirmative defense: Ala., Ark., Colo., Del., Ind., La., Mich., Miss., N.J., N.Y., N.C., Ore., Texas, Utah and W. Va.
Termination of parental rights: Calif., Conn., Del., Fla., Idaho, Ill., Iowa, La., Mont., Nev., N.J., N.C., Ohio, Ore., R.I., S.C., S.D., Tenn., Utah, W. Va., and Wis.
Missing child registry search: Ark., Fla., La., N.J., Okla. and S.C.
Public awareness: Conn., Fla., Iowa, Ill., Mont., N.J., N.Y., N.C., Okla., Ore., S.C. and Tenn.
Funds available for infant: N.M. and Wis.
Genetic testing to determine maternity/paternity: Del., Fla., Idaho, Ill. And Ohio
Putative father registry search: Ill., Tenn., and Utah
Additional study of infant abandonment: Colo., Idaho, Ill., La. and N.J.

New Jersey, four in California, two in Connecticut, Minnesota and Ohio and one each in Kansas and South Carolina. The numbers are approximate because officials in several states reported that they are not officially tracking the numbers of infants or that they had unofficial media counts of infants. Officials in New York, West Virginia and Florida reported that they were not sure that any infants had been relinquished because their laws do not require reporting or tracking that information.

Unfortunately, safe haven legislation has not prevented all cases of unlawful abandonment. Texas reported at

least 12 infants have been abandoned illegally since the passage of its law, but the abandonments occurred before the start of a public awareness campaign. None have been abandoned outside safe havens since this publicity. Louisiana reported that five infants have been abandoned illegally since passage of its law. Three babies died, and the parents are being prosecuted. At least five babies were illegally abandoned in California; two more of them were found dead. In Connecticut, one baby was discarded near a highway. Three babies have been abandoned illegally in Colorado. In one case, the mother is attempting to regain custody. Michigan reported nine attempts including one in which a judge ruled that the case was not a safe haven surrender because the parents had not been given enough information on their legal rights.

Several states also reported on their public awareness campaigns, which they believe will be key to the effective implementation of the new laws. Texas did not

include provisions for public awareness and continued to find abandoned babies until a private foundation donated money for a campaign. New Jersey used its \$500,000 appropriation to produce public service announcements, posters, pocket cards and brochures and has advertised the program in local and college newspapers, on billboards and on buses. Michigan included a \$200,000 appropriation to establish a toll-free information line and distribute press releases, a brochure and a poster targeting youth. Connecticut developed a brochure for distribution in high schools, middle schools, homeless shelters and drug treatment centers. The effects of these campaigns remain to be seen.

States reported on their efforts to provide training for personnel responsible for receiving and caring for infants as an essential component. The New Jersey Hospital Association provides ongoing training for hospital staff, and the state's attorney general works with prosecutors to ensure that parents who legally relinquish infants are not prosecuted. Michigan developed protocols and training material to be sent to entities that are designated to receive the infants. California sent material to hospitals and conducted a training for hospital supervisors on procedures for accepting infants. Connecticut will work with the state hospital association to train hospital workers and will develop training material for law enforcement officers.

Finally, many officials see voluntary data collection about the mothers as a critical element in developing better policy to address the needs of women who abandon their babies. The

Updated links to abandoned infant enactments and bills can be found at NCSL's Child Welfare Web Site at <http://www.ncsl.org/programs/cj/cw.htm>.

Many officials see voluntary data collection about the mothers as a critical element in developing better policy to address the needs of women who abandon their babies.

information could include the mother's medical history, race, length and condition of the pregnancy, any history of sexual or substance abuse, family situation, economic background, presence of domestic violence and information about the father. There is also a need to collect as much information as possible about the infant, including medical history, date of birth, preferred name for the child, sex, location of the birth and any problems encountered at birth.

Areas of Concern for Policymakers

Many child welfare experts state that safe haven legislation needs to be part of a larger effort to enhance services for women who are at risk of abandoning their infants.

Proponents of safe haven legislation believe that these laws will significantly reduce the risk that a newborn will be abandoned in a manner that may result in death. They also feel that the laws will protect parents who believe they have no option other than abandonment, but who want to deliver their newborn to a safe shelter. Others hope that the laws may offer young women an immediate alternative to abandoning their infants, while giving policymakers and the public time to examine the issue and create system-wide reform to include teen pregnancy prevention programs, prenatal counseling, health services, adoption promotion and other support programs.

Critics of safe haven laws continue to voice concern in a number of areas that could have major implications for state lawmakers.

Need for Examination of Statewide Services for Women at Risk

Many child welfare experts state that, although safe haven legislation may be a good idea, it needs to be part of a larger effort to enhance services for women who are at risk of abandoning their infants. Experts from the fields of child welfare, mental health, youth services, the medical establishment and teen pregnancy will want to work with young parents to examine the existing system of services. Such an examination might provide some answers about why this population of parents is unable -or unwilling- to use these services.

Lack of a Comprehensive Strategy for the Prevention of Infant Abandonment

Critics are concerned that states are not viewing safe haven programs as an integral part of child abuse prevention. Has infant abandonment been considered in the state's child abuse prevention efforts? Does the strategy target young women at risk of abandonment? These are just a few questions policymakers may want to ask as they work with public

health, child protection, child abuse prevention, mental health, families and others to develop a comprehensive strategy to prevent infant abandonment.

Anonymity and Termination of Parental Rights

Child welfare experts are apprehensive that the anonymity provided to parents in the safe haven laws conflicts with biological parents' due process rights in termination of parental rights proceedings. As previously mentioned, states have attempted to address this critical issue by providing some type of notice or search for the biological parents of the abandoned infant in an effort to include them in judicial proceedings related to the adoption of the infant. States will want to carefully examine their termination of parental rights statutes to avoid conflicts with safe haven laws.

Relationship to Existing Child Welfare Statutes

Likewise, states may want to examine all their existing statutes related to adoption, paternity, custody and all judicial proceedings associated with child abandonment. It also is important that states clarify their definitions of infant abandonment. For example, several states with new laws exempt safe haven abandonment from the statutory definition of abandonment, child abuse or child neglect. Other states add safe haven abandonment to their existing definition of abandonment.

Father's Rights

A few states require a check of the putative father registry and include provisions to contact the putative father, but most do not contain provisions to address notification of fathers who may not be aware of the child's birth. Critics contend that denying notification unfairly presumes that these fathers do not want to care for their children. Utah's legislation addresses this concern by requiring a search of the confidential registry for unmarried biological parents and requiring that notice be sent to each potential father identified in the registry. The termination of parental rights hearing must be scheduled as soon as possible if no one has identified himself as the father (or if the mother has not identified herself) within two weeks after notice is complete. If a non-relinquishing parent is not identified, the surrender of the newborn shall be considered grounds for termination of parental rights of both parents.

Child welfare experts are apprehensive that the anonymity provided to parents in the safe haven laws conflicts with biological parents' due process rights in termination of parental rights proceedings.

Adoption

Adoption advocates are particularly concerned about the lack of medical and family history. They note that a lack of information about their backgrounds is often troublesome for adopted children and worry about the stability of the child and his or her adopted family later in life. They fear that the lack could be a setback to the trend in adoption policy to provide the adoptee with information about the birth family. Adoption and other child welfare experts also point out that the legislation may not be necessary because most states will not prosecute women who give birth and relinquish their newborns in the hospital. Additionally, every state allows women to voluntarily relinquish their infants for adoption.

Adoption advocates are particularly concerned about the lack of medical and family history.

Parental Irresponsibility

Many policymakers are concerned that these laws may only encourage parental irresponsibility. Since so little is known about the women who abandon their babies, there is no proof that the legislation will discourage mothers from leaving their infants in unsafe places. For women who might otherwise seek help from family, friends and social service agencies, the enactment of safe haven laws might encourage them to anonymously abandon their newborns rather than take advantage of their traditional network of support.

Conclusion

State safe haven laws are in various stages of implementation. The effectiveness of these new laws has yet to be measured. It is important that states begin to collect data about abandoned infants and their mothers. Such data could be researched to develop a profile of mothers who engage in this behavior to better target prevention and intervention efforts. Policymakers who are considering such legislation will want to carefully examine their states' existing statutory framework in the areas of juvenile court procedure, termination of parental rights and adoption practice to determine the future ramifications of abandoned infant laws.

References

1. "Brief Summary: Information Related to Discarded Infants," National Abandoned Infants Assistance Resource Center, August 2000 (<http://ist-socrates.berkeley.edu/~aiarc/discarded/discardfs.htm>).

State Legislative Reports

"Automobile Pollution and Efficiency in the Year 2000" (Vol. 25, No. 13) (ISBN 1-58024-124-7)	November 2000
"Religious Land Use—State and Federal Legislation" (Vol. 25, No. 14) (ISBN 1-58024-129-8)	December 2000
"Greenhouse Gas Reduction—State Case Studies" (Vol. 25, No. 15) (ISBN 1-58024-130-1)	December 2000
"The Link Between Energy Efficiency and Air Quality" (Vol. 25, No. 16) (ISBN 1-58024-134-4)	December 2000
"State Crime Legislation in 2000" (Vol. 26, No. 1) (ISBN 1-58024-143-3)	January 2001
"Juvenile Justice State Legislation in 2000" (Vol. 26, No. 2) (ISBN 1-58024-145-X)	February 2001
"State Incentives for Energy Efficiency" (Vol. 26, No. 3) (ISBN 1-58024-156-5)	April 2001
"Postsecondary Enrollment Options Programs" (Vol. 26, No. 4) (ISBN 1-58024-158-1)	April 2001
"Child and Family Service Reviews: Implications for State Oversight of Local Child Care Welfare Agencies" (Vol. 26, No. 5) (ISBN 1-58024-161-1)	May 2001
"Implementing High-Stakes Assessment of Student Achievement" (Vol. 26, No. 6) (ISBN 1-58024-163-8)	May 2001
"Breast and Cervical Cancer Treatment" (Vol. 26, No. 7) (ISBN 1-58024-171-9)	July 2001
"Safe Havens for Abandoned Infants" (Vol. 26, No. 8) (ISBN 1-58024-179-4)	September 2001

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	A	B	C	D	E	F
1	STATE	Days to surrender	Who can surrender	Focus of Law	Anonymity for parent or agent of parent may be expressly guaranteed in statute	Statute states that the safe haven cannot compel parent or agent of parent to provide identifying info
2	Alabama	3 days		Protecting newborns		
3	Arizona	3 days	a parent or a parents agent	Protecting newborns	Yes	Yes
4	Arkansas	30 days	a parent or a parents agent			
5	California	3 days	a parent or a parents agent or another person having custody of the child	Protecting newborns		Yes
6	Colorado	3 days		Protecting newborns		
7	Connecticut	30 days	a parent or a parents agent			Yes
8	Delaware	14 days	not specified		Yes	Yes
9	Florida	3 days		Protecting newborns	Yes	
10	Georgia	Less than 1 week	Mother only			
11	Idaho	30 days	Custodial parent			Yes
12	Illinois	3 days		Protecting newborns	Yes	
13	Indiana	45 days				Yes
14	Iowa	14 days	a parent or a parents agent			Yes
15	Kansas	45 days	a parent or a parents agent or another person having custody of the child			
16	Kentucky	14 days		Protecting newborns	Yes	
17	Louisiana	30 days				Yes
18	Maine	31 days	not specified			Yes
19	Massachusetts	Less than 1 week				Yes
20	Maryland	Less than 3 days	Mother only/or another person approved by the mother to deliver infant on her behalf	Protecting newborns		

	A	B	C	D	E	F
21	Michigan	3 days		Protecting newborns		Yes
22	Minnesota	3 days	Mother only/or another person approved by the mother to deliver infant on her behalf	Protecting newborns		Yes
23	Mississippi			Protecting newborns		
24	Missouri	Less than 30 days	a parent or a parents agent			
25	Montana	30 days				Yes
26	Nevada	30 days				Yes
27	New Hampshire					Yes
28	New Jersey	30 days	not specified			Yes
29	New Mexico	90 days	not specified			Yes
30	New York	5 days	not specified			
31	North Carolina	7 days				Yes
32	North Dakota	1 year	a parent or a parents agent			Yes
33	Ohio	3 days		Protecting newborns	Yes	
34	Oklahoma	7 days			Yes	Yes
35	Oregon	30 days				Yes
36	Rhode Island	30 days	a parent or a parents agent			
37	South Carolina	30 days	a parent or a parents agent			Yes
38	South Dakota	60 days				Yes
39	Tennessee	3 days	Mother only	Protecting newborns		Yes
40	Texas	60 days			Yes	
41	Utah	3 days	a parent or a parents agent	Protecting newborns	Yes	
42	Washington	3 days		Protecting newborns	Yes	
43	West Virginia	30 days			Yes	Yes
44	Wisconsin	3 days		Protecting newborns	Yes	
45	Wyoming		a parent or a parents agent		Yes	Yes

Baby Abandonment Project

The list below identifies the 41 states that have passed "safe haven" laws between 1999 and August 2002.



Alabama

House Bill 115 (Signed by Governor May 11, 2000)

Online Text of Bill: Not available -- CWLA Summary

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Emergency medical services providers, hospitals
- *Liability:* Affirmative defense to prosecution

Arizona

House Bill 2001 (Signed by Governor April 23, 2001)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Firefighter, Emergency medical services technician, Hospital, Outpatient treatment center, Child welfare agency, Licensed adoption agency, Church or House of worship
- *Liability:* Immune from prosecution for abuse

Arkansas

House Bill 1070/ Act 236 (Signed by Governor Feb 13 2001)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Emergency department of licensed hospital, Law enforcement agency
- *Liability:* Affirmative defense to prosecution for endangering the welfare of a minor

California

Senate Bill 1368 (Signed by Governor September 28, 2000)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Hospital emergency room, Other location designated by board of supervisors
- *Liability:* Immune from prosecution

Colorado

Senate Bill 00-171 (Signed by Governor June 3, 2000)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Hospital, Fire station
- *Liability:* Affirmative defense to prosecution

Connecticut

Public Act 00-207 (Signed by Governor October 1, 2000)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospital emergency room
- *Liability:* Immune from prosecution

Delaware

House Bill 120 (Signed by Governor July 9, 2001)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age:* 14 days
- *Safe Havens:* Emergency department of a hospital
- *Liability:* Defense to Prosecution

Florida

House Bill 1901 and Amendment HB475
(Signed by Governor June 2, 2000 and May 23, 2001)

Online Text of Bill (Requires PDF) -- CWLA Summary

Key Points:

- *Age:* 3 days
- *Safe Havens:* Hospitals, Fire stations, Emergency medical services stations
- *Liability:* Immune from prosecution for neglect

Georgia

House Bill 360
(Signed May 2002)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age:* Less than one week
- *Safe Havens:* Employee, volunteer or staff member of a medical facility
- *Liability:* Immune from prosecution for the crimes of cruelty of a child or abandonment of a dependent child.

Idaho

Senate Bill 1037 (Signed by Governor April 9, 2001)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospitals, Physicians' offices and clinics, Medical personnel responding to 911 call, Nurses and physician assistants
- *Liability:* Immune from prosecution for abandonment

Illinois

House Bill 0632, Senate Bill 216, Public Act 92-0408 (Signed by Governor August 20, 2001)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age*: 72 hours
- *Safe Havens*: Hospital, fire station, emergency medical facility
- *Liability*: Relinquishment does not violate the criminal code or constitute a basis for a finding of abuse, neglect or abandonment

Indiana

Senate Bill 330 and Amendment House Bill 1829
(Signed by Governor March 17, 2000 and May 17, 2001)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age*: 45 days
- *Safe Havens*: Emergency medical services provider
- *Liability*: Affirmative defense to prosecution

Iowa

Senate File 355 (Signed by Governor April 24, 2001)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age*: 14 days
- *Safe Havens*: Hospital emergency rooms, Health care facilities
- *Liability*: Immune from prosecution for abandonment or neglect

Kansas

House Bill 2838 (Signed by Governor 2000)

Online Text of Bill -- CWLA Summary

Key Points:

- *Age*: 45 days
- *Safe Havens*: Fire station, City or county health department, Medical care facility
- *Liability*: Immune from prosecution for abandonment

Kentucky

KRS Chapter 311

Online Text of Bill -- CWLA Summary

Key Points:

- *Age:* 72 hours
- *Safe Haven:* Emergency medical services provider, Police Station, Fire Station
- *Liability:* Relinquishing parent not considered to have abandoned or endangered the child

Louisiana

House Bill 223 (Signed by Governor April 17, 2000)

[Online Text of Bill](#) ([Requires PDF](#)) -- [CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospitals, Public health units, Fire stations, Police stations, Pregnancy crisis facility
- *Liability:* Affirmative defense to prosecution for abandonment, molestation, or cruelty

Maine

LD 1670 (Signed March 22, 2002)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 31 days
- *Safe Havens:* Emergency Room of a Hospital, Hospital Staff Member, Firefighter, Police Officer, Medical Services Provider
- *Liability:* - Affirmative defense to the crime of abandonment

Maryland

Senate Bill 82 (Adopted March 22, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* Less than 3 days old
- *Safe Havens:* Hospital personnel
- *Liability:* - Relinquishment not seen as a criminal act if child is unharmed

Michigan

Senate Bill 1053 (Signed by Governor June 26, 2000)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 72 hours

- *Safe Havens*: Fire departments, Hospitals, Police stations
- *Liability*: Affirmative defense to prosecution for injury or abandonment

Minnesota

Senate File 2615 (Signed by Governor April 2000)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age*: 72 hours
- *Safe Havens*: Hospitals
- *Liability*: Immune from prosecution

Mississippi

House Bill 169 (Signed by Governor March 23, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age*: 72 hours
- *Safe Havens*: Hospitals, Adoption agencies
- *Liability*: Affirmative defense to prosecution

Missouri

House Bill 1443 (Approved by Governor July 2, 2002; Effective August 28, 2002)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age*: Less than 30 days old
- *Safe Havens*: On duty hospital staff, firefighters, emergency medical technician, and law enforcement
- *Liability*: Immune from prosecution on child abandonment and endangering welfare of child who is less than 5 days old; affirmative defense for child abandonment and endangerment of welfare to child who is between 6-30 days old

Montana

Senate Bill 0132 (Signed by Governor April 19, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age*: 30 days
- *Safe Havens*: Fire departments, Hospital, Law enforcement agencies

- *Liability*: Immune from prosecution for abandonment

Nevada

Senate Bill 191 (Signed by Governor May 31, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age*: 30 days
- *Safe Havens*: Hospital, obstetric center or independent center for emergency medical care, fire-fighting agency, law enforcement agency
- *Liability*: Not in violation of the law simply by virtue of delivering a child to a safe haven

New Jersey

Chapter 58 (Signed by Governor July 7, 2000)

[Online Text of Bill \(Requires PDF\) -- CWLA Summary](#)

Key Points:

- *Age*: 30 days
- *Safe Havens*: State, county or municipal police stations, Hospital emergency rooms
- *Liability*: Affirmative defense to prosecution for abandonment

New Mexico

Senate Bill 94 (Signed by Governor March 14, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age*: 90 days
- *Safe Havens*: Hospitals, Health care clinics
- *Liability*: Immune from prosecution for abandonment or abuse

New York

SO06688 (Signed by Governor June 18, 2000)

[Online Text of Bill: Not available -- CWLA Summary](#)

Key Points:

- *Age*: 5 days
- *Safe Havens*: Appropriate person or suitable location
- *Liability*: Affirmative defense to prosecution for abandonment or desertion

North Carolina

House Bill 275 / Session Law 2001-291 (Signed by Governor July 19, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 7 days
- *Safe Havens:* Health care provider, law enforcement officer, social services worker, certified emergency medical service worker, any adult
- *Liability:* Immune from prosecution

North Dakota

SB 2129 (Signed by Governor March 28, 2001)

[Online Text of Bill \(Requires PDF\) -- CWLA Summary](#)

Key Points:

- *Age:* 1 year
- *Safe Havens:* Hospitals
- *Liability:* Immune from prosecution

Ohio

House Bill 660 (Signed by Governor January 5, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Emergency medical service workers, Peace officers, Hospitals
- *Liability:* Immune from prosecution

Oklahoma

House Bill 1122 (Signed by Governor April 30, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 7 days
- *Safe Havens:* Medical services providers, Police stations, Fire stations, Child protective services agencies, Hospitals, Medical facilities
- *Liability:* Immune from prosecution for abandonment or neglect

Oregon

Senate Bill 199 (Signed by Governor June, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospitals, Birthing Centers, Physicians' offices, Sheriffs' offices, Police stations
- *Liability:* Affirmative defense to prosecution for abandonment

Rhode Island

Senate Bill 94 (Signed by Governor July 9, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospital, medical emergency facility, fire station, police station
- *Liability:* Immune from prosecution for abandonment

South Carolina

House Bill 4743 (Signed by Governor June 6, 2000)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospitals, Hospital outpatient facilities
- *Liability:* Immune from criminal prosecution

South Dakota

Senate Bill 92 (Signed by Governor March 3, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 60 days
- *Safe Havens:* Health care facilities or clinics, Law enforcement officers, Emergency medical technicians, Firefighters
- *Liability:* Immune from prosecution

Tennessee

Senate Bill 774 / Public Act 388 (Signed by Governor July 19, 2001)

[Online Text of Bill \(Requires PDF\) -- CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Hospitals, Birthing centers, Community health clinics, Out-patient "walk-in" clinics
- *Liability:* Immune from criminal prosecution

Texas

House Bill 3423, Senate Bill 783 (Signed by Governor June 6, 1999; amended March 21, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 60 days
- *Safe Havens:* Emergency medical services provider, Licensed child-placing agency, Licensed residential child-care provider
- *Liability:* Affirmative defense to prosecution

Utah

House Bill 12 Substitute (Signed by Governor March 15, 2001)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Hospitals with emergency rooms
- *Liability:* Immune from prosecution for neglect or abandonment

Washington

SB 5236 (April 3, 2002)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Emergency department of a licensed hospital during hours of operation, or Fire station during hours of operation and while fire personnel are present
- *Liability:* Relinquishing parent is not subject to criminal liability under parts of law in question.

West Virginia

House Bill 4300 (Signed by Governor March 11, 2000)

[Online Text of Bill -- CWLA Summary](#)

Key Points:

- *Age:* 30 days
- *Safe Havens:* Hospitals, Health care facilities
- *Liability:* Affirmative defense to certain prosecutions

Wisconsin

Assembly Bill 54 (Signed by Governor April 6, 2001)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Law enforcement officers, Emergency medical technicians, Hospitals, 911 responders
- *Liability:* Immune from civil or criminal prosecution

No Data

Alaska, Hawaii, Massachusetts, Nebraska, New Hampshire, Pennsylvania, Vermont, Virginia, Wyoming

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URL: <http://www.cwla.org/programs/prev/flocrittsafehaven.htm>



**Testimony
House Bill 322**

Planned Parenthood of Alaska applauds Representatives LeDoux and Representative Gruenberg for introducing the "Safe Surrender" bill. House Bill 322 allows a parent to surrender a newborn at a designated safe place where someone can attend to the infant's needs. Any parent who relinquishes an unharmed infant under this bill will have total anonymity. Sixteen states have already passed similar laws. President Bush signed the first Safe Surrender bill into law while he was governor of Texas.

The decriminalization of infant abandonment is an important step to help young women deal with an unwanted pregnancy. Alaska's open adoption law, while securing adoptee rights, may deter women from adoption and push them toward abortion. Many of these women do not want their families to know about their pregnancy. There is no guarantee of privacy in open adoption; furthermore, adoption is a complicated and intrusive process. It requires permission from the father, questioning, paper work, etc. Safe Surrender is an offer of assistance to women who might otherwise abandon a newborn. Under existing law the police track down a woman who abandons an infant. Illegal abandonment can lead to a baby's death and the mother's prosecution.

This is a first step. Safe Surrender does not address the societal ills that lead to unintended pregnancy and the drastic acts of infanticide and abandonment. Teens need to know if they make a mistake their family and society will treat them compassionately. Young people need to have honest and medically accurate sex education. We need enhanced out-reach and support for at-risk parents. Greater access to birth control, including insurance coverage of all FDA approved contraception, should be made available.

Therefore, Planned Parenthood of Alaska supports this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'CS', with a long horizontal line extending to the right.

Clover Simon, MSW
Planned Parenthood of Alaska
4001 Lake Otis Pkwy
Anchorage, AK 99503
907.770.9705

ALASKA WOMEN'S LOBBY

*AWL Mission: To defend and advance the rights and needs of Women,
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Position Paper
HB 322, SAFE SURRENDER OF BABIES
April 2006

The Alaska Women's Lobby supports HB 322. The bill is an important safety measure to increase the likelihood that troubled parents will turn over their newborns to medical or other emergency personnel instead of leaving them in potentially dangerous situations.

Beginning in Texas in 1999, "Baby Moses laws" or infant safe haven legislation has been enacted as an incentive for mothers in crisis to safely relinquish their babies to a safe haven where the baby will be protected and provided with medical care until a permanent home can be found. Safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from prosecution for abandonment or neglect in exchange for safely surrendering the baby to a safe haven. According to a report of the Alan Gattmacher Institute, as of June 2005, these laws exist in 45 states. It is time for Alaska to join these other states.

Variations by state include limits on the infant's age at time of relinquishment (72 hours to 1 year) and the people and places authorized to accept the infants (e.g., Emergency Medical Services, hospitals, fire stations, and police stations). Most state policies adopt a "no questions asked" approach, but some states require that a person accepting the infant ask for a medical history. We support the one year time length this bill suggests.

One important issue to consider as the bill moves through the committee process is public education about the bill when it becomes law. In 2003, 15 states had mandated public information campaigns to increase public awareness of safe haven legislation. Several common elements of such campaigns include toll-free hotlines, pamphlets and written material, and public service messages. Funding should be provided so that once the service is available, those who are eligible to receive the infants can be trained and the public can be made aware of the service throughout the state.

Thank you for hearing this piece of legislation. Creating avenues for parents to relinquish newborns in a way that protects both the parents and the newborns should lessen the odds of finding babies abandoned in dumpsters or empty parking lots.

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

OFFICE OF CHILDREN'S SERVICES

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110630
JUNEAU, ALASKA 99811-0630
PHONE: (907) 465-3170

April 24, 2006

Honorable Representative Gabrielle LeDoux
Alaska State Legislature
State Capitol, Room 412
Juneau, AK 99801-1182

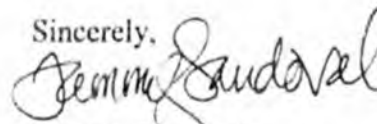
Dear Representative LeDoux:

Thank you for your work this legislative session on House Bill 322. Passage of this bill may prevent harm to some infants as it allows a parent to safely surrender their child without fear of criminal prosecution.

The Office of Children's Services supports HB 322 and is interested in collaborating with you on new state law that would provide an infant who may otherwise be abused or neglected with the opportunity for a stable and loving home.

Thank you for your commitment to Alaska's children and their families.

Sincerely,



Tammy Sandoval
Deputy Commissioner

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB322-DHSS-OCS-04-24-06

Revision Date/Time (Note if correction): _____

() Publish Date: _____

Title INFANTS SAFELY SURRENDERED BY A PARENT SHORTLY AFTER BIRTH

Dept. Affected: Health & Social Services

RDU Children's Services

Component Family Preservation

Sponsor LEDOUX

Requester HOUSE (HES)

Component No. 1628

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	100.0	100.0	100.0	100.0	100.0	100.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	100.0	100.0	100.0	100.0	100.0	100.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUE (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	100.0	100.0	100.0	100.0	100.0	100.0
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides for the safe surrender of infants whereby the parent may not be criminally prosecuted for surrendering an infant in the manner described.

Drawing on other states' experience with similar laws, the OCS believes that adequate public education is key to success. If the desired effect of this bill is to stop abandonment of babies, the public needs to be made aware of the options. This fiscal note would cover estimated costs for a campaign that provides for media advertising, brochures, posters, etc., to be distributed in hospitals, clinics, doctors' offices, public assistance offices, and other public areas. Estimated costs are based on similar campaigns and promotions managed within OCS.

Prepared by: Tammy Sandoval, Deputy Commissioner
Division: Office of Children's Services
Approved by: Karleen Jackson, Commissioner
Agency: Department of Health and Social Services

Phone 465-3191
Date/Time 04/21/2006
Date 04/24/2006