

**HB**

**322**

# ALASKA STATE LEGISLATURE



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Representative Gabrielle LeDoux

## MEMO

**TO:** SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE  
SENATOR FRED DYSON, CHAIR

**FROM:** REPRESENTATIVE GABRIELLE LEDOUX *GL*

**SUBJECT:** REQUEST FOR HEARING SAFE SURRENDER OF INFANTS ACT, CSHB 322

**DATE:** 4/27/2006

I respectfully request that House Bill 322 be scheduled for a hearing in the Senate Health, Education, and Social Services Committee pending referral.

### Documents attached:

- CSHB 322
- Sponsor statement
- Fiscal note
- Additional documentation relating to the bill:
  - Letters of support
  - Memo from Legislative Research Services
  - NAIC, State Statutes Series 2004, "Infant Safe Haven Laws"
  - National Conference of State Legislatures, "Update: Safe Havens for Abandoned Infants" October 21, 2003
  - State by State comparison of Safe Haven Laws from the Child Welfare League of America
  - National Conference of State Legislatures, "Safe Havens for Abandoned Infants" September 2001
  - Four instances of infant abandonment in Alaska as reported in the Anchorage Daily News

My staff member assigned to this legislation is Christine R. Marasigan at 465-8872.

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Representative Gabrielle LeDoux

## **SPONSOR STATEMENT**

### **CSHB 322, Safe Surrender of Infants Act**

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 46 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.

# 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 RDU \_\_\_\_\_  
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          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**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) |            |            |            |            |            |            |
| <b>TOTAL</b>                           | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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 Phone 907-485-8841  
 Division: House Judiciary Committee Date/Time 04/26/06 3:45 p.m.  
 Approved by: Rep. Lesil McGulra, Chair Date 4/26/2006  
 Agency: House Judiciary Committee

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Representative Gabrielle LeDoux

## MEMO

TO: REPRESENTATIVE GABRIELLE LEDOUX  
FROM: CHRISTINE R. MARASIGAN, LEGISLATIVE AIDE *CRM*  
SUBJECT: SAFE SURRENDER OF INFANTS CHANGES FROM 24-LS1110\Y TO 24-LS1110\L  
DATE: 4/27/2006

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During the House Judiciary Committee made the following amendments to 24-LS1110\Y resulting in version 24-LS1110\L:

Page 1, Sec. 2, line 10 and  
Page 3, Sec. 6, line 19

21 days of age replaced [eight days]

Rationale: Eight days was felt to be too short a time period.

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MEMO

TO: REPRESENTATIVE GABRIELLE LEDOUX  
FROM: CHRISTINE R. MARASIGAN, LEGISLATIVE AIDE *CRM*  
SUBJECT: SAFE SURRENDER OF INFANTS CHANGES FROM 24-LS1110\A TO 24-LS1110\Y  
DATE: 4/26/2006

Upon consultation with several agencies a sponsor substitute was requested with the following changes:  
24-LS1110\A to 24-LS1110\F

Page 1, Sec. 2, line 10 and an infant who is less than three days of age replaced [less than 12  
Page 3, Sec. 6, line 19 months of age]

Page 2, Sec. 3, line 2 extinguished after 28 days if replaced [extinguished, if]

Page 2, Sec. 3(d) (3) lines 16-17 under (4) was replaced with [under (3)]  
(3) was deleted.

Rationale: The most significant change in SSHB 322 is three days and 28 days. In the original bill, agencies commented that 12 months was too long and that there was a potential for abuse and neglect. "28 days" was inserted as a time compromise between those interested in three days and other interested in one month. (3) was deleted because it was unnecessary and would encumber medical or firefighting volunteers. In (4) the parent would be directed towards counseling and appraised of laws related to relinquishing parental rights.

The House Health, Education and Social Services Committee made the following amendments to 24-LS1110\F resulting in version 24-LS 110\Y

Page 1, Sec. 2, line 10 and eight days replaced [three days]  
Page 3, Sec. 6, line 19

Page 2, Sec. 3, line 3 [after 28 days] was deleted

Rationale: Three days was felt to be too short a time period. Extending a parent's legal duty for support for 28 days once surrender has occurred is unnecessary.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## 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(c), 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

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB322-DHSS-OCS-04-24-06  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): \_\_\_\_\_

Title INFANTS SAFELY SURRENDERED BY A PARENT SHORTLY AFTER BIRTH

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          |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES (0)</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**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) |              |              |              |              |              |              |
| <b>TOTAL</b>                          | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> |

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 their 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

# 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

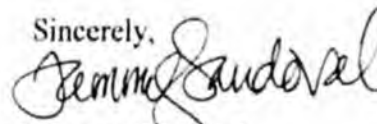
Dear Representative LeDoux:

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



**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,  
Children and Families in Alaska*

P.O. Box 20891  
Juneau, Alaska 99802-0891  
[www.akwomenslobby.org](http://www.akwomenslobby.org)

## 2006 AWL Steering Committee Members

Caren Robinson  
Lobbyist

Geran Tarr,  
Chair

Diane DiSanto

Marissa Flannery

Torie Foote

Sherrie Goll

Janelle Hafner

Nacole Heeslep

Lauree Hugonin

Jy Lister

Mary Matthews

Taber Rehbaum

Mary Elizabeth  
Rider

Nancy Scheetz-  
Freymler

Libby Silberling

Jana Varrat

Rose Wysocki

## 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.

# Legislative Research Services

Alaska State Legislature  
Legislative Affairs Agency  
Division of Legal and Research Services

State Capitol, Juneau, AK 99801  
Phone: 907-465-3991  
Fax: 907-465-3908

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>.

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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

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, approximately<sup>1</sup> 46<sup>2</sup> 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),<sup>3</sup> 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),<sup>4</sup> or another person having custody of the child<sup>5</sup> to take the baby to a safe haven. Five States<sup>6</sup> 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.

### Who May Leave a Baby at a Safe Haven

### Safe Haven Providers

<sup>1</sup> 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.

<sup>2</sup> 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.

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

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

<sup>5</sup> In California and Kansas

<sup>6</sup> 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,<sup>7</sup> 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,<sup>8</sup> while North Dakota's safe havens will accept a child as old as 1 year.<sup>9</sup>

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,<sup>10</sup> or the statute may state that the safe haven cannot compel the parent or agent of the parent to provide identifying information.<sup>11</sup> Some States provide an assurance of confidentiality for any information that is provided.<sup>12</sup>

In addition to the guarantee of anonymity, many States limit prosecution<sup>13</sup> or provide that safe relinquishment of the infant is an affirmative defense<sup>14</sup> in any prosecution<sup>15</sup> 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.

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

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

<sup>9</sup> 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).

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

<sup>11</sup> In 28 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.

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

<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> 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,<sup>16</sup> usually within a specified time period and before any petition to terminate parental rights has been granted. A few States<sup>17</sup> 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.

<sup>16</sup> 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.

<sup>17</sup> In approximately 4 States: Louisiana, South Dakota, Tennessee, and Utah.



## **Child Welfare Project**

### **UPDATE: SAFE HAVENS FOR ABANDONED INFANTS October 21, 2003**

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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**

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#### **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**

All 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.

STATE BY STATE COMPARISON OF 'SAFE HAVEN' LAWS

|    | 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 |  |  |

SOURCE: CHILD WELFARE LEAGUE OF AMERICA

STATE BY STATE COMPARISON OF 'SAFE HAVEN' LAWS

|    | 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 |



# 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 Boarder 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 "boarder 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.

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

*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.*

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.

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

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

*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.

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|---|----------------|
| "Automobile Pollution and Efficiency in the Year 2000"<br>(Vol. 25, No. 13) (ISBN 1-58024-124-7)  | November 2000  |
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From: infoweb@newsbank.com  
Sent: Wednesday, October 19, 2005 1:28 PM  
Subject: Requested NewsBank Article

Paper: Anchorage Daily News (AK)  
Title: INFANT FOUND AT UAA  
Author: TRACY BARBOUR Daily News reporter Staff  
Date: June 13, 1995  
Section: Metro  
Page: B1

A newborn boy abandoned on the sidewalk in front of a University of Alaska Anchorage building Monday morning was in serious condition by the end of the day. A campus employee found "Baby Doe" about 7

a.m. at the University Lake Building, which houses support services, said Nancy Killoran, a university spokeswoman.

Baby Doe, who appears to be white and a couple days old, was left wrapped in a blanket and with a shoestring tied around his umbilical chord, she said.

The university employee called campus security, who alerted the Anchorage Police Department.

Police found the newborn suffering from hypothermia. Otherwise, he appeared to be fine, Anchorage police Sgt. Gary Apperson said.

But by 7 p.m. Monday, Baby Doe was listed in serious condition at Providence hospital, a hospital spokeswoman said. She refused to say what the child was suffering from.

Police said they have no idea who deserted the baby and that there was no note or other clues to the identity of the boy's parents.

Whoever abandoned the child faces charges of child abandonment and neglect, police said.

Author: TRACY BARBOUR Daily News reporter Staff  
Section: Metro  
Page: B1

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**From:** infoweb@newsbank.com  
**Sent:** Wednesday, October 19, 2005 1:59 PM  
**Subject:** Requested NewsBank Article

**Paper:** Anchorage Daily News (AK)  
**Title:** NEWBORN GIRL FOUND IN BATHROOM STALL AT HOSPITAL  
**Author:** PETER S. GOODMAN Daily News reporter Staff  
**Date:** December 1, 1994  
**Section:** Nation  
**Page:** A1

A newborn girl was found wrapped in a blanket in a bathroom stall at Alaska Regional Hospital on Wednesday morning. A hospital employee found the infant when she went into the first-floor women's restroom to get a cup of water about 7:30 a.m., police said. A note of explanation was found nearby, but investigators would not reveal what it said. Several people later told investigators they had heard the baby crying as they passed by the bathroom. Hospital staff rushed the newborn to the emergency room, said Mary Hofbauer, a nursing supervisor. Doctors pronounced her in satisfactory shape.

State child welfare authorities took formal custody of the child, who remained at the hospital late Wednesday.

Police spent much of the day trying to locate the baby's mother. Detective Terry Games said witnesses spotted a white woman with long brown hair near where the baby was found. She was described as being in her mid-to-late teens, 5-feet-6 to 5-feet-7-inches tall and wearing a long brown coat. Police "strongly believe" she is the baby's mother, Games said.

Hofbauer said the infant is a "pretty little baby" who appeared to be about 12 hours old at the time she was found. She had apparently been born full term. Police said she weighed early 7 pounds and measured about 19 inches long.

The state will likely place the baby in a foster home after doctors clear her to be released from the hospital, said Faye Moore, regional administrator at the Division of Youth and Family Services in Anchorage. What happens after that is uncertain.

Moore wouldn't discuss the particulars of the case, but she predicted there is less than an even chance the mother will be found. If the mother never enters the picture, the state would likely try to get court approval to put the baby up for adoption, she said.

Bob Newell, an intake officer with the youth services agency, said it would be several months before the baby can be adopted because the state is obligated to give the mother a chance to come forward and claim her child.

If the mother does turn up and shows an interest in taking the baby, the state would assess whether she's fit to be a parent, Moore said. She "would have the burden of demonstrating to us (she) can take care of the child."

According to Newell, the state typically does whatever it takes to help mothers become suitable parents. They may undergo drug or alcohol counseling, welfare assistance or job placement, Newell said.

According to Joyce Johnson at the Child Welfare League of America in Washington, D.C., women who abandon babies tend to be young, poor and isolated. They don't know how to cope with being pregnant and they lack the sophistication to get help, she said.

"Maybe they haven't located the father or they haven't told their family that they're pregnant," Johnson said. "It's a trauma. They're not thinking coherently. And there's fear. How are they going to take care of the child? Maybe they don't have any money."

Johnson said there are places for such women to go: social service organizations that counsel women on their options, provide shelter and find them medical care.

Elaine Stoneburner, the adoption coordinator at Catholic Social Services in Anchorage, has a list of two dozen couples waiting to adopt babies. They are likely to wait anywhere from 10 months to three and a half years for a child, she said. For those would-be parents, news of a newborn being left in a bathroom stings, she said.

Johnson said that abandoned children are usually left in public places where the mothers hope they'll be found and cared for. But not always. On New Year's Eve, police found a newborn girl outside a used-clothing store in Peters Creek. She was rushed to Providence Hospital and treated for hypothermia. She was eventually adopted.

If the mother of the hospital baby is found, she could face criminal charges for abandoning her child, police said. Assistant District Attorney Steve Branchflower said the mother's intentions would be weighed in any decision to prosecute.

"Is the baby in a Dumpster or in a hospital?" Branchflower asked. "That says something about a person's intent."

Joan Teel, a private adoption consultant and former state social worker, said that's an important detail.

"There should be no judgment passed," she said. "Let's applaud (the mother) for putting the baby somewhere safe and warm."

Author: PETER S. GOODMAN  
Daily News reporter  
Staff  
Section: Nation  
Page: A1

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**From:** infoweb@newsbank.com  
**Sent:** Wednesday, October 19, 2005 2:00 PM  
**Subject:** Requested NewsBank Article

**Paper:** Anchorage Daily News (AK)  
**Title:** ABANDONED BABY GETS A NEW YEAR'S EVE CHANCE DAY-OLD GIRL LEFT OUTSIDE  
**Author:** S.J. KOMARNITSKY Daily News reporter Staff  
**Date:** January 1, 1994  
**Section:** Nation  
**Page:** A1

It was a shocking discovery: a baby girl wrapped only in a blanket outside a used clothing store in Peters Creek in the freezing cold, her umbilical cord still attached and tied off with a piece of twine. The pudgy newborn would have faced a night outdoors in freezing temperatures if not for a woman's anonymous call to police and a quick search by two nurses from a nearby senior center. Instead, she was rushed to Providence Hospital, where she was listed in serious condition with hypothermia late New Year's Eve. A police investigator estimated she was about a day old.

Officers first heard about the baby just before 3 p.m. when a woman called from a pay phone at the Peters Creek Trading Post with an anonymous tip. The woman said there was a cold baby in a container at The Garret, a used-clothing store about a mile from the convenience store. The woman didn't make herself clear and hung up before dispatchers could get her name or ask her any questions.

But they made out enough to know there might be a baby somewhere around the clothing store. Dispatchers were still deciphering the message when they called the Chugiak Senior Center, where Sharon Cloud, 44, and Charlene Beckwith, 50, work as nurse's assistants. The center is just downhill from the store.

Beckwith said they were told a child had been dropped off in a container and were asked to take a look around.

So, she and Cloud started working their way up the hill toward the store, looking in Dumpsters along the way. Nothing. Then they started searching around the store, which was closed. Still nothing.

In the meantime, Officer Robert Dutton headed to The Garret to check things out. Dispatchers still weren't sure exactly what the woman had told them and sent Dutton without lights or sirens, he said. But another officer, hearing there might be a baby involved, told Dutton to speed up.

It was just after Dutton arrived that Cloud found the girl.

Beckwith said she and Cloud had already made one search around the building when Dutton showed up. They were about to go back, thinking it was a prank call. That's when Cloud started looking through a pile of donated clothes in plastic bags left on a walkway not in a container in front of the store and found the girl under a lampshade.

"I had just been going through the clothes and I had just seen a doll," Cloud said. "I thought it was another doll. But then she moved."

Dutton told the two women to get the baby into his car, where it was warm. He later said the temperature outside was about 21 degrees.

Beckwith said the girl never cried and it was hard to tell if she was suffering from hypothermia.

"She had that newborn baby look, kind of bluish-purple," she said.

But, once the two women got in the patrol car, Beckwith could see that the girl's toes and

fingers were "really blue." The baby acted like one of her feet was numb, Beckwith said.

Dutton drove Beckwith back to the senior center and headed for Providence Hospital with Cloud cradling the child in her arms in the back seat.

Arriving at Providence just before 4 p.m., the girl was rushed to an intensive care unit and immediately put under heat lamps.

Beckwith said she's glad they found the baby in time. The clothing store was closed for the day.

"She probably would not have made it through the night," she said.

Temperatures in Anchorage were forecast to be about 20 degrees Friday night.

So far, there are few clues to the mother's identity.

Dianne Hagerty, who works at the Trading Post, said nobody noticed a woman making a call from the store's pay phone around 3 p.m. The phone is around the corner, and the store gets a lot of traffic, she said.

"Usually you don't pay attention to who is on the phone anyway," she said.

Beckwith said a woman was dropping off clothes at The Garret when she and Cloud first came up the hill. But the woman looked to be in her 50s and she said she had just arrived, Beckwith said.

The woman was putting her donation right next to where the baby was. She said she never heard a peep, Beckwith said.

Police investigators are asking for the public's help in locating a woman who was in late pregnancy and now isn't, and who doesn't have a baby to show for it.

Lt. Bill Gaither said the woman could face a number of charges for abandoning the girl, including child abuse, child neglect, reckless endangerment and endangering the welfare of a minor.

That is if the child survives, he said. If she dies, the mother could face murder charges, he said.

Beckwith said that there's already a waiting list of staffers at the center and even one elderly resident who say they'd be happy to adopt the baby.

"She's a very cute little female, kind of pudgy infant," Beckwith said.

Beckwith said the image that stayed in her mind was what Cloud told her later, that, on the ride to the hospital, the girl clung to her finger the whole time.

"We couldn't believe anyone would do such an atrocity," Beckwith said. "It was just such a pathetic thing to see. The fact that she was so naked and outside was kind of devastating."

Author: S.J. KOMARNITSKY Daily News reporter Staff  
Section: Nation  
Page: A1

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**From:** infoweb@newsbank.com  
**Sent:** Wednesday, October 19, 2005 1:27 PM  
**Subject:** Requested NewsBank Article

Paper: Anchorage Daily News (AK)  
Title: INFANT FOUND IN BIN  
Author: DON HUNTER Daily News reporter Staff  
✓ Date: September 6, 1986  
Section: Metro  
Page: 1

A newborn baby boy abandoned in a box in a Muldoon alley Thursday night was in good condition Friday at Humana Hospital. The infant was wrapped in a towel and hidden in a cardboard box left on the ground beside a Salvation Army collection bin. He was found by two teen-age boys who heard him crying as they rode by on their bicycles.

"It was crying, real loud," 15-year-old Christian Chain said. Chain was interviewed Friday while walking his dog, Duke, in the neighborhood.

"The box was closed," he said. "There was no lid, but the sides were folded up on top of the baby. We opened it up and, you know, there was a baby . . ."

"It was wrapped in a towel, a tan towel," he said.

"It was real young, not that old at all."

Only minutes before Chain and Lamont Williams, 14, found the baby, an anonymous caller told an Anchorage Police dispatcher a baby had been left at the bin.

the time officers arrived, the boys had picked up the box, climbed back on their bikes, and taken the baby to the Chain home, where they called police.

The boys discovered the baby shortly after 9 p.m., according to police. Officers took him to Humana Hospital about 9:30 p.m. Police Spokesman Joe Young said the infant was "a few hours old, at most."

Salvation Army dispatcher Alice Phillips said donations left at the bin are picked up about 11 a.m. every day. The bin is directly behind a Salvation Army thrift shop at 101 Muldoon Road.

Lynn Whitley, a hospital spokeswoman, said the baby weighed seven pounds, one ounce and was in satisfactory condition in the Humana nursery late Friday afternoon. He was stable, with vital signs within normal limits, she said.

The infant is now in the custody of the state division of family and youth services. Dolly Coke, a social worker supervisor, said in cases where the state assumes custody of children, they are placed in a foster home until a permanent placement is arranged.

Authorities have named the baby John Doe.

Storekeepers and residents of a trailer park across the street from the thrift shop said they had seen no unusual activity Thursday night. But a delivery man for a sandwich shop directly across Muldoon Road said he saw a young couple acting a little strangely.

"I was fixing to go out and make some deliveries, and I was sitting in my car adjusting packages and something caught my eye just across the street at the Goodwill box," said Chuck Argo.

ere was a couple in a late model, foreign pickup, sort of rummaging around in the boxes there. I thought it was unusual to see people with a truck like that looking in the bin .

"Then they had a bundle, looked like a bundle of clothes, and just kind of laid it over there in the boxes and took off. I didn't think anything of it until I got back (from making deliveries) and my supervisor said" police had been there.

"It didn't dawn on me it could have been a child," he said.

Young, the police spokesman, said another person called police late Thursday night after seeing reports of the abandonment on television. The caller said he had seen "a very pregnant woman in the area of the bin an hour or two before," Young said.

"That's not very much to go on," he said.

Coke, the social worker, said state law prevents her from discussing Baby Doe's specific case. She did describe procedures used in similar cases, however.

"It's very rare" for a newborn infant to be abandoned, she said. "I've been here five years, and I don't know of another infant I can remember who was abandoned . . .

"Whenever a child is abandoned you can usually assume the mother was under a great deal of stress, and may have assumed she could not provide for the child," she said.

"In these cases, it's my experience the parent will eventually surface," Coke said.

"Sometimes, someone who has been pregnant suddenly isn't, and there's no baby, and someone who knows her will call. Or sometimes they have a second thought and the parent will come forth."

If the parent or parents do appear, social workers will counsel them and try to decide the best solution for the child, Coke said.

Author: DON HUNTER Daily News reporter Staff

Section: Metro

Page: 1

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**Suzanne Hancock**

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**From:** BabySafeHaven@aol.com  
**Sent:** Monday, May 01, 2006 2:23 AM  
**To:** Suzanne Hancock  
**Subject:** House Bill 322 - Baby Safe Haven

Please let Representative LeDoux know that there are many people and organizations across the country that are very grateful for her work in forwarding the Alaska Baby Safe Haven legislation.

Just to let you know, on May 2, at 11:30 am, Governor Jim Douglas (R), of Vermont, will be signing Senate Bill 27, the VT Baby Safe Haven bill, into law in a ceremony at his office at the Vermont Capitol.

This will make Vermont the 47th state to pass and enact a Baby Safe Haven law. Massachusetts was the 46th state to pass a Baby Safe Haven law, sign by Lt. Governor Kerry Healey (R), for Governor Mitt Romney (R). Lt. Governor Healey is our biggest advocate for our MA Baby Safe Haven law, and we're sure her office would be of assistance in any support you may need

Thank you again for all of your work.

Sincerely,

Jean & Mike Morrissey  
Baby Safe Haven New England Foundation  
15 Clelland Road  
Lexington, MA 02421  
(781) 74-0071