

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 775 Surrendered Infants  
**SPONSOR(S):** Health & Human Services Committee, Canady  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 790

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	17 Y, 0 N	Clenord	McElroy
2) Health & Human Services Committee	20 Y, 0 N, As CS	Clenord	Calamas

### SUMMARY ANALYSIS

Florida law allows parents who are unwilling or unable to care for their newborn infants to safely relinquish them at hospitals, fire stations, and emergency medical services stations. This 'safe haven law' currently allows parents to anonymously surrender newborn infants up to 7 days old and grants the parents immunity from criminal prosecution unless there is actual or suspected child abuse or neglect.

HB 775 increases the age that an infant may be surrendered from 7 days old to 30 days old, preventing unsafe abandonment by allowing more time for parents to decide whether to surrender a child. The bill changes the term "newborn infant" to "infant" to reflect the extended age.

The bill authorizes a parent, after delivery of an infant in a hospital, to leave the infant with hospital medical staff. The parent of the infant must notify the staff that the parent is voluntarily surrendering the infant and does not intend to return. The bill also authorizes a parent to call 911 and request that an emergency medical services provider meet the surrendering parent at a specified location for the purpose of surrendering the infant.

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

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### **Safe Haven Laws**

Safe haven laws allow parents or agents of parents to safely relinquish babies at designated locations while remaining anonymous, and confer immunity from criminal liability and prosecution for child endangerment, abandonment or neglect.<sup>1</sup> The purpose of safe haven laws is to ensure that abandoned infants are left with those who can provide immediate care necessary for the children's safety and well-being.<sup>2</sup>

In 1999, Texas was the first state to enact safe haven legislation.<sup>3</sup> Today, all 50 states, the District of Columbia, and Puerto Rico have variations of safe haven laws which designate the places or personnel authorized to accept an infant.<sup>4</sup>

Policy choices vary among the states. For example, thirty-five states and the District of Columbia expressly allow the person relinquishing an infant to remain anonymous.<sup>5</sup> Eight states and Puerto Rico<sup>6</sup> require infants be 72 hours old or younger to be relinquished at a designate safe haven,<sup>7</sup> while 19 states include infants up to 30 days old.<sup>8</sup> The District of Columbia and 46 states authorize health care providers, such as hospitals or health clinic employees, to accept an infant, and 43 states authorize emergency services personnel, including emergency medical technicians, firefighters and law enforcement officers, to accept an infant or allow relinquishment through the 911 emergency system.<sup>9</sup>

##### Florida Safe Haven Law

In 2000, Florida enacted safe haven legislation in response to tragedies<sup>10</sup> concerning newborn abandonment at unsafe locations, such as public restrooms or trash receptacles.<sup>11</sup> Current law authorizes parents to surrender a newborn infant up to 7 days old at a hospital, fire station, or emergency medical service station.

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<sup>1</sup> *Infant Safe Haven Laws*, Child Welfare Information Gateway (Sept. 2021), [https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/safehaven.pdf?VersionId=G0ledWIFvcxOELUST1S5\\_SUTWdYScIB](https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/safehaven.pdf?VersionId=G0ledWIFvcxOELUST1S5_SUTWdYScIB), (last visited Jan. 3, 2024).

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

<sup>3</sup> NY Legislative Counsel Bureau, *A Study of Infant Abandonment Legislation*, <https://www.leg.state.nv.us/Division/Research/Publications/Bkground/BP01-03.pdf> (last visited Jan. 3, 2024).

<sup>4</sup> *supra* note 1

<sup>5</sup> *Infant Abandonment*, Guttmacher Institute (Sep. 2023), <https://www.guttmacher.org/state-policy/explore/infant-abandonment> (last visited Jan. 3, 2024)

<sup>6</sup> *supra* note 1

<sup>7</sup> *supra* note 5

<sup>8</sup> *Id.* This data is as of 2023.

<sup>9</sup> *Id.*

<sup>10</sup> The Orlando Sentinel, "Teen Mom Charged with Attempted Murder," March 9, 2000, <https://www.orlandosentinel.com/news/os-xpm-2000-03-09-0003090076-story.html>, (last visited Jan. 3, 2024), See also, Meyer, C. L., Oberman, M., White, K., Rone, M., Batra, P., & Proano, T. C. (2001). *Mothers Who Kill Their Children: Understanding the Acts of Moms from Susan Smith to the "Prom Mom"*. New York: New York University Press.

<sup>11</sup> S. 383.50, F.S.

Since 2000, approximately 380 newborns have been surrendered at a safe haven in Florida.<sup>12</sup> In that time, 63 infants are known to have been unsafely abandoned, of which 31 survived and 32 died.<sup>13</sup>

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

The Florida safe haven law outlines procedures and protections concerning what happens after a baby is surrendered. If the parent surrenders a newborn infant born in a hospital, the hospital registrars must complete the infant's birth certificate without naming the mother, if she requests it and expresses an intent to leave without the infant and not return.<sup>14</sup>

The law requires hospitals, fire stations, and emergency medical services stations that are staffed with full-time firefighters or emergency medical technicians to accept any newborn infant left with a firefighter or emergency medical technician so that the newborn infant can receive any necessary immediate medical treatment, including transport to a hospital, if necessary.<sup>15</sup> The law holds emergency medical technicians, paramedics, and fire department staff accountable for criminal and civil liability for treatment and custody of a surrendered newborn infant, except in situations where the individual has acted in good faith concerning the surrendered infant.<sup>16</sup>

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

Current law creates a presumption that the parent consents to the termination of their parental rights<sup>17</sup> and to transport and medical treatment for the child.<sup>18</sup> A court may not terminate parental rights solely on the basis that the parent left the infant at a hospital, emergency medical services station, or fire station in accordance with Florida's safe haven provisions.<sup>19</sup>

Florida law also has procedures outlining the process for parents to seek to either claim or reclaim a surrendered newborn infant.<sup>20</sup> A parent who leaves a newborn infant at a hospital, emergency medical services station, or fire station under this section may claim his or her newborn infant up until the court enters a judgment terminating his or her parental rights, and a petition for termination of parental rights may not be filed until 30 days after the date the infant was surrendered.<sup>21</sup>

Current law<sup>22</sup> requires DOH to work in conjunction with the Department of Children and Families to prevent the unsafe abandonment of newborns through a media campaign,<sup>23</sup> funded by a \$300,000 appropriation of recurring General Revenue.<sup>24</sup>

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<sup>12</sup> A Safe Haven for Newborns, *Safe Haven Statistics*, <https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/> (last visited Jan 21, 2024).

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

<sup>14</sup> *Id.*

<sup>15</sup> S. 383.50, F.S.

<sup>16</sup> S. 383.50(3), F.S.

<sup>17</sup> S. 63.0423, F.S.

<sup>18</sup> S. 383.50, F.S.

<sup>19</sup> *Id.*

<sup>20</sup> S. 63.0423, F.S.

<sup>21</sup> *Id.*

<sup>22</sup> S. 7, Ch. 2000-188, Laws of Fla.

<sup>23</sup> A Safe Haven for Newborns, *Public Awareness*, <https://asafehavenfornewborns.com/what-we-do/public-awareness-2/>, (last visited Jan. 3, 2024).

<sup>24</sup> Fiscal Year 2023-2024, HB 5001, *General Appropriations Act*, line 542, [http://leagis:8080/sites/2022-2024/2023/Public/Bills/5000-5099/5001/Orig\\_GAA.pdf](http://leagis:8080/sites/2022-2024/2023/Public/Bills/5000-5099/5001/Orig_GAA.pdf), (last visited Jan. 3, 2024).

## **Effect of Proposed Changes**

HB 775 amends s.383.50, F.S., to change the term “newborn infant” to “infant”. The bill increases the age limit for a parent to surrender an infant from 7 days old to 30 days old. This gives parents more time to make a decision, potentially preventing the unsafe abandonment of infants older than 7 days.

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

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

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

### **B. SECTION DIRECTORY:**

- Section 1:** Amends s. 383.50, F.S., relating to treatment of surrendered newborn infant.
- Section 2:** Amends s. 39.01, F.S., relating to definitions.
- Section 3:** Amends s. 39.201, F.S., relating to required reports of child abuse, abandonment, or neglect, sexual abuse of a child, and juvenile sexual abuse; required reports of death; reports involving a child who has exhibited inappropriate sexual behavior.
- Section 4:** Amends s. 63.0423, F.S., relating to procedures with respect to surrendered infants.
- Section 5:** Amends s. 63.167, F.S., relating to state adoption information center.
- Section 6:** Amends s. 383.51, F.S., relating to confidentiality; identification of parent leaving newborn infant at hospital, emergency medical services station, or fire station.
- Section 7:** Amends s. 827.035, F.S., relating to newborn infants.
- Section 8:** Amends s. 827.10, F.S., relating to unlawful desertion of a child.
- Section 9:** Provides an effective date of July 1, 2024.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require agency rule making to implement it.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January, 23, 2024, the Health & Human Services Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Make a technical change so “department” refers to the Department of Children and Families.
- Remove conforming changes related to the surrender of an infant.

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