



REGIONAL RESOURCE

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Southern States' Safe Child Abandonment Laws and Proposed Legislation

by Todd Edwards

Background

In early September 2000, a South Carolina infant, less than a day old, was found abandoned, buried headfirst in a foot of dirt and covered with fire-ant stings. While the child survived, his 21-year-old mother, already the mother of a two-year-old, has been charged with assault and battery with intent to kill.¹ Ironically, two months earlier South Carolina lawmakers passed the Safe Haven for Abandoned Babies Act to give amnesty to mothers who safely relinquish their newborn infants to hospital staff.

Each year, headlines nationwide depict similar abandonment horror stories, usually featuring the same characteristics: an unplanned, secret pregnancy of an unwed young woman, a panicked response, and tragic consequences for an unwanted newborn. While the reasons for abandonment vary, the unfortunate consequence is that many such cases result in the infant's death, and charges being filed against the parent(s).

Currently, there is no one central source which regularly monitors the number of newborns abandoned across America, and most states do not keep statistics in this area. However, according to the United States Department of Health and Human Services, there were media reports of 105 infants abandoned in "public places" in 1998, including 33 found dead.² Additionally, about 9,000 infants were abandoned in hospitals that year after their mothers left without them. According to Timothy Jaccard, president of a nonprofit organization in New York City which keeps track of such incidents through media reports and medical examiners, at least 161 babies have been abandoned in the past two years nationwide, 103 of them found dead.³

Introduction

In an effort to reduce these numbers, 32 states recently have introduced and/or passed legislation allowing mothers to safely relinquish custody of their unwanted newborns to staff at hospitals or other specified locations, commonly referred to as "safe havens." In these situations, mothers are granted amnesty from child abuse or abandonment prosecution provided that certain,

limited guidelines are followed, and the child has not been harmed. As stated by one journalist, "the bandwagon of proposed and passed bills can be viewed as a reevaluation of public policy—laws aimed at the reality of desperation rather than the ideal that every parent is all-loving and all-caring toward a baby."⁴

This *Regional Resource*—compiled for the Southern Legislative Conference's (SLC) Human Services and Public Safety Committee, chaired by Senator Yvonne B. Miller, Virginia—summarizes SLC-state legislative initiatives addressing safe abandonment as of October 2000, the status of such legislation, and myriad issues surrounding the topic. First is a history of recent safe-abandonment activity, arguments for and against legislation in this area, and a comparison of SLC state bills and laws addressing the issue. Following is a more detailed, state-by-state summarization of six successfully enacted safe-haven laws in Alabama, Florida, Louisiana, South Carolina, Texas and West Virginia, and bills from Georgia, Kentucky,⁵ Missouri,⁶ North Carolina, Oklahoma⁷ and Tennessee.

Southern Legislative Conference

Alabama ■ Arkansas ■ Georgia ■ Kentucky ■ Louisiana ■ Maryland ■ Mississippi ■ Missouri
North Carolina ■ Oklahoma ■ South Carolina ■ Tennessee ■ Texas ■ Virginia ■ West Virginia

While differences remain in preferred terminology, and states' definitions of abandonment vary, this report accepts that "safe abandonment" is an appropriate term to refer to this approach.⁸ Although the child is not endangered in cases addressed by such legislation, the mother has not made proper legal arrangements for the baby's care.⁹ Additionally, the terms safe relinquishment and safe haven are used interchangeably to describe aspects of this process.

State safe-abandonment information was compiled directly from respective state legislation and statute. Legislative sponsors, their staff and/or administrative officials in all 12 states were asked to review their state's information for accuracy; answer questions relating to topics unaddressed by their legislation; and to provide any additional information appropriate on the subject. Not all states responded to this request.

While safe-abandonment legislative initiatives address many specific issue areas, some appear less comprehensive than others. In many such cases, states responded that several unaddressed areas—i.e., terminating or reasserting parental rights; identifying and investigating child abuse or neglect; liability and/or adoption proceedings—are effectively governed by existing statute. While this report incorporates relevant statutes, the primary focus is on specific safe-abandonment bills and laws, and respective statutes amended by such legislation.

Modern Safe-Abandonment Beginnings

Many credit Mobile, Alabama's *There is a Secret Safe Place for Newborns* campaign as one of America's initial programs providing mothers an alternative to recklessly and dangerously abandoning an unwanted newborn. This early campaign stemmed from a 1995 drowning of a newborn in a toilet by a young, unwed mother. A local television reporter, Ms. Jodi Brooks, covered the mother's murder trial and several other abandonment cases in the Gulf Coast region. By shedding light on the subject and working with various officials from local hospitals, welfare offices and government agencies, Ms. Brooks secured the cooperation of District Attorney John Tyson, Jr., who agreed not to prosecute women safely abandoning their infants, within 72 hours of birth, to staff at any of nine local hospitals—no questions asked.

In Mobile, each newborn is given a physical examination and, once deemed healthy, social service workers place the child in a foster home. The program also aims to inform the public of its function. Brochures are distributed at local schools, clubs and neighborhood organizations in an attempt to inform future mothers of the options they have.¹⁰ Mobile's policy later was adopted in communities across Alabama, then spread to communities and district attorneys' offices nationwide, including Minneapolis, Minnesota and Albany, New York, among others.

State Legislative Efforts

In 1999, Texas was the first state to amend its child abandonment law by providing a favorable defense for (or not prosecuting) a parent who voluntarily delivers a child, up to 30 days old, to a licensed emergency medical services provider. According to Representative Geanie Morrison, author of the legislation, "our bill was designed for those young mothers who are desperate and have been hiding their pregnancy. If these mothers can leave the babies in a safe location without being identified, the babies have a better chance of survival."¹¹

A year following the implementation of Texas' safe-haven law, 32 additional states introduced legislation during their 2000 legislative sessions aimed at stemming the killing of unwanted newborns through offering safe-relinquishment options. As of October 2000, five other SLC states (Alabama, Florida, Louisiana, South Carolina, and West Virginia) had passed such laws. Additionally, six Southern states (Georgia, Kentucky, Missouri, North Carolina, Oklahoma, and Tennessee) had legislation introduced to this effect. These bills experienced various levels of success, with two approved by either a state House (Georgia) or Senate (Kentucky) and, in one case (Oklahoma), passed by the Legislature, but later vetoed by the governor.

Proponents

According to Alabama Representative Laura Hall, sponsor of Alabama's safe-abandonment legislation, "the law is designed to save the lives of babies that mothers don't want." "Hopefully," Hall adds, "it will prevent a mother from dumping a child in a trash can and it dying."¹² Representative George Grindley, co-author of Georgia's bill, believes such legislation provides assistance for parents who do not want

to keep their babies and who are unaware of or unwilling to participate in other options such as adoption.¹³ In debating Missouri's 2000 proposed safe-abandonment bill, Dan Croy—president of Light House, a Kansas City, Missouri, maternity ministry—commented that “simply dropping off a baby at a hospital or police station may not seem ideal, but we are in favor of anything that might prevent a newborn baby from being put in a wastebasket at a senior prom.”¹⁴

In short, proponents generally maintain, such legislation focuses on the infant's needs and survival, rather than the mother's liability. While states' safe-abandonment laws and proposals mostly have the same goal, their comprehensiveness and focus vary.

Critics and Concerns

While most would agree that efforts to curb the reckless and dangerous abandonment of newborns are necessary and commendable, not all child welfare advocates conclude that recent safe-abandonment legislation is the best means to achieve this end, with some claiming these laws actually encourage the desertion of unwanted children. According to Bastard Nation, a Des Moines, Washington, based nonprofit organization for adoptees, “newborn abandonment laws represent a radical change in child welfare policy toward promoting rather than discouraging abandonment.”¹⁵ Additionally, this organization believes such laws undermine the efforts of child protective services agencies and adoption organizations. Said Nancy Becker, Bastard Nation's Georgia state director, “no baby should be abandoned, but the quick-fix, feel-good laws don't really solve the problem. [They are] just slapping a Band-Aid on it.”¹⁶

To Bill Brooks, president of the North Carolina Family Policy Council, such legislation amounts to a government endorsement of child abandonment. In debating the merits of his state's 2000 safe-abandonment bill—which later failed—Brooks commented that, “we are really concerned that they would be publicizing that it's OK to abandon your child. Everybody's concerned about the lives of children, but how the best way to do that without damaging the fabric of the family... I think that's sometimes difficult.”¹⁷ In debating Oklahoma's unsuccessful bill, state Representative Bill Graves expressed similar concerns. “I know it's [safe relinquishment] better than abortion, but I think it is creating

almost a right in child abandonment... We are touching the symptoms instead of the real problem and that's parental responsibility. I just really think we are going down the wrong road.”¹⁸

Others assert that anonymously abandoning a newborn to safe havens fails to address the core problems the mother faces which resulted in the situation initially. Among their concerns is if the pregnancy was a result of rape or other sexual abuse. Many suggest that more time and resources should be dedicated to researching the reasons why babies are abandoned, gathering data about the incidents and compiling statistics. Jack Levine, president of the Center for Florida's Children, supports the recently passed Florida law, but wishes the state would begin tackling the more difficult issues and problems such as teen pregnancy, drug and alcohol abuse, better school health programs and more funding for youth crisis centers. These underlying symptoms, he believes, may cause a young pregnant mother to become desperate enough to consider abandoning her child.¹⁹

Similarly, several critics and proponents alike emphasize that governments should educate young people about abstinence, birth control and adoption options, arguing that prevention is the best cure. Kay Perrin, an assistant professor at the University of South Florida College of Public Health, argues that, ideally, a woman giving up her child should receive grief counseling and family planning advice. Without counseling, Perrin believes that mothers who give up their babies may feel guilty and try to replace the lost child by getting pregnant again.²⁰

Among other issues raised are whether emergency or hospital workers can accurately determine the correct age (i.e., 72 hours, 10, 15 or 30 days) of the newborn at the time of relinquishment; whether fathers have the right to be notified of or to approve the child's abandonment; the custody issues involved; and the difficulty in obtaining information about the child's medical and genetic background, especially if the parent has a right to remain anonymous.

Defining Newborn

Southern states' safe-haven legislation defines differently the acceptable age of newborns which may be relinquished. Of enacted laws, Alabama and Florida allow infants up to 72 hours old to be safely abandoned, and Louisiana, South

Carolina, Texas and West Virginia laws stipulate an age of up to 30 days old. Legislation introduced, but unsuccessful, in Georgia would have allowed newborns up to one week old to be relinquished; Kentucky would have accepted children up to 72 hours old; Missouri, Oklahoma and Tennessee, up to 30 days old; and North Carolina's bill would have allowed children up to 15 days old to be safely relinquished.

Who May Relinquish

All Southern state safe-haven laws and proposed legislation stipulate that a "parent" may safely relinquish a child; however, some legislation allows others this option. Florida's law permits a newborn's legal custodian or care giver to place the child in the care of a safe haven, and Tennessee's bill also would have allowed a guardian or custodian this option. South Carolina law allows any person to safely abandon a newborn, but that individual will be asked to identify the child's parent(s). Under Louisiana's law, according to legislative staff, "while it may be assumed the relinquishing individual is the child's parent, this is not required." Relatedly, it may be the case that because many bills and laws granting those relinquishing a newborn the right to remain anonymous (see below), states may have no way to determine whether that person is the child's parent, guardian, care giver or someone else.

Safe Havens

While all Southern state safe-abandonment legislation allows newborns to be relinquished to staff at state-licensed medical facilities providing emergency medical services, some legislation stipulates that other locations or personnel may accept custody of these children. While hospitals may be ideal in order to provide any necessary care and treatment for the newborn or mother, several legislators and legislative staff interviewed for this report commented that, in order for safe abandonment to be a viable option for mothers in distress, safe havens would have to be located across the state, within relative proximity to as many homes as possible.

Outside of hospitals, Southern states have targeted various alternative locations for those relinquishing custody of newborns. For examples, fire stations staffed with emergency medical technicians (EMT) may act as safe havens under Florida law; Kentucky's bill would have allowed police or fire stations to accept relinquished newborns; Louisiana law allows

public health units and fire or police stations to serve in this capacity; North Carolina's failed bill included law enforcement officers, department of social services staff, EMTs at fire stations, health care providers, district health departments and "any other adult of suitable discretion" to serve as safe havens; Oklahoma's vetoed bill stipulated child-placing agencies and medical services providers authorized to practice the healing arts—which includes a licensed social worker, marital and family specialist, psychologist, a registered or practical nurse, or a nurse aid; and Texas' law allows firefighters to accept relinquished newborns.

Anonymity

Besides providing a safe and legal alternative for parents not wishing to maintain custody of their newborn child, one of the underlying themes of most state safe-abandonment legislation is to allow relinquishing parents, guardians, legal custodians or, under South Carolina's law, persons, to remain anonymous. A proponent of anonymity, North Carolina state Senator Frank Ballance stresses that lawmakers must realize they are not dealing with rationally thinking people in these cases. "Any mother who would destroy her child is distraught or has a mental defect," Ballance asserts, cautioning that, "if you require her to identify herself, she might still kill the child."²¹ Several other state officials responded similarly, noting that their bill or law allows parents to remain anonymous because they do not want to dissuade parents from safely relinquishing unwanted infants.

Of the 12 Southern state bills passed or defeated in this area, eight allow relinquishing individuals the right to remain anonymous and/or not to disclose their identity if asked; three did not specifically address anonymity; and one, while not addressing the subject, would have required those safely abandoning an infant to disclose their current address and telephone number.

Suspected Child Abuse

It is important to note that all but five of these bills specifically address that any evidence of a child's abuse or neglect voids a relinquishing parent's right to anonymity. Also, in all but perhaps one case, states maintain the right to commence a criminal investigation to determine whether or not to file criminal charges in suspected abuse cases. However, the filing of

charges may create challenges. As one state official illustrated, if the person relinquishing an infant exercises his/her right to remain anonymous, and abuse is not readily apparent upon initial inspection, authorities may have difficulty in finding an individual to file a complaint against if abuse is later found to have occurred. In commenting on anonymity and the challenges it poses for filing subsequent abuse charges, legislative attorneys in North Carolina commented that “as a practical matter, [investigations] may be difficult, but not impossible, in a case where the parent has not provided his or her name.”

Additionally, though several Southern state safe-abandonment proposals and laws do not specifically include related abuse or neglect provisions, states’ existing statutes or adoption provisions often address these issues, stipulating under what conditions a criminal investigation commences. Thus, while safe-abandonment bills and laws often contain anonymity provisions, states maintain the right to investigate and punish parents who have neglected or abused their children.

Requesting Information

Some states have attempted to balance parents’ requests for confidentiality and the state’s desire to access important background information on a newborn in such areas as the genetics, criminal behavior, and/or health of a parent. However, the disclosure of such information would remain voluntary in all but one of these states (Tennessee). As examples of related, voluntary disclosure provisions, Kentucky’s safe-abandonment bill would have required emergency rooms to make materials available to gather health and medical information concerning the infant and the parents, the termination of parental rights, and adoption. Legislation in North Carolina would have required safe-haven staff inquire as to the parents’ identities and any related medical information. South Carolina’s safe-haven law requires that relinquishing persons be offered information concerning related legal implications, and be asked to identify any parent of the infant. Tennessee’s unsuccessful bill stipulated that the relinquishing parent, guardian or custodian had to cooperate with any inquiries concerning the infant’s health, medical needs, and/or any other necessary information.

While commenting on why Texas’ law does not require parents to supply information, Justin Unruh, Director of the Baby Moses Project (BMP, a non-profit, Victoria, Texas organization whose mission is to publicize the law as a practical and responsible alternative to child abandonment), stated, “for this to be a viable option, we felt that we had to be able to provide up-front anonymity. In the ideal situation—adoption—questions are asked and questions are answered. Unfortunately, we are not trying to address the ideal situation and, for varied reasons, these parents are not willing to utilize traditional methods such as adoption.” The BMP, Unruh added, “feels that it is better to have a newborn delivered safely to an EMT with no medical history, than to find a newborn in a dumpster with no medical history.”

On a similar note, according to state legislative staff, though Florida’s safe-abandonment law originally had contained language asking relinquishing parents to voluntarily provide medical information on the child and to take informational materials, the legislation’s sponsor, Representative Sandra Murman, had the provisions deleted, feeling it might discourage safe drop-offs. This response was similar to those from other states regarding information request or requirement provisions.

Providing Medical Care, Liability and State Reimbursement

In all but one state, Southern state safe-abandonment laws and proposed legislation stipulate that receiving hospitals shall perform any act necessary to protect the physical health or safety of the child upon taking temporary custody, although a few bills specified that hospitals or their staff would not be held criminally responsible for not carrying out these provisions. In these cases, however, other state statute likely dictates such care or treatment be rendered. Additionally, under all but four of the 12 bills and laws examined, both hospitals and other safe havens would be immune from civil or criminal liability for having rendered services. In all of these cases, such immunity would be forfeited in instances of staff gross negligence or misconduct.

In most situations where newborns are, or would have been, allowed to be relinquished to safe havens outside hospitals—i.e., fire stations, police stations, etc.—receiving staff are required to “immediately,” upon receipt of the child,

transfer custody of the infant to a hospital where such services may be rendered. Though not mandating immediate transferral, Kentucky's bill provided no time frame for the child's hospital placement, and North Carolina's bill did not specify hospital transferral, though it would have authorized safe havens to "perform any act necessary to protect the physical health and well-being of the infant."

Of the 12 Southern state safe-abandonment initiatives examined, three (Alabama, Florida, and Georgia) have language requiring that safe havens and/or hospitals be reimbursed by the state for providing care and treatment for relinquished newborns. Legislative staff in Texas and Florida noted that their Medicaid systems covered such care—as may well be the case elsewhere. Officials with Texas' BMP also note that any other expenses incurred by EMTs or medical staff caring for relinquished newborns are covered by private donations.

State Notification and Child Custody

After having gained temporary custody of a relinquished newborn and providing necessary care and/or treatment, all but one of the Southern safe-abandonment proposals stipulate a time frame in which safe havens must contact their respective state department of social services or related agency to take custody of a relinquished child. Of the six effective SLC state laws, the Florida Department of Children and Family Services must be notified "immediately" when a safe haven has taken custody of a newborn; Louisiana's Department of Social Services must be notified within 24 hours; and Alabama's Department of Human Resources, South Carolina's Department of Social Services, Texas' Department of Protective and Regulatory Services, and West Virginia's Department of Health and Human Resources all must be contacted within the close of the first business day.

Five of the South's six unsuccessful safe-abandonment bills varied slightly in this area, with legislation in Georgia and Missouri stipulating that the state department of human resources and division of family services, respectively, be notified following the provision of medical care and at the time the infant was ready for medical discharge. Bills in Kentucky, North Carolina and Oklahoma require that their respective departments be contacted immediately. Tennessee's bill, currently under study in the

House's Children and Family Affairs Committee, did not specify a time period for contact.

Additionally, four of six Southern laws in this area require departments of social services to assume physical custody of a newborn from a safe haven within a given time frame following notification. The Alabama and Texas acts require the state to take custody of the child immediately, and laws in Louisiana and South Carolina call for state custody to be assumed within 24 hours. Though neither Florida nor West Virginia statute lists a specific time period, officials in both states commented that it is assumed that their departments would take custody of a relinquished infant immediately upon notice. Of unsuccessful safe-haven bills, time periods for states having to take custody of a relinquished newborn, once they have been notified, varied from immediately (Kentucky), to within six hours (Georgia and Missouri), to not having been delineated (North Carolina, Oklahoma and Tennessee).

Reported Missing

Several Southern state safe-abandonment bills and laws stipulate that its department of social services, upon notification or taking custody of a relinquished child, request assistance from law enforcement officials to investigate whether or not the newborn has been reported missing. Such safeguards are specifically required by safe-abandonment legislation in Florida, Kentucky, Louisiana, North Carolina and South Carolina. Of note, many of the states whose legislation did not specifically address this issue responded similarly to Missouri, in that their adoption laws automatically require that the state check that children entering the adoption process have not been reported missing.

Reassertion of Parental Rights

Safe-abandonment bills and laws in Florida, Kentucky, Louisiana North Carolina, South Carolina and Texas spell out a time period—usually about 30 days from relinquishment or upon the state taking custody of a newborn—during which relinquishing parents would have the ability to assert parental rights before a court terminates such rights by placing the child for adoption. Interesting in this area, while Florida's law mandates that a thorough search be conducted to identify and notify a parent of their ability to assert a claim of parental rights, Kentucky's bill stipulated that parents safely abandoning their newborns waive their rights to

be notified of court hearings. South Carolina's law requires that notice be placed in a newspaper located in the area of the receiving safe haven stipulating the date, time, and place of the permanency planning hearing. That hearing notice also must state that any person wishing to assert parental rights must do so at the hearing. If the parent's identity is known, the notice must be sent to them by certified mail at least two weeks prior to the hearing.

Several other states responded similarly to Alabama, in which officials commented that though their law does not address the reassertion of parental rights of a relinquished child, the issue already is adequately covered by department of human resources' adoption procedures and guidelines as well as by judicial precedent.

Once a relinquishing individual attempts to reassert parental rights, many state safe-abandonment bills and laws require that scientific tests be taken to determine maternity or paternity. Under Florida law and Kentucky's bill, testing is done at the expense of the claimant. Louisiana's law allows the reassertion of parental rights within 30 days of relinquishment; however, in order to be granted such rights, the mother or father must prove paternity, that they are committed to their parental responsibilities, and that they are a fit parent. South Carolina's law allows the act of abandoning an infant to serve as conclusive evidence that the infant has been abused or neglected to satisfy the requirements to terminate parental rights.

Media Campaigns

Despite implementing the first safe-haven law in the country, Texas, similar to other states, has had few women relinquish unwanted newborns to safe havens. According to BMP's Justin Unruh, lack of awareness about the law is to blame. "Publicizing the statute, letting mothers know the alternative is available, is key," Unruh asserts.²² He recommends that states fund public education programs in their legislation, possibly through utilizing the services of private, nonprofit organizations in this effort. Unruh also noted that while Texas' safe-haven law does not appropriate funds for a media campaign, private funds have been raised and are being spent in this area.

Several SLC state safe-abandonment laws and bills have provisions that a media campaign be developed and implemented in order to raise awareness of safe havens, though funding for such efforts varies. While Florida's law requires its department of health to produce a media campaign to promote safe placement alternatives, inform the public of the law's existence and notify parents of their parental rights, no funding had been appropriated for this effort as of October 6, 2000. And though South Carolina's law stipulates that the state department of social services must take appropriate measures to achieve public awareness, no money has been set aside for this effort. Of the unsuccessful Southern state safe-abandonment bills, legislation in Kentucky and North Carolina would have appropriated \$150,000 for respective two-year media campaigns.

SLC State-by-State Safe-Haven Legislation

The following summarizes recent safe-haven bills both introduced and passed in Southern states. Material was compiled directly through state bills and statute, as well as by information provided through interviewing officials in each state listed. The four SLC states which did not introduce legislation in this area are not included.

As noted, safe-haven bills and laws differ substantially in their comprehensiveness. Because of this, issues addressed in each state's section vary. In an effort to incorporate similar material under like topic headings in each respective state, all states were asked to provide additional information which was not addressed by their legislation. Additionally, all states were asked to review drafts of their section prior to publication. Not all states responded to these requests. Please note that if a bill or law, or subsequent state feedback, did not address information in a particular area, the respective topic heading, or related information, is not included in that state's section. SLC states are listed alphabetically.

Alabama



Safe-Haven Status- House Bill 115, filed by Representative Laura Hall, was approved unanimously by both the Alabama House and Senate; signed into law by Governor Don Siegelman in May 2000; and took effect August 1, 2000.

Provisions- Alabama's Secret Safe Place program authorizes an emergency medical services provider (a licensed hospital which operates an emergency department) to take possession of a child who is 72 hours or younger in age if the newborn is voluntarily delivered to the provider by the child's parent who did not express an intent to return for the child. An emergency medical services provider does not include the offices, clinics, surgeries, or treatment facilities of private physicians or dentists, and no individual licensed healthcare provider or other health professionals shall be deemed to be emergency service providers unless that individual voluntarily assumes responsibility for the child.

Pursuant to the law, a parent is provided an affirmative defense to prosecution under state statute relating to child non-support, abandonment and endangerment. The law does not specifically address the anonymity of a relinquishing parent, nor whether a relinquishing parent's rights to remain anonymous or free from criminal prosecution are void when there is evidence that the child has been harmed or abused. The relinquishing parent is not required to provide any information to a safe haven, voluntarily or involuntarily, relating to the child or its family's history, nor does Alabama's law require or ask these parents to receive informational materials during the time of relinquishment.

The law compels the receiving hospital to take possession of the relinquished newborn and perform any act necessary to protect the physical health or safety of the child. That hospital then must notify the Alabama Department of Human Resources (department) that they have assumed custody of the child no later than the close of the first business day after the date on which possession was taken. Immediately upon receipt of such notice, the department shall assume the care, control, and custody of the newborn and the responsibility for all medical and other costs associated with the child. The department will reimburse the hospital for any costs incurred prior to the child being placed in its care. No person or entity [hospital and staff] subject to the provisions of the law shall be liable to any person for any claim for damages as a result of any action taken pursuant to the requirements of the Act.

Alabama's law does not address the issue of adoption or the reassertion of parental rights of the relinquished child. According to legislative analysts, once the department assumes the care, control, and custody of an abandoned child, adoption would be pursuant to the adoption procedures and guidelines of the department and the judicial system.

Results- According to the Alabama Department of Human Resources, as of November 2, 2000, three newborns have been relinquished pursuant to this law.

Update- As of October 10, 2000, the Alabama Legislative Reference Service is not aware of any proposed legislation to revise or otherwise amend the Act.

SLC State Safe Child Abandonment Laws: 1999-2000

State	Bill	Sponsor(s)	Effective Date	Defining Newborn	Safe Havens (or staff at)	Who May Relinquish Infant	Information Requested or Required of Those Relinquishing	Right to Anonymity
Alabama	HB 115	Representative Laura Hall	08/01/00	up to 72 hours old	licensed hospitals operating emergency departments	parent	none, but information may be volunteered	not addressed
Florida	HB 1901	Representative Sandra Murman; Senator John Grant	07/01/00	up to 72 hours old	fire stations, emergency medical technicians, or hospitals offering emergency services	parent, legal custodian, or care giver	none, but information may be volunteered	yes
Louisiana	HB 223	Representatives Cedrick Glover and Tony Perkins	04/17/00	up to 30 days old	licensed hospitals, public health units, fire stations, police stations, or pregnancy crisis centers	anyone	none, but information may be volunteered	not addressed
South Carolina	HB 4743	Representative Doug Smith	06/06/00	up to 30 days old	hospitals or hospital outpatient facilities	anyone	offered informational materials; asked to identify parents, and information on infant's and mother's medical history	yes
Texas	HB 3423	Representative Geanie Morrison	09/01/99	up to 30 days old	firefighters or licensed emergency medical services providers	parent	none, but information may be volunteered	yes
West Virginia	HB 4300	Delegates Hatfield, Houston, Johnson, Marshall, Rove and Susman	06/19/00	up to 30 days old	hospitals or health care facilities	parent	none, but information may be volunteered	yes

table 1

Unsuccessful SLC State Safe Child Abandonment Bills 2000

State	Bill	Sponsor(s)	Status	Defining Newborn	Safe Havens (or staff at)	Who May Relinquish Infant	Information Requested or Required of Those Relinquishing	Right to Anonymity
Georgia	HB 1365	Representative Lynn Smith	passed House; failed in Senate	up to 7 days old	licensed hospitals, infirmaries, county health centers or state-classified birthing centers	parent	none, but information may be volunteered	not addressed
Kentucky ¹	SB 188	Senator Tom Buford	passed Senate; failed in House	up to 72 hours old	hospitals offering emergency services, police stations or fire stations	parent	emergency rooms required to make various information materials available	yes
Missouri ²	HB 2134	Representative Michael Gibbons	failed in House	up to 30 days old	licensed medical facilities	parent	none, but information may be volunteered	yes
North Carolina	HB 1616 SB 1257	Representative Phillip Haire; Senator William Martin	failed in both House and Senate	up to 15 days old	law enforcement officers, social services workers, hospitals, local health departments, fire stations or any other adult of suitable discretion	parent	staff at safe havens may request information, but providing it is voluntary	yes
Oklahoma ³	SB 1577	Senator Bernest Cain; Representative Debbie Blackburn	vetoed	up to 30 days old	listed licensed medical services providers or child placing agencies	parent	none, but information may be volunteered	not addressed
Tennessee	HB 3112	Representative Bill McAfee	withdrawn	up to 30 days old	hospitals	parent, guardian or custodian	must provide information to hospital, including address and phone number	no

Notes:¹While various bills addressing safe abandonment were introduced during the Kentucky General Assembly's 2000 session, this report, unless otherwise noted, references Senate Bill 188. ²While an amendment to the unsuccessful Senate Bill 597 (the Adoption Awareness Law) also addressed safe abandonment during the Missouri General Assembly's 2000 session, this report, unless otherwise noted, references House Bill 2134. ³While two safe-haven bills were introduced during the Oklahoma Legislature's 2000 session, this report, unless otherwise noted, references Senate Bill 1577.

Florida

Safe-Haven Status- Florida's House Bill 1901—sponsored by Representative Sandra Murman and Senator John Grant, and as substituted by committee—passed the House by a vote of 109-2 and the Senate unanimously during the Legislature's 2000 session. The bill was signed into law by Governor Jeb Bush on June 2, and became effective July 1, 2000.



Provisions- The law compels fire stations (staffed with full-time firefighters), emergency medical technicians and hospitals providing emergency services to accept any newborn infant (approximately three days old or younger) left in their care by the child's parent or legal custodian, or, if both are absent, the care giver responsible for the child's welfare. By doing so, the parent or custodian consents to the termination of parental rights. Any parent or custodian who relinquishes custody of a newborn in this manner, with the expressed intent not to return for the child, has the right to remain anonymous and is free from any criminal investigation of neglect, abuse or abandonment of the child, except where there is actual or suspected child abuse or neglect.

Upon receipt of an abandoned child, fire stations shall then provide emergency medical services to the infant and arrange for the newborn's immediate transport to the nearest hospital with emergency services. Any firefighter or emergency medical technician is immune from criminal or civil liability for having performed this act, provided they did not act in negligence. Once delivered to them, defined hospitals—also immune from criminal or civil liability for acting in good faith—must then admit and provide the necessary emergency services and care to the child. The hospital must immediately contact a local licensed child-placing agency—or call the Florida Department of Children and Family Services which shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies—to take custody of the child. In actual or suspected child abuse situations, the hospital must report it to the department.

From the time it takes physical custody of the child pursuant to this act, the licensed child-placing agency shall assume responsibility for all medical and other costs associated with the emergency services and care of the newborn. The agency must immediately request assistance from law enforcement officials to investigate and determine whether or not the infant is a missing child; within seven days must initiate a diligent search to identify and notify a parent whose identity or location is unknown (whom to contact to assert a claim of parental rights); and immediately seek a circuit court order for emergency custody of the infant. The custody order shall remain in effect until the court orders preliminary approval of placement of the child in the prospective home, at which time the prospective adoptive parents become guardians pending termination of parental rights and finalization of adoption, or until the court orders otherwise.

The relinquishing parent may reclaim his or her newborn up until the circuit court enters a judgment terminating his or her parental rights (a minimum of 30 days). A termination of parental rights petition cannot be filed within this time period. This claim must be made to the entity having physical or legal custody of the child or to the circuit court before whom proceedings involving the child are pending. If no such claim is made, the child is placed for adoption. If a relinquishing parent claims parental rights, parent and child would be scientifically tested, at the expense of the parent, to determine maternity or paternity. Of note, any newborn infant admitted to a hospital in accordance with this law is eligible for Medicaid coverage.

Media Campaign- The law requires the Florida Department of Health, in conjunction with the Department of Children and Family Services, to produce a media campaign to promote safe placement alternatives for newborn infants; inform the public of the law's existence and provisions; notify parents of their rights to reclaim or claim their newborn infant within specified time periods; and publicize adoption procedures. According to state officials, while no funds have been appropriated for this effort, as of October 1, 2000, both departments were working on securing funding for the media campaign and have developed a number of media informational materials, including some public service announcements.

Results- As of October 19, 2000, no children have been relinquished pursuant to Florida's law.



Georgia

Safe-Haven Status- Georgia’s House Bill 1365—the Safe Place for Newborns Act of 2000, sponsored by Representative Lynn Smith, amended and substituted by committee—passed the state House but failed in the Senate. The legislation’s stated purpose was to “prevent injuries to and deaths of newborn children that are caused by a parent who abandons the newborn.”

Provisions- The bill would have provided that a parent shall not be prosecuted for cruelty or contributing to or abandonment of a dependent child, no more than seven days old, if the newborn was relinquished to the custody of medical facility staff, provided that child had not been abused. Medical facilities include any licensed general or specialized hospital, institutional infirmary, county health center or state-classified birthing facility, but not physicians’ or dentists’ private offices.

Accepting medical facilities would have had to provide the necessary medical care for the child and notify the Georgia Department of Human Resources at the time the child was medically ready for discharge. The department would then have to take physical custody of the child within six hours, reimbursing the medical facility for all health care and other costs associated with the newborn prior to their assuming custody. Medical facilities and their employees would not have been liable for civil damages or subject to criminal prosecution for failure to discharge the duties provided for in the bill.

Georgia’s bill would have required the Department of Human Resources to investigate and report to the General Assembly the children abandoned pursuant to the [proposed] law. This report would include information on the desirability and cost effectiveness of a dedicated toll-free telephone line for providing information to, and answering questions from, both the public and staff of medical facilities concerning the proposed Act.



Kentucky

Safe-Haven Status- House Bills 367 and 546 and Senate Bill 188 all addressed newborn abandonment during the Kentucky General Assembly’s 2000 session, with all three having died in committee. Senate Bill 188, sponsored by Senator Tom Buford, made it furthest through the legislative process, passed the Senate unanimously, but was eventually held in the House Judiciary Committee. According to legislative analysts, the sponsor of HB 546 requested no hearing on the bill because SB 188, containing the same language, was moving forward.

Provisions- Among other provisions relating to emergency medical services, SB 188, as amended and substituted by committee, would allow parents to leave their newborn infant (less than 72 hours old) with staff at any hospital offering emergency medical services, police station or fire station and remain anonymous if they expressed no intention to return for the infant. If the newborn was placed in the custody of a police officer or firefighter, they would then arrange for the infant to be taken to the nearest hospital emergency room. If there were indications of physical abuse or neglect, the parent would not remain anonymous, and an investigation would be permitted.

Upon accepting the physical custody of the relinquished newborn, hospitals would have implied consent to provide any and all appropriate medical care, tests, and treatment to the child. Any person performing such medical care would be immune from criminal or civil liability for having performed the act, except in cases of negligence.

Emergency rooms would be required to make available materials to gather health and medical information concerning the infant and the parents, with such materials stating that the information requested is designed to facilitate medical care for the infant. The material would also have included information on family services, termination of parental rights and adoption, and contained written notice that failure to assert a claim of parental rights within 30 days of the receipt of the material would result in the commencement of the termination of parental rights proceedings. The acceptance of such materials would have been voluntary, and parents volunteering such information would remain anonymous.

Once having accepted a relinquished newborn, the hospital would be required to immediately contact the local office of the Department for Community Based Services of the Cabinet for Families

and Children, which would then seek an emergency custody order for the infant for a minimum of 30 days. During that time the cabinet would request assistance from law enforcement officials to ensure the infant had not been reported missing. Following the 30-day placement period, the cabinet would file a petition in Circuit Court seeking the involuntary termination of parental rights and place the child for adoption. If a claim of parental rights was made at any time prior to the court order terminating parental rights, the Circuit Court would hold terminating those rights for a maximum of 90 days while a District Court established maternity or paternity at the expense of the claimant. Immediately thereafter, placement would be determined.

Parents relinquishing their newborns pursuant to this [proposed] law would waive their rights to be notified of court hearings until a claim of parental rights was made, and would waive their legal standing to make a claim of action against any person who accepted custody of the child. Upon the child's hospital release, the cabinet would place the child in a foster home where the foster family would be required to work with the department on reunification with the birth family, if known, or would seek to adopt the infant if reunification could not be accomplished.

Media Campaign- Senate Bill 188 would have appropriated \$150,000 for a two-year media campaign to promote safe placement alternatives for newborn infants, inform the public of the confidentiality offered to birth parents, and provide information regarding adoption procedures.

Update- Senator Buford has pre-filed BR 87, identical to 2000's unsuccessful SB 188, for the General Assembly's (biennial) 2002 legislative session.

Louisiana

Safe-Haven Status- As amended, House Bill 223, filed by Representatives Cedrick Glover and Tony Perkins, passed the state House unanimously and the Senate by a vote of 32-1 during a March 2000 special legislative session. The bill was signed into law by Governor Mike Foster on April 17, 2000, taking effect immediately under a special effective date section of the bill.

Provisions- Under this law, Louisiana amended its children's code whereby if a newborn child, no more than 30 days old, is left in the care of any individual at a designated emergency care facility with no expression that someone intends to return for the newborn, such act shall be designated relinquishment of a newborn. According to legislative staff, "while it may be assumed the relinquishing individual is the child's parent, this is not required." Emergency care facilities include any state-licensed hospital, public health unit, fire or police station, or pregnancy crisis center.

The relinquishment of a newborn "shall not be considered a criminal act of neglect, abandonment, molestation, or cruelty, or crime against the child... and shall be an affirmative defense to any prosecution for such act." Such relinquishment may be grounds for termination of parental rights, and shall be considered as parental consent for the purposes of providing medical treatment and care to the newborn. No cause of action shall be brought against the emergency care facility or those associated unless damage or injury to a newborn was caused by willful or wanton misconduct or gross negligence.

Upon receipt of an abandoned newborn, the emergency care facility must notify the Louisiana Department of Social Services within 24 hours. After such notification, the department shall take custody of the child within 24 hours, and commence a thorough search of all listings of missing children to ensure the child has not been reported missing. The department must then file a petition in trial court to terminate parental rights. Any final court judgment terminating parental rights divests the newborn and the parent of all their legal rights with regard to one another.

A mother or father who has relinquished their newborn may revoke their intentions by filing a legal proceeding establishing parental rights within 30 days of relinquishment in the parish in which the newborn was abandoned. In order to be granted such rights, the mother or father must prove paternity, commitment to their parental responsibilities and fitness as a parent.

Update- The Louisiana Department of Social Services will evaluate the program and submit a written report including recommendations for revisions and improvements to the House Committees



on Civil Law and Procedure and Health and Welfare, and the Senate Committees on Judiciary A and Health and Welfare not later than March 1, 2001. According to legislative staff, issues likely to be addressed include whether to establish a media campaign to inform the public of the law's existence, fund and print informational materials to offer relinquishing persons, and reimburse hospitals for providing necessary care to the abandoned newborn.

Results- According to the department's Office of Community Services, as of October 17, 2000, no children have been relinquished pursuant to Louisiana's safe-abandonment act.



Missouri

Safe-Haven Status- Missouri's House Bill 2134, sponsored by Representative Michael Gibbons, did not make it out of the House Children, Youth and Families Committee during the General Assembly's 2000 session.

Provisions- The "Safe Place for Newborns Act of 2000" would have provided that a parent not be prosecuted and remain anonymous for leaving his or her newborn child, no more than 30 days old, in the physical custody of an employee, agent, or member of the staff of a licensed medical facility, provided that child had not been physically abused.

If the parent did not express intent to return for the child, the medical facility would have, without a court order, taken physical custody of the newborn and performed any act necessary to protect the physical health or safety of the child. Medical facilities and their employees, agents and staff would not be liable for civil damages or criminal prosecution for failure to discharge these duties. Following care provision, and at such time the child was medically ready for discharge, hospitals would then notify the Missouri Division of Family Services. Upon such notification, this office would take custody of the child within six hours with the intent of placing the child for adoption. According to legislative counsel, though not delineated in this or the following bill, upon obtaining custody of the infant, the division would automatically check with law enforcement officials to ensure that the child had not been reported missing prior to its adoption placement.

Other Legislative Activity- In addition to House Bill 2134, Senator Betty Sims filed an amendment to Missouri's unsuccessful Senate Bill 597—the Adoption Awareness Law—addressing the newborn abandonment issue. Senator Sims' amendment also would have allowed parents to relinquish custody of a child up to 30 days old to a hospital and not be prosecuted for child abandonment if the child was not physically abused.

Differences between this amendment and House Bill 2134 include requirements that the state reimburse hospitals for actual expenses; the hospital request medical information on the child, including the infant's birth date and any parental use of controlled substances; the Missouri Division of Family Services attempt to identify the parents if such information was not given; and allow non-relinquishing parents certain rights, including the opportunity to identify themselves to the court within 30 days for claiming parental rights in paternity proceedings.

Update- According to Missouri General Assembly rules, both bills died at the conclusion of the 2000 session, and must be reintroduced in 2001 for consideration.

North Carolina

Safe-Haven Status- North Carolina's House Bill 1616, sponsored by Representative Phillip Haire, and Senate Bill 1257, sponsored by Senator William N. Martin, were companion bills entitled the "Abandoned Infant Protection Act," and would have modified state procedures involving abandoned juveniles. Both were introduced during the 2000 session, and both died in House Judiciary IV and Senate Judiciary II committees, respectively.

Provisions- The bill(s) would have required, without a court order, a law enforcement officer, a department of social services worker, a defined health care provider at a hospital or local or district health department, an emergency medical technician at a fire station, or would have allowed "any other adult of suitable discretion," to temporarily take custody of an infant (under 15 days of age) that



is voluntarily delivered by a parent who does not express intent to return. Pursuant to this proposed bill, while the relinquishing parent would not be prosecuted under laws governing abandonment and failure to support spouse and children, abandonment of child or children for six months, or misdemeanor child abuse; proper abandonment could be treated as a mitigating factor in sentencing for conviction under child abuse as a felony. Additionally, while a parent would have the right to relinquish the infant anonymously, there is nothing which would prevent the local department of social services from conducting an investigation in any case of suspected abuse or neglect.

Legislative counsel noted that while civil procedural language spelled out that “any adult” may accept a relinquished newborn, criminal language referred to “any adult of suitable discretion.” Thus, while any adult may have avoided criminal or civil liability for accepting an infant, the parent may have avoided liability only if the person to whom the parent abandoned the infant met the “suitable discretion” requirement.

The individual taking temporary custody of the infant would have been required to perform any act necessary to protect the physical health and well-being of the infant, and would have had to immediately notify their county department of social services. That person (safe haven) may have inquired as to the parents’ identities and as to any relevant medical history, but the parent would not have been required to relinquish such information. Once notified, the department’s director would then request that law enforcement officials investigate through the state center for missing persons and other national and state resources to ensure that the child had not been reported missing.

An individual taking an infant into temporary custody would be immune from any civil or criminal liability that might otherwise have been incurred or imposed as a result of any omission or action so long as that individual was acting in good faith. However, such immunity would not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

The court would be able to terminate parental rights if the parent had voluntarily abandoned an infant for at least 60 days immediately preceding the filing of the petition. Except as specifically mentioned in this bill, the child would be treated as an abused, neglected or dependent juvenile. If the parent so chose, he or she could participate in the permanency planning process; however, legislative staff note, there is no provision which would bar the court from considering the abandonment during the permanency planning proceedings.

Media Campaign- Under the bill, the North Carolina Department of Health and Human Services—in consultation with law enforcement officials, local departments for social services, medical personnel and school administrators—would have been appropriated \$150,000 to develop a media campaign to inform the public of its provisions during the 2000-2001 fiscal year. The campaign would have contained information on responsible parenting, and have been targeted at adolescents and young adults.

Update- While both bills failed during the General Assembly’s 2000 session, legislative staff commented that at least one legislative study commission has shown great interest in them. Staff also commented that there is the possibility that these, or similar, bills may be (re-) introduced during North Carolina’s 2001 session.

Oklahoma

Safe-Haven Status- Senate Bill 1577—sponsored by Senator Bernest Cain and Representative Debbie Blackburn, and as amended and substituted by committee—passed both the Senate and House during the Oklahoma Legislature’s 2000 session. However, the bill was vetoed by Governor Frank Keating.

Provisions- Under the bill, parents voluntarily relinquishing a newborn infant, 30 days old or younger, to the custody of a licensed medical services provider or child-placing agency, and not expressing an intent to return for the child, would not be criminally prosecuted. A medical services provider includes a person authorized to practice the healing arts, a licensed social worker, a licensed marital and family therapist, a psychologist, a registered or practical nurse, or a nurse aide.



The medical service provider or child-placing agency would have been required to perform or provide for the performance of any act necessary to protect the physical health or safety of the child, then immediately notify the local office of the Oklahoma Department of Human Services of their taking possession of the child.

According to newspaper reports, Representative Blackburn, the bill's sponsor, learned shortly after the legislation reached the governors' desk that the bill was flawed and could leave the door open for people who sexually abused newborns from being charged with abandonment. However, her attempts to pull the bill back from the governor for revisions failed.²³

Other Legislative Activity- House Bill 2148, sponsored by Representative Susan Winchester, also was introduced during Oklahoma's 2000 legislative session and addressed child abandonment. This bill was pulled from consideration by Winchester when she realized there was not enough time remaining for passage once it was signed out of a conference committee.²⁴ While it had many of the same provisions of Senate Bill 157, Winchester's bill would apply to infants less than 72 hours old, and its proponents maintained it provided more safeguards to ensure that abandoning parents would be prosecuted in certain abuse situations.



South Carolina

Safe-Haven Status- As amended, South Carolina's House Bill 4743, sponsored by Representative Doug Smith, was overwhelmingly passed by both the House and Senate during the General Assembly's 2000 session. The bill was signed into law by Governor James Hodges on June 6, 2000, becoming effective on that date.

Provisions- The "Safe Haven for Abandoned Babies Act" requires a hospital or hospital outpatient facility, without a court order, to take possession of an infant (defined as 30 days old or younger) voluntarily delivered by a person who does not express intent to return for the child. The person abandoning the infant is not required to disclose his or her identity; however, they must be offered information concerning the legal effect of relinquishing the child. They must also be asked to identify any parent of the infant other than themselves. The hospital or outpatient unit must attempt to obtain from them information concerning the infant's background and medical history, and the mother's use of controlled substances.

All such information is to remain confidential, shall not be admissible as evidence in any court proceeding, and is contained in a form by the South Carolina Department of Social Services, which the department must provide to hospitals and outpatient units. The person who abandons the infant pursuant to this law must not be prosecuted for any criminal offense provided that he or she is the parent of the child or is acting at one or both parents' direction. Such protection does not apply if the child has been abused or harmed.

Upon receipt of an abandoned infant, the hospital or outpatient facility must perform any act necessary to protect the physical health or safety of the child, and notify the department that it has taken temporary physical custody of the infant no later than the close of the first business day after the date on which custody was taken. The department shall have legal custody of the infant immediately upon receipt of such notice, and must assume physical control of the infant no later than 24 hours after receiving notice that the infant is ready for discharge. Immediately after receiving notice, the department must contact the South Carolina Law Enforcement Division for assistance in assuring that the infant has not been reported missing.

Within 48 hours of taking legal custody of the infant, the department must publish a notice in a newspaper located in the area of the receiving hospital or outpatient facility, and send a news release to broadcast and print media, stating the circumstances under which the infant was abandoned; a description of the infant; and the date, time and place of the permanency planning hearing. The notice and the news release must also state that any person wishing to assert parental rights in regard to the infant must do so at the hearing. If the person leaving the infant identified anyone as being a parent of the infant, the notice must be sent by certified mail to the last known address of the parent at least two weeks prior to the hearing.

Also within 48 hours of obtaining legal custody of the infant, the department must file a petition alleging that the child has been abandoned and that, among other recommendations, the termination of parental rights is in the best interest of the infant. A hearing on the petition must be held no earlier than 30 days and no later than 60 days after the department takes custody. The act of abandoning an infant in this manner serves as conclusive evidence that the infant has been abused or neglected for purposes of the department's jurisdiction, evidence in judicial proceedings, and as evidence to satisfy the requirements to terminate parental rights.

A hospital or hospital outpatient facility and its agents and any health care professional practicing within such facilities are immune from civil or criminal liability for any action authorized by this law, so long as they comply with all its provisions.

Media Campaign- The department, either alone or in collaboration with any other public entity, must take appropriate measures to achieve public awareness of the provisions of the Act.

Results- According to the South Carolina Department of Social Services, as of October 6, 2000, no children have been relinquished pursuant to this law.

Tennessee

Safe-Haven Status- Tennessee House Bill 3112, sponsored by Representative Bill H. McAfee, was filed, referred to the House Judiciary Committee, and subsequently withdrawn during the General Assembly's 2000 session.

Provisions- The bill would have amended Tennessee code to provide that no criminal abandonment charges be instituted against a child's parent, guardian or custodian for leaving an infant, less than 30 days old, with a hospital, provided the child had suffered no physical injury or harm. Such parent, guardian or custodian would have been exempted from warrants, summonses and charges due to abandonment if they told the hospital's designee that they are leaving the child—to be placed in the state's custody—and provided the hospital with their current address and telephone number. The parent, guardian or custodian would have to cooperate with any inquiries by the state into the infant's health, medical needs, and any other necessary information.

Update- According to Representative McAfee, while his bill was withdrawn from consideration, it was placed as a study resolution with the House's standing Children and Family Affairs Committee. McAfee noted though HB 3112 is currently dead, it may be revised and/or reintroduced during the General Assembly's 2001 session.

Texas

Safe-Haven Status- Authored by Representative Geanie Morrison, Texas' safe-haven bill (HB 3423) passed both the House and Senate without opposition, and was signed into law by Governor George W. Bush on June 2, 1999, becoming effective September 1 of that year. Outside existing adoption criteria, this was the first state statute providing that parents not be criminally prosecuted for safely surrendering their newborn children.

Provisions- The law allows firefighters and licensed emergency medical services providers (paramedics), without court order, to take possession of a child, 30 days old or younger, if a parent voluntarily delivers their newborn infant to them with no expressed intention to return for the child. The relinquishing parent is not required to divulge their identity or any information; however, they may do so voluntarily. An attempt by the department may be made to locate the mother should the case warrant further investigation as to whether wrongdoing has occurred. The department has agreed that in such a situation, a relinquishing mother will be contacted in as confidential a manner as possible. Relinquishing parents will not face prosecution provided the child has not been abused.

Once a newborn has been surrendered, the receiving paramedic shall then perform any act necessary to protect the physical health or safety of the child and shall, no later than the close of the first business day after the date on which possession was taken, notify the Texas Department of Protective and Regulatory Services that the provider has taken possession of the child for adoption placement. The department shall assume the care, control, and custody of the child immediately



upon receipt of such notice. At present, medical expenses for the relinquished child are covered by Medicaid. According to Representative Morrison's staff, any additional expenses incurred by EMT or medical staff and facilities are being reimbursed through private donations.

Under Texas' safe-haven law, the newborn must be placed in a permanent home within six months of receipt by the department. The relinquishing mother or father have until their parental rights have been terminated to regain custody of a child which has been surrendered. Once the child is surrendered, he or she will be placed in a dual licensed home (foster care/adoption).

Media Campaign- Though the Texas law did not appropriate money for a media campaign to publicize its provisions, the Baby Moses Project is raising funds for this purpose. In mid-September BMP had finished production and began airing the law's first public service announcement. The second stage of this campaign, begun in October 2000, included targeting high-traffic adolescent environments such as public transit, billboards, mall kiosks and movie theaters.

Update- According to Justin Unruh, BMP director, "since Texas was the first state to enact safe-haven legislation, we have had the opportunity to watch what the additional 32 states have done with House Bill 3423. Each state has molded the legislation around its existing laws and has addressed issues that will possibly be incorporated into Texas statute." Unruh commented that several issues are currently being discussed for the 2001 legislative session, including additional funding for the public awareness campaign, expansion of the facilities that qualify as "Safe Havens," additional steps to reduce the possibility of fraudulent surrender, and providing the relinquishing parent with educational information concerning this issue.

Results- As of October 6, 2000, two newborns have been surrendered to safe havens in Texas.



West Virginia

Safe-Haven Status- As amended and substituted by committee, House Bill 4300—sponsored by Delegates Barbara Hatfield, Nancy Houston, Arley Johnson, Charlene J. Marshall, Larry L. Rowe and xSally Matz Susman—was passed by the West Virginia Legislature on March 11, 2000; signed by Governor Cecil Underwood on March 21, 2000; and became effective 90 days after passage.

Provisions- This law amended state code by allowing a hospital or health care facility, without a court order, to take possession of a child (within 30 days of birth), if the infant is voluntarily delivered to them by a parent who does not express an intent to return for the child. Acting under these conditions, the parent will not be prosecuted for child abandonment.

A hospital or health care facility that takes possession of the child shall perform any act necessary to protect the physical health or safety of the child and, upon accepting the child, may not require the person to identify themselves, respecting their desire to remain anonymous. No later than the close of the first business day after the date on which the facility takes possession of the infant, the hospital or health care provider shall notify the Child Protective Services Division of the West Virginia Department of Health and Human Resources (department) and shall provide any information the parent offered when relinquishing the child.

The department shall then assume the care, control and custody of the child at the time of the child's delivery to the hospital or health care facility, and may contract with a private child care agency for the care and placement of the child after the child leaves the facility. A child for which the department assumes custody shall be deemed abandoned under state law, and the department will present a petition to terminate parental rights. The infant shall then be eligible for adoption as an abandoned child.

Results- As of October 10, 2000, officials with the West Virginia Office of Social Services were unaware of any children having been relinquished pursuant to this law. However, they did note that such a determination is difficult in that the state's automated family and children tracking system has not been revised to account for safe-abandonment cases. They are currently exploring the feasibility of such a revision. 

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- ⁷ While two bills addressing safe abandonment were introduced during the Oklahoma Legislature's 2000 session, this report, unless otherwise noted, references Senate Bill 1577, since it passed both chambers, but was later vetoed.
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This ***Regional Resource*** was prepared for the Southern Legislative Conference's (SLC) Human Services and Public Safety Committee by Todd Edwards, SLC Regional Representative.

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