Combating the “Baby Dumping” Epidemic: A Look at Florida’s Safe Haven Law

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I. INTRODUCTION

Headlines read “100 Babies Safe Thanks to Safe Haven.”1 On May 30, 2008, Florida reached a milestone as a healthy baby boy became the hun-

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dredith newborn safely relinquished under the State’s infant abandonment law, commonly referred to as the “Safe Haven law.” The infant’s mother, estimated to be in her twenties, explained that she was going through a bad time as she handed the infant to a paramedic at a Pinellas County fire rescue station and walked away. The baby boy was named “Nicholas” by those who “saved” him. Nicholas will now be able to be adopted into a loving home with parents who are ready and willing to care for him, while his mother can have peace of mind knowing that she gave her son a chance at life. In a time where media coverage has increasingly alerted the public to repeated occurrences of abandoned babies tragically found discarded in dumpsters, trash cans, toilets, canals, and other horrific places, Florida’s Safe Haven law is saving babies lives.

Many women are faced with unwanted pregnancies each year, but unfortunately some feel that they have no option other than to keep their pregnancy a secret and dispose of the baby after birth. Florida’s Safe Haven law
offers an alternative to the above scenario by allowing parents to anonymously surrender newborn babies, approximately seven days old, at any hospital, emergency medical services station, or fire station with no questions asked, as long as there are no signs of abuse or neglect. Florida was one of many states to enact Safe Haven legislation in the early 2000s after what seemed to be a rash of unsafe infant abandonments. Florida’s legislation was prompted by the discovery of six discarded newborns in the span of a single month in early 2000. While some “dumped” babies are fortunate enough to be found in time to survive, sadly, many are not so lucky. Critics of the Safe Haven law argue that it encourages abandonment, it is not likely to help those it is intended for, and that it deprives children knowledge of their family and genealogical histories.

Part II of this article will discuss the phenomenon of newborn abandonment and the reasons why some parents choose to dispose of their children in such a manner. Part III will discuss the history of infant abandonment laws. It will begin with a brief introduction of the European system and will trace how the laws developed in the United States. Part IV of this article will discuss the history of Florida’s Safe Haven law. It will then address the various provisions that must be complied with in order to legally relinquish a child in Florida, as well as the rights and responsibilities of the child’s parents, the Safe Haven locations, and adoption agencies. It will also outline the recent amendments to the law. Part V will give an overview of the agency that promotes Florida’s Safe Haven law and will discuss some criticisms of the law. Part VI of the article will detail the need for certain changes that will make the law even more effective. Finally, Part VII will conclude that there is still some room for improvement, but Florida’s Safe Haven law is saving the lives of unwanted newborns.

defined as “[t]he act of killing a newborn child, esp. by the parents or with their consent.” BLACK’S LAW DICTIONARY 793 (8th ed. 2004).


15. Adam Pertman, Measure Aims at Saving Abandoned Babies, Statewide “Safe Havens” Eyed, BOSTON GLOBE, May 5, 2000, at B3 [hereinafter Pertman, Measure].


II. THE PLIGHT OF ABANDONED NEWBORNS

A. The Prevalence of Infant Abandonment

Baby abandonment "is when an infant under the age of [twelve] months is discarded or left alone for an extended period of time in a public/private setting with an intention to dispose of the baby."\(^{18}\) It is unknown exactly how prevalent baby abandonment really is since "[t]he federal government does not have a formal" system to gather the data, and states do not maintain the information uniformly.\(^{19}\) However, in 1998, the United States Department of Health and Human Services conducted a survey of nationwide media reports which found that one hundred and five infants were discovered abandoned in public places throughout the country, thirty-three of which were found dead.\(^{20}\)

Although baby abandonment is not a new problem, it only began to gain public attention in the 1990s as "newspaper and media coverage" increasingly publicized instances of abandoned babies found in dumpsters, trash cans, and other outrageous places.\(^{21}\) Two high profile cases made their way around the media circuit nationwide. In 1997, Melissa Drexler, an eighteen year old New Jersey high school senior, gave birth to a baby boy in the restroom at her senior prom.\(^{22}\) Dubbed the "Prom Mom," Drexler hid her pregnancy from her boyfriend and her parents.\(^{23}\) She delivered the baby in a toilet, strangled him, and threw his body in a trash can before heading back to the dance floor.\(^{24}\) Seven months prior to this, college students Amy Grossberg and Brian Peterson killed their baby minutes after he was born,
throwing his body in the trash outside of the Delaware motel room Grossberg gave birth in. Grossberg had also concealed her pregnancy.

B. Parents Who Kill or Otherwise Discard of Their Children

Experts have found that mothers who abandon or kill their infants are often "motivated by panic, shame, or both," and feel "that they have no alternative." While these mothers span across "all age[s], ethnicit[ies], and socioeconomic status[es]," they are most often young, single girls who live with family. These girls feel isolated, they are in denial, and they conceal their pregnancies out of fear that they will not be supported, or that they will be rejected by their family or boyfriends. They feel completely alone and are left in their isolation to deal "with problems that they are not psychologically or emotionally equipped to handle." Because some girls are in such "complete denial of their pregnancy," they do not even realize when they are in labor. They typically give birth alone and panic when they see a newborn, since they never acknowledged their pregnancy. Some even think they are having menstrual cramps or that they have to defecate so they give birth on the toilet, often passing out from the strain and exhaustion of labor and leaving the baby to drown or otherwise die from neglect. Others are in such a dissociative state that they do not remember giving birth and are shocked when they find out what happened to their child. Older women who abandon their infants often cannot handle the emotional and financial

26. Id.
27. Id.
29. Id.
30. See generally MEYER ET AL., supra note 9 (describing the common characteristics throughout multiple cases of mothers who have killed their children).
32. See MEYER ET AL., supra note 9, at 52–53.
34. MEYER ET AL., supra note 9, at 53. Some women are in such deep denial that their bodies do not even change during pregnancy and they continue to menstruate and gain very little weight. Id.
35. See id. at 53–54.
37. MEYER ET AL., supra note 9, at 53–54.
strain of parenthood, but they realize this too late in their pregnancy for an abortion.\textsuperscript{38}

The primary goal of the Safe Haven law is to save the lives of unwanted babies by reducing the number of unsafe infant abandonments.\textsuperscript{39} The objective is to give desperate parents who are clearly unprepared for parenthood an alternative that allows them to save not only the child, but themselves, "from a lifetime of guilt and criminal prosecution."\textsuperscript{40} Mothers who might have killed or otherwise "recklessly abandon[ed] their newborns" can legally drop off their babies at designated locations with no questions asked.\textsuperscript{41}

III. THE HISTORY OF NEWBORN ABANDONMENT LAWS

A. European Foundlings

Child abandonment is not a new phenomenon in the United States or throughout the world,\textsuperscript{42} and the concept of Safe Havens has been well established for quite some time.\textsuperscript{43} In the thirteenth century, the Catholic Church introduced the foundling home system in Europe to combat the large number of abandoned infants.\textsuperscript{44} A revolving cradle or "wheel" was placed on the side of churches or houses, and mothers would place their babies in the cradle in the middle of the night, ring a bell, and flee.\textsuperscript{45} The cradle was then rotated into the church and the baby was saved.\textsuperscript{46} Foundling homes became prominent throughout Italy, and eventually made their way to France, Spain, and Portugal.\textsuperscript{47} Thousands of babies were saved in this manner before the system was abandoned in the nineteenth century.\textsuperscript{48} However, several other countries in Europe and even one in Africa currently utilize various methods of legalized baby relinquishment.\textsuperscript{49} Germany uses a "baby slot" system,

\begin{thebibliography}{9}
\bibitem{38} Livio, \textit{supra} note 25.
\bibitem{39} Magnusen, \textit{supra} note 6, at 3; Tebo, \textit{supra} note 7, at 30.
\bibitem{40} A Safe Haven for Newborns, Frequently Asked Questions, \textit{supra} note 9.
\bibitem{42} Magnusen, \textit{supra} note 6, at 3.
\bibitem{43} See Sanger, \textit{supra} note 41, at 762.
\bibitem{44} DAVID I. KERTZER, SACRIFICED FOR HONOR: ITALIAN INFANT ABANDONMENT AND THE POLITICS OF REPRODUCTIVE CONTROL 8 (1993).
\bibitem{45} \textit{id.} at 97.
\bibitem{46} See \textit{id.}
\bibitem{47} \textit{id.} at 10.
\bibitem{48} See \textit{id.} at 158.
\end{thebibliography}
Hungary has various “anonymous drop-off locations,” and Johannesburg, South Africa uses “the revolving crib” system as a form of legalized abandonment.50

B. Activists Take Action

Grass roots activists in several jurisdictions throughout the United States also implemented unofficial Safe Haven laws prior to the enactment of any legislation.51 A nurse in Pittsburgh, Pennsylvania began “Baskets for Babies,” after a newborn baby was found discarded in a plastic trash bag behind her church.52 She initially lined an old laundry basket with a warm blanket and placed it on her porch.53 After initiating a public-awareness campaign targeted at young mothers who think they have no options, 608 Pittsburgh families began “leav[ing] their porch lights on” with warm baskets ready to save a newborn and help a desperate mother.54 Similarly, a local television reporter in Mobile, Alabama initiated a movement after she covered two tragic cases of infant abandonment in 1998.55 With the help of district attorney, John Tyson, “A Secret Safe Place for Newborns” began.56 In an effort to save babies from the grim fate of being “dumped,” mothers were permitted to abandon their newborns at hospitals within Mobile and then walk away with no questions asked.57 Tyson “agreed not to prosecute the mothers” as long as the infants were brought in unharmed within three days of their birth.58

C. Texas Paves the Way

In 1999, Texas became the first state to officially adopt a Safe Haven statute.59 The law allows unwanted newborns to be legally abandoned at certain designated locations—safe havens—without fear of criminal prosecu-

50. Id.
51. See Timothy Roche, A Refuge for Throwaways, TIME, Feb. 21, 2000, at 50.
52. Id.
53. Id.
54. Id.
55. Id.
56. Roche, supra note 51.
57. Id.
58. Id.
tion. It was enacted after a disturbing pattern of infant abandonments began to emerge in the state, as thirteen babies were discarded within a ten month period in Houston alone. The Texas Safe Haven law has often been referred to as the “Baby Moses law,” based on the Bible story where baby Moses was placed in a basket by his mother, cast to sea down the Nile River, and “watched over by an anonymous protector until” being taken in by an Egyptian pharaoh’s daughter, who provided necessary love and care. Like the Bible story, under the law, newborns are provided with a protector and the desperate mothers who choose this safe, “responsible alternative to abandonment” are provided with anonymity.

In 2000, fourteen states, including Florida, followed Texas’ lead and enacted similar legislation. Between 2001 and 2002, twenty-seven more states passed infant abandonment laws, and as of 2008, “all [fifty] states have . . . some version of [a] ‘Safe Haven’” law. Safe Haven laws vary from state to state, but they all address the ages of children that may be left, where children may be left, and who can leave them. Additionally, all

63. The Baby Moses Project, supra note 62.
64. See CWLA, Baby Abandonment Project, supra note 11.
65. See id.
67. Magnusen, supra note 6, at 7–8. The age limit of newborns that can be relinquished typically ranges anywhere from seventy-two hours up to one year of age. Id. at 7; CWLA, Baby Abandonment Project, supra note 11. Nebraska was the last state to enact safe haven legislation and the law stated that any “child” could be abandoned at a hospital, but this proved to be very problematic since the term “child” was not defined and was interpreted to include minors up to nineteen. See Timberly Ross, “Safe Haven” Law Backfires, SUN SENT., Sept. 27, 2008, at 8A. Since the law became effective in July 2008, thirty-six children were abandoned, ranging in age from one to seventeen, including nine from one family and several from out of state. Id.; Age Limit for Nebraska Safe-Haven Law Debated, L.A. TIMES, Nov. 18, 2008, at A18; Boy Left in Nebraska as Law is Changed, N.Y. TIMES, Nov. 23, 2008, at A30. The law was meant to protect at risk infants so state lawmakers were forced to call a special legislative session due to the unintended loophole. Age Limit for Nebraska Safe-Haven Law Debated, supra note 67. On November 21, 2008, the law was changed to limit the age at which children can be surrendered to thirty days old or less. Boy Left in Nebraska as Law is Changed, supra note 67. Designated Safe Haven locations vary from state to state, and include anything from hospital emergency rooms only, to emergency medical services stations, fire stations, clinics, churches, and any appropriate person or suitable location. Magnusen, supra note 6, at 8–9 & n.62; CWLA, Baby Abandonment Project, supra note 11.
laws offer anonymity to the parents and either immunity from prosecution, or an affirmative defense.  

IV. FLORIDA'S SAFE HAVEN LAW

A. The Newborn Baby Dumping Epidemic

Congress began to address the issue of baby abandonment when it enacted the Abandoned Infants Assistance Act in 1988. However, the Act only pertained to "boarder babies," infants who were typically exposed to drugs or HIV perinatally and abandoned in hospitals. By 2000, many states had also begun to enact legislation geared at addressing the problem of unsafely abandoned newborns. The legislation provided anonymity and limited immunity to parents who relinquish newborns at certain designated safe locations; however, Florida had no such law.

In 2000, Senator John Grant and Representative Sandra L. Murman sponsored House Bill 1901 after a baby boy, estimated to be approximately two hours old, was discovered in a garbage bag next to an apartment complex trash can in Tampa. His nurses named him Benjamin, and the lucky boy survived, although doctors stated that he would not have been so fortunate had he been outside in the morning cold another half-hour or so. Baby Benjamin was one of six newborns found discarded in a public place throughout the state in a one month period.

As media reports continued to indicate that mothers of all ages were abandoning infants in various public places, the Legislature determined that the newborn abandonment epidemic was of "significant public interest and . . . concern." Finding that newborns in Florida and across the country had "suffered and died as the result of abandonment in life-threatening situations," that "the parents of newborn infants are often under severe emotional

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68. CWLA, Baby Abandonment Project, supra note 11. States vary as to who can leave a child at a Safe Haven, designating anyone from just the mother, to either parent, to a person with custody, to a person authorized by the parent, and the broadest category designates any person at all. Id.
69. Magnusen, supra note 6, at 7–8.
70. HB 1901 Staff Analysis, supra note 20, at 2.
71. Id. at 2 & n.2.
72. Id. at 2.
73. Id.
74. See Oppel, supra note 13.
75. Id.
76. Id.
77. HB 1901 Staff Analysis, supra note 20, at 2.
stress," and that "anonymity, confidentiality, and freedom from prosecution for parents may encourage them to leave a newborn infant safely and thus save the newborn infant’s life." The Legislature almost unanimously passed House Bill 1901. The legislation amended existing abandonment laws and specifically focused “on the problem of parents abandoning newborn infants.” The legislation was signed by Governor Jeb Bush on June 2, 2000, and Florida’s Safe Haven law became effective on July 1, 2000.

B. Florida’s Fight to Save the Lives of Discarded Infants

1. Legally Relinquishing a Newborn Infant

Until 2008, Florida’s statute defined a newborn infant as “a child that a licensed physician reasonably believes to be approximately 3 days old or younger at the time the child is left at a hospital, emergency medical services station, or fire station.” Although the Safe Haven law does not apply to babies older than the age limit, Safe Havens do not reject these children. In August 2007, a “[seventeen] year old mother” dropped off her healthy eight month old daughter at a Florida fire station saying that she could no longer care for the child. The mother hoped to be protected under the Safe Haven law, but the protections afforded by it were not available in this case due to the baby’s age. Even though the child could not be legally surrendered under the law, staff at the fire station took her in to avoid a potentially fatal result that could have occurred had her mother been turned away. The baby was placed in the custody of the Florida Department of Children and Families pending a search for her parents.

Under Florida law, either parent can legally relinquish a newborn at a designated Safe Haven location. The law presumes that a “parent who

78. Act effective July 1, 2000, Ch. 2000-188, 2000 Fla. Laws at 1944 (codified at FLA. STAT. § 383.50 (2007)).
79. FLA. LEGIS., FINAL LEGISLATIVE BILL INFORMATION, 2000 REGULAR SESSION, HISTORY OF HOUSE BILLS at 389, HB 1901.
80. HB 1901 Staff Analysis, supra note 20, at 4.
83. Sanger, supra note 41, at 768.
85. See id.
86. See id.
87. Id.
88. See FLA. STAT. § 383.50(2) (2007).
leaves [a] newborn infant in accordance with this [law] intended to leave the newborn infant and consented to termination of parental rights."\textsuperscript{89}

As originally enacted section 383.50 of the \textit{Florida Statutes} allowed parents to leave their newborn infants at hospital emergency rooms or fully staffed fire stations.\textsuperscript{90} This offered parents an alternative to abandoning their baby "in an area that may threaten the [child's] health and safety."\textsuperscript{91} However, in 2001, Safe Haven designations were expanded to include "emergency medical services station[s]."\textsuperscript{92} "Each emergency medical services station or fire station staffed with full-time firefighters, emergency medical technicians, or paramedics shall accept any newborn infant left with a firefighter, emergency medical technician, or paramedic."\textsuperscript{93} The newborn must be left with a designated person at one of the designated locations in order to be afforded protection under the law.\textsuperscript{94} Consequently, if a newborn is left at a location that is not a designated Safe Haven, the parents will likely face harsh legal penalties even if they leave the child somewhere that seems like a safe place such, as a church.\textsuperscript{95}


When a parent leaves a child with a designated person at a designated Safe Haven location "and expresses an intent to leave the newborn infant and not return, [he or she] has [an] absolute right to remain anonymous and to leave at any time," unless there are signs of "child abuse or neglect."\textsuperscript{96} Parents relinquishing a child in compliance with the law may be questioned about relevant medical and family history; however, they do not have to answer any questions,\textsuperscript{97} and they cannot be pursued if they walk away.\textsuperscript{98} Furthermore, "[t]he identity of a parent who leaves" a child at a designated Safe Haven location is confidential and will not be disclosed to anyone except "a person claiming to be a parent of the [child]."\textsuperscript{99}

\textsuperscript{89} \textit{Id.}
\textsuperscript{90} \textit{FLA. STAT.} § 383.50(5) (2000).
\textsuperscript{91} HB 1901 Staff Analysis, supra note 20, at 4.
\textsuperscript{93} \textit{FLA. STAT.} § 383.50(3) (2008).
\textsuperscript{94} \textit{See id.} § 383.50(9).
\textsuperscript{96} \textit{FLA. STAT.} §§ 383.50(5), (10).
\textsuperscript{97} \textit{See, e.g.}, Griffith, supra note 95.
\textsuperscript{98} \textit{FLA. STAT.} § 383.50(5), (10).
\textsuperscript{99} \textit{FLA. STAT.} § 383.51 (2007).
Additionally, parents relinquishing a child under the law are immune from prosecution. A criminal investigation will not be initiated "unless there is actual or suspected child abuse or neglect" other than the legal abandonment of a child at a designated Safe Haven location.

3. Protocols After Relinquishment

When a newborn is left with a "firefighter, emergency medical technician, or paramedic," he or she is to consider this "as implied consent to and shall . . . [p]rovide emergency medical services to the newborn infant to the extent he or she is trained to provide those services." After providing necessary emergency medical services, "[t]he firefighter, emergency medical technician, or paramedic [is to a]rrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services." Similarly, when a newborn is left at a hospital by a parent, this act is considered "implied consent for treatment" and the hospital is "to perform all necessary emergency [medical] services and care." Hospitals providing emergency services are required to admit any newborn left at the facility while hospitals without emergency rooms may exercise discretion in whether or not to admit the newborn for treatment. Newborns admitted to the hospital in accordance with the law are presumed eligible for Medicaid coverage.

Fire departments, firefighters, emergency medical technicians, and paramedics who treat or transport a newborn infant, and hospitals and licensed health care professionals who treat newborns are "immune from criminal or civil liability for acting in good faith [pursuant to] this section." However, liability is not limited for acts of negligence.

After a newborn is admitted, hospitals are immediately required to "contact a local licensed child-placing agency or" the state's "central abuse hotline for the name of" such an agency in order to facilitate the transfer of physical custody of the child. The state adoption information center is required to maintain "a list of licensed child-placing agencies [able] to take

100. Id. § 383.50(10).
101. Id.
102. Id. § 383.50(3)(a).
103. Id. § 383.50(3)(b).
105. See id.
106. Id. § 383.50(8).
107. Id. §§ 383.50(3)(b), (4).
108. Id.
custody of and place newborn[s]" abandoned under the Safe Haven law, and the names of these agencies are to be provided to the state’s central abuse hotline on a rotating basis. 110 A newborn left at a designated Safe Haven location is not considered abandoned under the state’s child abuse laws, so there is no requirement for mandatory reporting to the child abuse hotline or for an investigation by a child protective agency “unless there is actual or suspected abuse.” 111 However, if there is evidence of “actual or suspected child abuse or neglect, the hospital” is to report such suspicion to the state-wide central abuse hotline instead “of contacting a licensed child-placing agency.” 112

Once “[a] licensed child-placing agency . . . takes physical custody of [a newborn]” from the hospital, it “assume[s] responsibility for all medical [and] other costs.” 113 The agency must immediately seek an emergency court order for custody of the child, which “remain[s] in effect until the court orders preliminary approval of placement of the [child] in [a] prospective [adoptive] home.” 114 Within twenty-four hours after taking physical custody of the child, the child-placing agency must seek “assistance from law enforcement” to ensure that the infant is not listed as a missing child with any of the national or state missing children databases. 115 Up until 2008, the child-placing agency was required to “initiate a diligent search” within seven days of taking custody of the child in order “to notify and to obtain consent from a parent whose identity is known but whose location is unknown.” 116 In addition, “[c]onstructive notice [was required to] be provided . . . in the county where the [child] was abandoned.” 117

4. Change of Heart

A Tampa woman who had cared for her baby boy for the “first three days of his life,” ultimately made the difficult decision that she could not keep him.” 118 On Mother’s Day 2007, she delivered the clean, swaddled baby to the Hillsborough County Fire Station in accordance with the Safe

110. FLA. STAT. § 63.167(2)(f) (2007).
111. FLA. STAT. § 383.50(9).
112. Id. § 383.50(7).
113. FLA. STAT. § 63.0423(1) (2007).
114. Id. § 63.0423(2).
115. Id. § 63.0423(3).
117. Id.
118. Michael A. Mohammed, Mother Asks to Reclaim Baby, ST. PETERSBURG TIMES, May 16, 2007, at 3B.
Two days later, she went back to the fire station wanting to reclaim her baby. This was the third time a mother in Florida had asked for her child back under the State's Safe Haven law. Pursuant to the law, parents of a newborn left at a designated Safe Haven location may reclaim the child at any time "up until the court enters [an order] terminating . . . parental rights." Such a claim must either "be made to the entity [that has] physical or legal custody of the [child] or to the . . . court [where] proceedings involving the [child] are pending."

A "termination of parental rights [petition] may not be filed until [at least] 30 days after the date the [newborn] was" abandoned. Until 2008, "[a] petition for termination of parental rights [would] be granted" if the parents consented to adoption, or if "an affidavit of nonpaternity [was] executed by a parent;" if a parent "failed to reclaim or claim the [newborn] within the time . . . specified in s[ection] 383.50;" or if parental consent was "waived by the court." When a parent seeks to reclaim an abandoned infant, the court may order DNA "testing to establish maternity or paternity." The court is required to appoint a guardian ad litem for the child, and can order an "investigation, home evaluation, and [a] psychological evaluation" of the parent seeking to reclaim the child in order to determine whether it is in the child's best interest to be placed with that parent.

In addition to the ability to reclaim a child prior to the termination of parental rights, the birth parent of an abandoned newborn may file a motion to set aside a judgment of termination of parental rights within one year after such a judgment has been entered. If "the court finds that a person knowingly gave false information that prevented the birth parent from timely making known his or her desire to assume parental responsibilities toward the minor or from exercising his or her parental rights," any "judgment terminating parental rights" or ordering subsequent adoption of that child is voidable.

119. Id.
120. Id.
121. Id.
122. FLA. STAT. § 383.50(6) (2008).
123. Id.
125. FLA. STAT. § 63.0423(5) (2007).
126. FLA. STAT. § 63.0423(7)(a) (2008).
127. Id. § 63.0423(7)(b).
128. Id. § 63.0423(9)(a).
129. Id.
C. **House Bill 7007: Expanding the Law and Eliminating the Stigma**

In 2008, House Bill 7007 proposed several amendments to Florida's Safe Haven law.\(^{130}\) House Bill 7007 was unanimously passed by both the House and the Senate.\(^{131}\) It was approved by Governor Charlie Crist on May 28, 2008, and the amendments became effective on July 1, 2008.\(^{132}\)

Under the amendments, the term “abandoned” was replaced with the term “surrendered” throughout applicable statutes.\(^{133}\) This change was made because the word “abandoned” has many negative connotations and psychologically, it can discourage women from utilizing the law.\(^{134}\) The hope is that some of the stigma associated with giving up a baby will now be taken away.\(^{135}\)

The amendments also extended the time in which a newborn infant may be safely surrendered from three days to seven days.\(^{136}\) This extension gives parents “more time to make a constructive and life-affirming decision for the infant and themselves.”\(^{137}\) The goal is to prevent unsafe abandonment by mothers who make the decision that they cannot care for their child after the child is three days old.\(^{138}\)

The requirement that licensed child-placing agencies conduct “a diligent search to notify and to obtain consent” from the known parent of a surrendered newborn was eliminated by the amendments.\(^{139}\) It has been replaced with a provision stating that a parent surrendering an infant in accordance with the law “is presumed to have consented to termination of parental rights, and express consent is not required.”\(^{140}\) In addition, child-placing agencies are now prohibited from attempting “to pursue, search for, or notify” the parent of adoption proceedings unless there is actual or suspected abuse or neglect.\(^{141}\)


\(^{131}\) Brecher, *supra* note 2.

\(^{132}\) Act effective July 1, 2008, Ch. 2008-90, § 3, 2008 Fla. Laws 1012, 1017.

\(^{133}\) See generally id.

\(^{134}\) Id.

\(^{135}\) See Brecher, *supra* note 2.

\(^{136}\) Ch. 2008-90, § 3, 2008 Fla. Laws at 1016 (amending *FLA. STAT.* § 383.50(1) (2007)).

\(^{137}\) Allen, *supra* note 1.


\(^{139}\) Ch. 2008-90, § 3, 2008 Fla. Laws at 1015 (amending *FLA. STAT.* § 63.0423(4)).

\(^{140}\) Id.

\(^{141}\) Id.
Under the new amendments, a petition for termination of parental rights may only be granted if “a parent has failed to reclaim or claim the surrendered” child within the specified timeframe.142 The provisions allowing for a termination of parental rights petition to be granted if a parent consented to adoption, filed an affidavit of nonpaternity, or if the court waived consent have been eliminated.143

Additionally, if a parent leaves a child at the hospital, the newborn must be left with emergency room staff in order for the surrender to comply with the law.144 However, in practice, the surrender of a child anywhere in the hospital has been treated as a safe abandonment.145 Because the identity of hospital patients is known, another provision has been added to the law in order to further protect the confidentiality of the birth mother of a surrendered newborn.146 If a mother gives birth in a hospital and “expresses [an] intent to leave the infant and not return,” the hospital is now to “complete the [child’s] birth certificate without naming the mother” if she so requests.147

V. A SUCCESS OR A QUICK FIX?

A. The Gloria M. Silverio Foundation: A Safe Haven for Newborns

Since July 2000, over one hundred newborns have been saved thanks to Florida’s Safe Haven law.148 All of the newborns who have been legally surrendered have been placed in homes through private adoption agencies.149 Much of Florida’s success is due to the Gloria M. Silverio Foundation’s (Foundation), “A Safe Haven for Newborns,” a nonprofit organization established by Nick Silverio in 2001 “in response to the tragedy of newborn abandonment in Florida.”150 The mission of “A Safe Haven for Newborns” is to

142. Id. (amending FLA. STAT. § 63.0423(5) (2007)).
143. Id.
144. See HB 7007 Staff Analysis, supra note 138, at 3.
145. Id.
146. Id.
147. Ch. 2008-90, § 4, 2008 Fla. Laws at 1017 (amending FLA. STAT. § 383.50(5)).
148. Taylor, supra note 8; Allen, supra note 1; Brecher, supra note 2.
150. A Safe Haven for Newborns, The Beginning, http://www.asafehavenfornewborns.com/aboutus.htm (last visited Oct. 26, 2008); Brecher, supra note 2. Nick Silverio began the foundation after his wife of thirty-one years, Gloria, was tragically killed in a 1999 car accident. A Safe Haven for Newborns, The Beginning, supra note 150; Brecher, supra note 2. Silverio, himself, has been widely credited with raising the law’s profile and saving the lives of newborns that may “have ended up in canals, trash bins, or toilets.” Brecher, supra note 2. Over the past seven years, he has talked about the
save the lives of newborn infants "in danger of abandonment and to help preserve the health of their mothers and future of their mothers and fathers." Its vision is "[t]o eliminate infant abandonment in Florida thru [sic] education, prevention and community involvement and to assist pregnant girls/women to realize a productive future." The Foundation promotes and maintains greater awareness of Florida’s Safe Haven law. It is also the primary source for compiling and maintaining information and statistics on the law’s effectiveness.

Originally established in Miami, the Foundation has ‘‘Partnered’ with the Florida Fire Chiefs Association, Emergency Medical Services, many [h]ospitals, and many other organizations,” and now has chapters in sixty-seven counties throughout the state. The organization has an advisory board and a twenty-four hour, seven days a week multi-lingual referral help line in English, Spanish, and Creole. The help line was initially created to educate young mothers wanting to know more about the Safe Haven law, but it has expanded to help girls, women, and mothers in crisis deal with a wide variety of problems. Counselors are available around the clock to speak with desperate mothers in their moment of need. Mothers can even call in advance to arrange for the surrender of their child. Baby Iris’s mother found out about the law from literature at a clinic, and she made arrangements with a volunteer at the Safe Haven hotline to surrender her baby a week before giving birth. She contacted the hotline again after delivering her daughter and met with a counselor who handed the baby over to a waiting firefighter as the mother looked on from the car.

There are more than seventeen thousand Safe Haven locations throughout Florida. In 2007, the Foundation launched a statewide marketing campaign equipped “with billboards and advertisements on bus-stop [coverings] and mall benches to educate the public on” Florida’s Safe Haven law.

foundation, its goals, “raising money for the helpline, billboards,” and other marketing methods to anyone who would listen. Id.

151. A Safe Haven for Newborns, Our Mission, supra note 5.
152. Id.
153. Id.
154. See id.
156. See id.
157. Id.
158. Brecher, supra note 2.
159. Lundy, supra note 149.
160. Id.
161. Id.
162. Griffith, supra note 95.
163. Id.

Published by NSUWorks, 2008
Foundation sponsors public service announcements for television, radio, and print, as well as "training videos for Safe Haven locations" and schools. Earlier this year, Broward Sheriff's Office emergency rescue vehicles began displaying stickers promoting the law. Additionally, Polk County officials have launched an ongoing "campaign to better train [its] fire and rescue personnel" on the law.

Catholic high schools throughout the state have implemented a program developed by the Foundation in order to educate teens on the Safe Haven law. Students are given a scenario about a teenage girl who is a successful student, has a close relationship with her parents, and has lots of friends. She becomes quiet and withdrawn, drops out of gym class, "and starts wearing baggy clothes" after "her boyfriend breaks up with her." Based on her behavior, she may be pregnant and trying to hide it. Students are asked to play the role of the girl's best friend and get her to talk about the situation. The goal is to get her "to talk to her parents or" another adult that she knows, but if that fails the goal is to get her to talk to someone at the Safe Haven hotline. The Foundation is hoping to get public schools to implement the program as well.

Unfortunately, although the Safe Haven law provides parents with a safe, legal alternative to infant abandonment, there is still the occasional tragedy of a newborn dying due to being unsafely abandoned. The Garden of Innocence is a special place to honor the memory of these precious little babies. Woodlawn Park Cemeteries donated a plot and headstone which "provide[s] a dignified, peaceful, final resting place for any newborn that is abandoned in Florida, tragically resulting in their death." The hope is that an innocent child never has to be placed in this Garden. However, suppor-
COMBATING THE "BABY DUMPING" EPIDEMIC

B. Critics Take Aim

When Florida’s Safe Haven law was enacted, the Department of Health and the Department of Children and Family Services were required to “produce a media campaign to promote” it. The campaign was “to inform the public” that parents relinquishing a newborn under the law are entitled to confidentiality, “limited immunity from criminal prosecution,” and the right to reclaim the newborn. Although “the law went into effect in July 2000,” there was initially little public awareness since funding for the marketing campaign did not come through until January 2002. Early reports indicated that the law did not work because no one knew it existed. In 2002, Florida’s Department of Health and Department of Children and Family Services were finally given one hundred thousand dollars to initiate a media campaign designed “to inform the public about the law.” However, even though Florida’s Safe Haven law has been in place for eight years, many people still do not know it exists.

Although the law authorizes the anonymous, legal abandonment of newborns, infants are still being discarded in unsafe places. Approximately five newborns are abandoned unsafely each year in Florida. Since 2000, forty-two newborns have been left in risky places including dumpsters, front porches, bushes, hotel trash cans, the beach, a canal, and a church. While eighteen of these infants were found alive, tragically, twenty-four were not. Miami-Dade County has seen the most unsafe infant abandonments with eight since 2000, followed closely by Broward County with five.

179. Crary, supra note 17.
181. Id.
182. Tom Zucco, The Cradle’s Empty at Florida’s Safe Havens, ST. PETERSBURG TIMES, Aug. 8, 2002, at 1D.
183. See id.
184. Id.
185. See Griffith, supra note 95; see Ani Martinez, Women Reminded of Safe Haven Law, MIAMI HERALD, July 13, 2007, at 2B.
186. Griffith, supra note 95.
189. Id.
highest number of unsafe abandonments since the law was enacted was in 2003, when nine babies were discovered throughout the state, four of which were found dead. 191

During the research for this article, a thirty year old woman gave birth to a baby and attempted to dispose of the newborn in the trash. 192 On June 14, 2008, Meisha Morant gave birth to the baby girl by herself at a friend’s Broward County home. 193 She never admitted to being pregnant and she hid her growing belly beneath layers of baggy clothes. 194 After giving birth, Morant cut the newborn’s umbilical cord with scissors and stuffed the baby in a garbage bag filled with trash. 195 When the homeowner came home, he discovered a trail of blood and found Morant holding the bag with the baby struggling inside. 196 As the homeowner questioned her as to the contents of the bag, Morant continued to deny that she had even given birth. 197 Baby Destiny is currently in the care of the couple who found her, while her mother, who could have dropped her off at a fire station five minutes away, is facing attempted murder charges. 198

In the summer of 2007, two young mothers were “accused of killing their newborns in Broward County.” 199 Ashley Truitt, a teenager on a family vacation from Iowa, delivered a baby girl alone in her Pompano Beach hotel room. 200 She cut the umbilical cord with a knife, wrapped the crying infant in towels, placed her in a plastic garbage bag, and threw her down the hotel’s trash chute. 201 The baby fell seventy feet to the dumpster beneath where she died of blunt force head trauma. 202 Similarly, Lindsey Scott gave birth alone, cut the umbilical cord with scissors, and suffocated her newborn with towels before placing the body in a trash bag outside of her Oakland Park home. 203 Both girls concealed their pregnancies by wearing baggy clothes and both

191. A Safe Haven for Newborns, Babies Abandoned, supra note 188; see also A Safe Haven for Newborns, Babies Statistics, supra note 190 (detailing the number of safe and unsafe infant abandonments in Florida by year and by county).
192. Id., supra note 166.
193. Id.
194. Id.
195. Id.
196. Id.
197. Id., supra note 166.
198. Id.
199. Martinez, supra note 185.
200. Wanda J. DeMarzo, Teen Charged in Death of Her Baby, MIAMI HERALD, June 29, 2007, at 1B.
201. Id.
202. Id.
203. Andrew Tran, Mother Suffocated Newborn, Officials Say Baby Girl Was Breathing, Medical Examiner Finds, SUN-SENT., July 13, 2007, at 1B.
denied being pregnant when questioned by their parents.\textsuperscript{204} Neither girl took advantage of the State’s Safe Haven law.\textsuperscript{205} Twenty-three other newborns have died due to unsafe abandonment since Florida’s Safe Haven law was enacted.\textsuperscript{206}

Adoptees rights groups, such as Bastard Nation, oppose the Safe Haven law.\textsuperscript{207} Critics argue that it encourages women to abandon their newborns rather than getting counseling, placing the babies with family, or raising the children themselves with assistance.\textsuperscript{208} Some also claim that the law “encourage[s] women to conceal their pregnancies,”\textsuperscript{209} and that it discourages them from obtaining “pre-natal and post-natal medical care.”\textsuperscript{210} Women who conceal their pregnancies are more likely to give birth unsafely which can endanger the health and lives of both the mother and the child.\textsuperscript{211} Critics argue that legalized abandonment provides a “no hassle” way to get out of parental responsibility that undermines established and effective adoption policies.\textsuperscript{212} Some allege that the law puts forth a message that abandoning a newborn is “a socially acceptable way of” dealing with a difficult problem under undesirable circumstances, and that this could actually lead to more unwanted pregnancies and abandonments.\textsuperscript{213}

Critics say that the law is a “feel good measure”\textsuperscript{214} and a “bandaid solution” that does not address the circumstances that cause a mother to kill or dump her newborn, including “poverty, substance abuse, physical abuse, shame, and mental illness.”\textsuperscript{215} Some claim that “the women most likely to respond to [media] campaigns are not [the ones who are] likely to endanger their [newborns] to begin with,”\textsuperscript{216} and that “‘baby dumpers’” will not utilize the law.\textsuperscript{217} They further contend that “it is unrealistic to expect young, traumatized” women who have just secretly given birth to seek out a Safe Ha-

\textsuperscript{204} Id.; DeMarzo, supra note 200.  
\textsuperscript{205} See Martinez, supra note 185. Iowa also has a Safe Haven law similar to Florida’s. DeMarzo, supra note 200.  
\textsuperscript{206} See A Safe Haven for Newborns, Babies Abandoned, supra note 188. Ashley Truitt’s case is not included in Florida’s statistics. See id.  
\textsuperscript{207} Bastard Nation: Legalized Baby Abandonment Safe Haven Laws, supra note 16.  
\textsuperscript{208} Pertman, Measure, supra note 15.  
\textsuperscript{209} Crary, supra note 17.  
\textsuperscript{210} Bastard Nation: Legalized Baby Abandonment Safe Haven Laws, supra note 16.  
\textsuperscript{211} Crary, supra note 17.  
\textsuperscript{212} Id.  
\textsuperscript{213} Adam Pertman, Politicians Push for Legalized Baby Abandonment at ‘Safe’ Sites, BOSTON GLOBE, Apr. 10, 2000, at B1 [hereinafter Pertman, Politicians].  
\textsuperscript{214} Garrison, supra note 36.  
\textsuperscript{215} Bastard Nation: Legalized Baby Abandonment Safe Haven Laws, supra note 16.  
\textsuperscript{216} Zucco, supra note 182.  
\textsuperscript{217} Bastard Nation: Legalized Baby Abandonment Safe Haven Laws, supra note 16.
Most of the mothers who kill their newborns or unsafely abandon them are confused, upset, and in denial. These girls are extremely unlikely to drive or ask for a ride to a designated Safe Haven to legally relinquish their newborn, especially one that is staffed with authority figures.

Opponents of the Safe Haven law contend that it prevents relinquished children from knowing their social, medical, and genealogical history. They further allege that research indicates that adoptees tend to be “healthier mentally, if they [are able to] learn about their personal histories,” however, children relinquished under the Safe Haven law are almost guaranteed not to have access to this information due to the anonymity provision. Critics of the Safe Haven law also argue that it denies birth fathers, who may not even know that they have a child let alone that it was relinquished under the law, their due process rights.

VI. SHAPING THE FUTURE

The recent amendments to Florida’s Safe Haven law will likely help save more newborns since parents now have more time to make the crucial decision of whether to give up their baby. Additionally, many parents may be more willing to utilize the law now that their action is considered surrendering their child rather than abandoning him or her. Furthermore, the amendments will help newborns legally surrendered under the law achieve permanency faster since the time consuming requirement of conducting a diligent search for known parents has been eliminated. A court may now enter an order terminating parental rights, thereby freeing the child for adoption, once the parents fail to claim the child within the allotted timeframe.
However, even though the amendments have expanded the law to help both the parents and the child, they will not achieve their desired goal of saving newborns from the grim fate of being discarded unless more people know about it. Florida’s Safe Haven law is finding success, but many people still do not know it exists. There is a tremendous need for continued promotion of this safe, legal alternative to baby dumping. The Florida Legislature needs to allot more funding to help promote the law, especially in those counties most affected by unsafe abandonments. Additionally, the public and private school systems need to continue to educate teens on pregnancy prevention so fewer teens and young adults find themselves facing unwanted pregnancies. Along with the need for increased education, is the need to eliminate the stigma associated with unplanned, unwanted teenage pregnancies when they do occur. The reality is that some teenagers and young adults will get pregnant, and they need to know that they will not be rejected by the community or their families. Girls facing unwanted pregnancies also need to be informed early about the various alternatives to baby dumping, including, but not limited to, the Safe Haven law. Hospitals, clinics, and doctors’ offices should be required to promote the law by having literature readily accessible to patients. Finally, hospitals should do thorough medical screenings on children safely surrendered under the law to check for possible genetic conditions that adoptive parents should be aware of.

VII. CONCLUSION

By allowing parents to surrender newborn infants up to seven days old at any fire station, emergency medical services station, or hospital with no questions asked, Florida’s Safe Haven law offers parents a safe, legal alternative to baby dumping. While surrendering a newborn under the law is a compassionate way to protect an innocent baby, it “is the last option.” Mothers are urged “to talk to someone” at the Safe Haven hotline before they give birth. They are also encouraged to obtain prenatal care and to either keep the child or go through the normal adoption process. Children surrendered under the law do not have access to their family or medical histories; however, the purpose of the law “is to save the lives of newborns,” and proponents argue that a newborn safely surrendered “without medical

230. Id.
231. Id.
records is prefer[red] to an unsafe abandonment” that is likely to result in death. 232

Supporters of the law have said that it is worthwhile even if one life is saved. 233 Florida has greatly surpassed this goal by saving over one hundred newborns and counting. 234 The Safe Haven law is not expected to rescue every baby, however, one hundred infants is quite an accomplishment. 235 Eight more newborns were safely surrendered in Florida during the writing of this article. 236 While there is a continued need for greater public awareness and education, Florida’s success means that, slowly but surely, the word is getting out about the law, and babies are being saved as a result. 237

232. Id.
233. A Safe Haven for Newborns, Our Mission, supra note 5.
234. See Taylor, supra note 8; Allen, supra note 1; Brecher, supra note 2.
236. See A Safe Haven for Newborns, Babies Statistics, supra note 190.
237. Brecher, supra note 2. For more information about the Gloria M. Silverio Foundation’s “A Safe Haven for Newborns,” visit http://www.asafehavenfornewborns.com, or contact the twenty-four hour helpline at 1-877-767-BABY (2229). Id.