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The Vermont Legislative Research Shop

Baby Safe Haven Legislation

Baby Safe Havens (also known as Baby Moses, Safe Place for Newborns, and Safe Arms for Newborns)¹ are legislative programs that allow mothers who might otherwise abandon their children illegally in unsafe places to instead legally abandon their children at established “Safe Places.” In most states, leaving an unharmed child at a sanctioned safe haven is usually accompanied by diminished risk of prosecution for abandonment, and in some states, even total immunity. Many states also require that those accepting abandoned infants request that the parent(s) provide their own information as well as a brief medical history, although all states promise parents the option of anonymity.² As of January 2005, 47 U.S. states have Safe Haven legislation in place.³

Despite the fact that legislation has been instituted in the vast majority of states, detailed infant abandonment statistics on the state and national level are largely unavailable. Although the Department of Health and Human Services does require states to provide information on the number of infants entering the foster care system as a result of abandonment, no statistics are kept as to exactly how many of these children are abandoned at locations other than hospitals.⁴ At the time of this report, the most recent statistics available on the frequency of infant abandonment were from the year 1998.

In that year, 17,400 infants were illegally abandoned (approximately .004% of all live births in the United States) by being left in unsafe places or at hospital maternity wards.^{5 6} Little

¹ Robyn’s Nest. “Safe Haven Legislation.” 2005. Nybor, LLC. <http://www.robynsnest.com/statesafehaven.htm>. Accessed April 12, 2005.

² National Conference of State Legislators. “UPDATE: SAFE HAVENS FOR ABANDONED INFANTS”

³ Nancy S. Ashe. “Legalized Abandonment: Safe Haven Laws.” 2005. Adoption Media, LLC. <http://www.crisispregnancy.com/birth-mother/legalized-abandonment-safe-haven-laws.html>. Accessed April 12, 2005.

⁴ Ian M. Bolling. “Adoption Trends in 2003: Infant Abandonment and Safe Haven Legislation.” 2003. National Center for State Courts. http://www.ncsconline.org/WC/Publications/KIS_Adopt_Trends03Haven.pdf Accessed April 19, 2005.

⁵ National Abandoned Infants Assistance Resource Center. “Boarder Babies, Abandoned Infants, and Discarded Infants.” July 2002. http://aia.berkeley.edu/publications/fact_sheets/boarder_defs.html. Accessed April 21, 2005.

⁶ US Census Bureau. “Table b1. Live births and birth rates: Colorado Residents and the United States, selected years, 1910-1998.” <http://www.cdphe.state.co.us/hs/birth98web.pdf#search='US%20live%20in%201998'>. Accessed April 19, 2005.

information is available pertaining to the risk factors for baby abandonment, as psychologists have yet to pinpoint what kind of parent is most likely to abandon their baby, other than that most mothers are in their late teens. Currently there is no evidence that links abandonment to mental illness or drug addiction.⁷ Furthermore, there is no evidence, at this point in time, to support that the establishment of safe haven legislation affects the rates of illegal infant abandonment.⁸

Figure 1 illustrates the number of states that have deemed various locations “Safe Havens.” As may be seen, the vast majority limits the label to strictly hospitals, due to the ability of the staff to attend to newborns. Other locations include churches, pregnancy crisis centers, child advocacy centers, birthing centers, physicians’ offices, community health clinics, and walk-in clinics, as well as with 911 responders and social service workers.⁹ For a complete listing of individual state actions, see Appendix A.

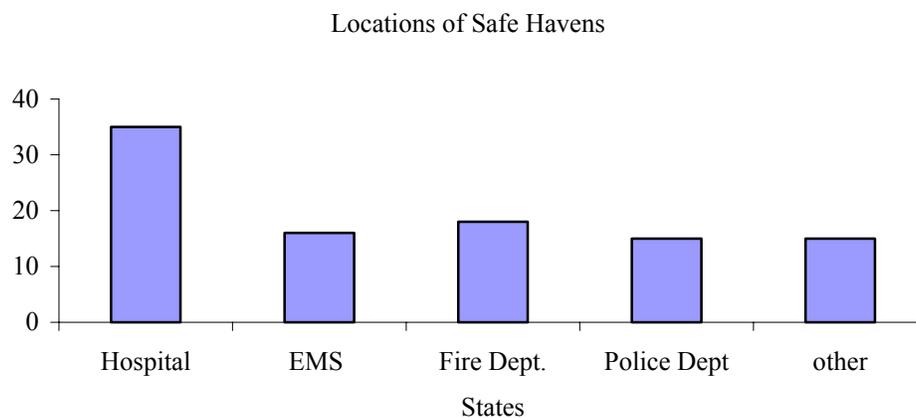


Figure 1: Number of states deeming various locations “Safe Havens”

Safe Haven Legislation in Action

Colorado: In July of 2004, after three infants were abandoned and died within two weeks, legislators gathered. During the press conference state Rep. Gayle Berry who pushed the safe haven law through in 2001 said, “We have programs in place, but we need to step up funding and make these programs a priority.” Teens who work for the Colorado Youth Advisory Council have begun putting up signs in nightclub bathrooms, bus stops and at schools. “Berry is joining with state health officials and with people from the Camp Canter and the National Children’s Trust to raise funds to get the word out about safe haven laws.¹⁰”

In a further effort to increase awareness of the law first lady Frances Owen on April 14th, 2005 proclaimed the day Colorado Safe Haven for Newborns Day and said, “We don’t want to lose

⁷ Patricia Wen. “ ‘Safe Haven Law’ Has Doubters.” October 31, 2004. *The Boston Globe*.

⁸ National Conference of State Legislators.

⁹ Robyn’s Nest.

¹⁰ Denver’s ABC 7. “Lawmakers Remind Mothers of Safe Way to Leave Baby.” July 9, 2004.

TheDenverChannel.com. <http://www.thedenverchannel.com/news/3511384/detail.html>. Accessed April 21, 2005.

any more babies.” Colorado’s baby safe haven law was passed five years ago and since then 9 babies have been abandoned and died and 12 have been left at safe haven locations. Owens hopes that further education and outreach to schools regarding the law will help mothers make better decisions rather than panicking and abandoning the baby.¹¹

Bronx, New York: A woman recently tossed her newborn baby out of the window. This led many proponents of the Baby Safe Haven Program to discuss the need for further awareness of the program. “Tim Jaccard, director of the Baby Safe Haven Program, which runs a 24-hour hotline, (877) 796-HOPE. “We’ve got to get the message out that there are other alternatives to what is going on.” Jaccard said the law needs to be publicized – on television and radio, in school nurses’ offices and through posters in local stores.” He also discusses the need to be particularly aware and push the program harder in February and March because that is when the highest rate of neonaticides occurs. This is due to conception during spring proms, spring break and the summer.¹²

Wisconsin’s Safe Haven Legislation was created three years ago and has been used 21 times throughout the state. The Wisconsin safe haven agency says that the average age of women utilizing the law are 19 years old¹³

California: activist Debi Faris-Cifeli founded The Garden of Angels, Inc, a non-profit organization, in 1996.¹⁴ In January of 2001, the state of California launched its baby safe haven legislation and since then The Garden has “launched an educational campaign which includes public service announcements and print ads, plus an “educational video” designed to reach out to our young people in our schools.”¹⁵ The organization is running multiple fundraisers in order to fund the program, including a “baby bottle challenge” in which old baby bottles full of change are collected, a sale of engraved bricks within a sidewalk, joining non-profit E-bay networks, and through reaching out to Sunday Schools.¹⁶

Educational Provisions

As of 2001, thirteen states’ safe haven laws made provisions for educational programs to assist in informing the public of the existence and specific provisions of their baby safe haven legislation. One example, New Jersey, requires an educational program including a free 24-hour hotline. As a result, the law also provided \$500,000 for the program.¹⁷

¹¹ Bill Scanlon. “First Lady Highlights Safe Haven Law with Baby Day.” April 14, 2005. *Rocky Mountain News*. P. 30A.

¹² Lisa L. Colangelo and Nancy Dillion. “Safe Haven Law Could Have Averted Tragedy.” January 18, 2005. *Daily News*. P. 8.

¹³ Georgia Pabst. “2 Newborns Given up at Hospital in West Allis under Safe Haven law.” July 15, 2004. *Milwaukee Journal Sentinel*. P. 1B.

¹⁴ Debi Faris-Cifeli. “From the Heart...” No date specified. www.gardenofangels.org. Accessed April 19, 2005.

¹⁵ Safe Arms For Newborns. “Safe Arms for Newborns and California Senate Bill 1368 Works to Prevent Abandoned/Discarded Newborns.” No date specified. <http://www.gardenofangels.org/Safe%20Arms.htm>. Accessed April 19, 2005.

¹⁶ Safe Arms For Newborns.

¹⁷ Nina Williams-Mbengue. “Analysis of State Actions on Important Issues: Safe Havens for Abandoned Infants.” September 2001. *NCSL State Legislative Report*. <http://www.ncsl.org/programs/cyf/slr268.html> Accessed April 19, 2005.

Concerns about Safe Haven Legislation

Impact on the Father's Rights: According to Ian Bolling of the National Center for State Courts, there is a question as to whether or not baby safe havens violate fathers' constitutional rights. Since all safe haven laws allow mothers to drop infants without leaving the father's name or attempting to contact him, the laws interfere with fathers' rights to custody and contesting adoption. More specifically, safe haven laws may be seen as interfering with a father's right to "notice of proceedings terminating parental rights."¹⁸

Impact on State Courts: State courts may see an increased case load in reference to infant abandonment due to the fact that many states' legislation provide only for an affirmative defense, rather than granting immunity. States may also see an influx of mothers who have, or who are claiming to have attempted to adhere to state safe haven laws, but have simply failed to meet a single requirement such as dropping a child at the proper location. This defense is made all the more likely by many states' failure to adequately advertise the legislation and its provisions. The state courts may also expect to see an influx of mothers and/or fathers wishing to adopt their infant after relinquishing their rights.¹⁹

Impact on Adoption: The Evan B. Donaldson Adoption Institute released a study in March 2003 that women who would otherwise leave the child to relatives or go through the legal procedure of adoption decide to conceal pregnancies and abandon the newborn once safe haven legislation is in place. They say that many times legislation is quickly passed due to highly publicized incidents and the necessary research is not gathered. The Institute states that the negative consequences of baby safe haven laws include that a proper background check is not made to ensure that it is indeed the mother of the child that is abandoning it. The institute also fears that children who are abandoned will never learn their genealogical or medical histories, even when there are serious health issues and that the possibility of contact or exchange between birth parents and children are precluded.²⁰

"The Institute's study indicates that any policy aimed at solving this problem should therefore incorporate the following elements, which address the current laws' deficiencies and offer children a more secure future:

- Researching the causes of abandonment to better tailor an effective policy response
- Educating students, teachers, parents, counselors and clergy about how to identify concealed pregnancies, and enabling affected teenagers and women to get help

¹⁸ Ian M. Bolling, "Adoption Trends in 2003: Infant Abandonment and Safe Haven Legislation."

¹⁹ Bolling

²⁰ Evan B. Donaldson Adoption Institute. "Unintended Consequences: 'Safe Haven' Laws Are Causing Problems, Not Solving Them." March 10, 2003. <http://www.adoptioninstitute.org/whowe/FINALpress%20release.pdf>. Accessed April 12, 2005

- Providing confidential counseling to at-risk pregnant teens and women about prenatal care, and
 - Safe alternatives for their babies, such as care by other biological family members or adoption, when they cannot or do not want to parent...²¹
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Disclaimer:

This report has been prepared by undergraduate students at the University of Vermont under the supervision of Professor Anthony Gierzynski. The material contained in the report does not reflect the official policy of the University of Vermont.

²¹ Evan B. Donaldson Adoption Institute. "Unintended Consequences: 'Safe Haven' Laws Are Causing Problems, Not Solving Them." March 10, 2003. <http://www.adoptioninstitute.org/whowe/FINALpress%20release.pdf>. Accessed April 12, 2005.

Appendix A

State	Year Enacted	Age of Child	Hospital	EMS	Fire Dept.	Police Dept	Website
Alabama	2000	up to 72 hours		X			http://www.mobile-da.org/index.htm
Alaska	<i>None</i>						
Arizona	2001	up to 72 hours	X	X	X		http://www.tucsonsafebaby.org/
Arkansas	2001	up to 30 days	X	X		X	
California	2001	up to 72 hours	X				http://www.gardenofangels.org/ or http://www.projectcuddle.org/
Colorado	2000	up to 30 days	X		X		
Connecticut	2000	up to 30 days	X				http://www.state.ct.us/dcf/Safe_Havens_Act/safe_havens_act.htm
Delaware	2001	up to 14 days	X				
District of Columbia	<i>None</i>						
Florida	2000	up to 72 hours	X		X		http://www.asafehavenfornewborns.com/
Georgia	2002	up to 7 days					
Hawaii	<i>None</i>						
Idaho	2001	up to 30 days					
Illinois	2001	up to 72 hours	X		X	X	http://www.saveabandonedbabies.org/
Indiana	2000	up to 30 days		X			http://www.newbornlifeline.com/
Iowa	2001	up to 14 days	X				
Kansas	2000	up to 45 days	X		X		
Kentucky	2002	up to 72 hours	X	X	X	X	
Louisiana	2000	up to 30 days	X	X	X	X	http://www.dss.state.la.us/departments/ocs/Safe_Haven.html
Maine	2002	up to 31 days	X	X	X		
Maryland	2002	up to 72 hours					
Massachusetts	2004	up to 7 days	X		X	X	http://babysafehavenyes.org/
Michigan	2000	up to 72 hours		X			http://www.michigan.gov/dhs
Minnesota	2000	up to 72 hours	X				http://www.safeplacefornewborns.org/
Mississippi	2001	up to 72 hours		X			
Missouri	2002	up to 30 days	X	X	X	X	
Montana	2001	up to 30 days	X		X	X	
Nebraska	<i>None</i>						
Nevada	2001	up to 30 days	X		X	X	
New Hampshire	2003	up to 7 days	X		X	X	
New Jersey	2000	up to 30 days	X				

New Mexico	2001	up to 90 days	X				
New York	2000	up to 5 days	X		X	X	http://www.amtchildrenofhope.org/
North Carolina	2003	up to 7 days	X	X		X	
North Dakota	2001	up to 1 year	X				
Ohio	2000	up to 72 hours	X	X		X	
Oklahoma	2001	up to 7 days	X		X	X	
Oregon	2003	up to 30 days	X		X		
Pennsylvania	2002	up to 28 days	X		X	X	http://www.ahandtohold.org/index.htm
South Carolina	2000	up to 30 days	X				
South Dakota	2001	up to 60 days		X			
Tennessee	2001	up to 72 hours	X				
Texas	1999	up to 30 days		X			http://www.babymosesproject.org/B&P.htm
Utah	2001	up to 30 days	X				
Vermont	<i>None</i>						
Virginia	2003	up to 14 days	X	X			
Washington	2002	up to 72 hours	X		X		
West Virginia	2000	up to 72 hours	X				
Wisconsin	2001	up to 72 hours	X	X		X	

Source: Robyn's Nest. "Safe Haven Legislation." 2005. Nybor, LLC. <http://www.robynsnest.com/statesafehaven.htm>. Accessed April 12, 2005.