

LFC Requester:

Lance Chilton

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 1/19/24

Bill No: SB 91

Sponsor: Sen. D. Gallegos

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing Analysis: Charles J. Gutierrez,
ASG

Short Title: Infants in First Responder
Safety Devices

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

The Safe Haven Act, NMSA 1978, §§ 24-22-1 to -8 (as amended through 2013), already allows parents to leave an infant less than 90 days old at a safe haven site, which is defined as a hospital, law enforcement agency, or fire station that has staff on site. This bill generally expands various sections of the Safe Haven Act to allow persons to surrender infants to first responders or to surrender infants to a surrender safety device.

Section 1 adds definitions to the Safe Haven Act. It defines first responder as an officer, firefighter, or EMT whose duties include responding rapidly to an emergency. It defines surrender safety device as having the following characteristics: (1) designed to keep an infant in a safe environment with sufficient oxygen and comfortable temperature for three hours, (2) can be attached to the outside of a building but accessible from inside, (3) has a transparent door where infant is visible and may be retrieved by a person inside the building, and (4) equipped with an alarm that notifies staff when an infant is secured inside.

Section 2 provides that a person may leave an infant with a first responder at a location other than a safe haven site if left in a condition that would not constitute child abuse or abandonment.

Section 3 provides procedures for the transfer of an infant to a first responder at an agreed upon location other than a safe haven site. It requires the first responder to provide certain information on adoption and counseling, ascertain whether the infant could be a member of an Indian tribe, and immediately arrange for the transport of the infant to a safe haven site.

Section 4 allows a person to leave an infant inside a surrender safety device if the device is marked for safe use and attached as a fixture to a safe haven site, if the infant is secured pursuant to posted instructions, and the infant is left in a condition not constituting child abuse or abandonment.

Section 5 amends the provisions addressing safe haven site procedures to account for circumstances where an infant is delivered by a first responder.

Section 6 provides a safe haven site or a first responder with consent to provide medical services to an infant.

Section 7 amends the provisions addressing the responsibilities of CYFD to account for circumstances where an infant is delivered by a first responder to a safe haven site. It also obligates the public education department to join CYFD's public outreach effort to educate the public about the Safe Haven Act. Section 12 includes an appropriation for the public education department.

Section 8 provides the requirements for the location and monitoring of a surrender safety device at a safe haven site, including that the surrender safety device be affixed to the site; that the safe haven site be staffed 24/7; that the device include instructions for use and a warning that the infant must be less than 90 days old; and that the device must be conspicuous, visible, monitored, and accessible by staff at all times.

Section 9 provides CYFD with requirements for the installation, inspection, monitoring, and testing of surrender safety devices. In order for CYFD to designate a surrender safety device, it must (1) allow the infant to be safe for three hours, (2) have a transparent door, (3) be affixed to the site, (4) contain a safety alarm to alert staff inside the site of the presence of an infant, and (5) contain instructions for use and a warning that the infant must be less than 90 days old. This section obligates CYFD to inspect the device on a monthly basis and the operator of the safe haven site to test the functionality of the device at regular intervals.

Section 10 provides safe haven sites and staff with immunity from criminal and civil liability for accepting an infant or installing, operating, or maintaining a surrender safety device.

Section 11 requires CYFD to issue rules to implement the Safe Haven Act, including for determining whether a device is safe for use and for the operation, monitoring, and inspection of any surrender safety device.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo as to the Safe Haven for Infants Act.

AMENDMENTS

N/A