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**2024 LEGISLATIVE SESSION  
AGENCY BILL ANALYSIS**

**Section I: General**

**Chamber:** Senate

**Category:** Bill

**Number:** SB0091

**Type:** Introduced

**Date (of THIS analysis):** January 22, 2024

**Sponsor(s):** David M. Gallegos

**Short Title:** Infants in First Responder Safety Devices

**LFC Requester:** Lance Chilton

**Reviewing Agency:** Agency 665 - Department of Health

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**Section II: Fiscal Impact**

**APPROPRIATION (dollars in thousands)**

| Appropriation Contained |       | Recurring or Nonrecurring | Fund Affected |
|-------------------------|-------|---------------------------|---------------|
| FY 24                   | FY 25 |                           |               |
| \$                      | \$0   | N/A                       | N/A           |
|                         |       |                           |               |

**REVENUE (dollars in thousands)**

| Estimated Revenue |       |       | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------|-------|---------------------------|---------------|
| FY 24             | FY 25 | FY 26 |                           |               |
| \$0               | \$0   | \$0   | N/A                       | N/A           |
|                   |       |       |                           |               |

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

|              | FY 24 | FY 25 | FY 26 | 3 Year Total Cost | Recurring or Non-recurring | Fund Affected |
|--------------|-------|-------|-------|-------------------|----------------------------|---------------|
| <b>Total</b> | \$0   | \$0   | \$0   | \$0               | N/A                        | N/A           |
|              |       |       |       |                   |                            |               |

### **Section III: Relationship to other legislation**

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

### **Section IV: Narrative**

#### **1. BILL SUMMARY**

##### a) Synopsis

Senate Bill 91, Infants in First Responder Safety Devices, repeals a section of the Safe Haven for Infants Act (Section 24-22 NMSA 1978) to allow surrender of infants that might otherwise be abandoned, in safety devices or by leaving them with first responders under certain conditions without criminal prosecution.

Senate Bill 91 appropriates five hundred thousand dollars (\$500,000) from the general fund to the Public Education Department for expenditure in fiscal years 2025 through 2027 to educate the public about the location of safe haven sites within each county. The Safe Haven for Infants Act already allows persons to leave infants with designated safe haven sites, usually staffed by first responders.

This bill will also require the Children, Youth and Families Department to issue rules to implement the provisions of the Safe Haven for Children Act and the appropriation of funding will provide the Public Education Department to educate the public about safe haven site locations.

Section 2 of the bill defines a "first responder" as a public safety employee acting within the scope of the person's employment whose duties include responding rapidly to an emergency and who is:

- a law enforcement officer
- a firefighter or certified volunteer firefighter
- an emergency medical services provider

Section 2 of the bill defines "surrender safety device" as an environmentally controlled incubator device that is:

- (1) designed to keep an infant in a secure and safe environment with sufficient oxygen and at a comfortable temperature for a period of at least three hours;

- (2) capable of being attached to a building in a manner that allows a person to access an infant within the device from inside the building;
- (3) equipped with a transparent door through which an infant is visible and may be retrieved by a person from inside the building; and
- (4) equipped with a safety alarm to immediately notify the operator of the device that an infant is secured within the device.

Section 2 of the bill would also strike two segments of the current act (in Section 24-22-3):

- An infant must have been born within 90 days of being left; and
- The safe haven site must be deemed to have consent for medical services.

Section 3 states the Safe Haven for Infants Act will allow a person to leave an infant with a first responder at a preplanned location other than a safe haven site before the infant is transferred to state custody. There is also information in this section that a first responder at a safe haven site should share with the person leaving the infant, including about adoption. The first responder at the site should inquire as to whether the infant could be a member of an Indian tribe. The first responder will also notify CYFD and transmit to CYFD any information known about the infant, including medical records.

Section 4 establishes an effective date of July 1, 2024 for this bill and makes the person leaving the infant immune from prosecution if left in a designated safe surrender site, and the infant is left in a condition that would not be considered abuse or abandonment, securely within the device.

Section 5 makes requirements like those in Sections 3 and 4 of first responders accepting infants at safe haven sites with the addition that a first responder can also deliver a surrendered infant to a safe haven site.

Section 6 states that an infant left at a safe haven site or with a first responder is deemed to have consent for medical services.

Section 7 amends the act removing CYFD from the language, because in the definitions, CYFD is identified as “the department,” and has the following responsibilities:

- CYFD is deemed to have emergency custody of such infants;
- CYFD will investigate whether abuse or neglect of the infant has occurred;
- If the infant is determined to be an Indian child, the tribe will be notified, and placement will follow state Infant Family Welfare Act rules regarding preference for placement with Native American families;
- The public will be made aware of the location of surrender safety devices, and other provisions of the Safe Havens for Infants Act by CYFD in collaboration with the Public Education Department; and
- Infants left at a safe haven act location will be deemed eligible for Medicaid.

Section 8 indicates necessary characteristics of surrender safety devices, responsibilities of safe haven sites for monitoring the condition and restocking the safety device and instructing personnel on procedures according to the act.

Section 9 indicates the need for safe license sites to be designated as such by CYFD, which shall also inspect the device prior to its use; if repair is necessary, CYFD will re-inspect and in either case attach a sticker indicating successful passage of the inspection. Requirements for 24-hour monitoring of the device and warning of either an unsafe site or inability of the site to accept infants more than 90 days old must be posted on the device. CYFD must inspect each such device at least monthly, and operators of the sites must do so at “regular intervals” established by CYFD. This section also deals with initial inspection of the device by CYFD and subsequent inspections after repairs have been made. CYFD must ascertain that a surrender safety device:

- Allows the infant to be safe if left for at least three hours;
- Has a transparent door so the infant can be seen through it;
- Is attached securely to the wall of a site staffed at all times;
- Contains a safety alarm to alert attendants to the presence of an infant; and
- Is labeled with means of use of the device.
- The department must notify operators of a safe surrender device if it is not found to be safe, and it is to be marked as “unsafe.”

Section 10 gives immunity to staff at a safe haven site from civil and criminal liability for accepting an infant into the safe surrender device, but not from any subsequent negligence.

Section 11 gives CYFD authority to adopt rules regarding surrender of infants, including safety surrender devices.

Section 12 appropriates \$500 thousand from the general fund to the Public Education Department in Fiscal Year 25 through Fiscal Year 27 for public education about the location of safe haven sites within each county.

Section 13 repeals Section 24-22-1.1 NMSA 1978 (Laws 2005, Chapter 26, Section 2, as amended) to reflect proposed SB91, allowing persons to surrender infants to first responders at preplanned locations without prosecution in addition to the provision already in place for safe haven sites to receive surrendered infants with safety devices.

Is there an emergency clause?  Yes  No

b) Significant Issues

The National Safe Haven Alliance ([nationalsafehavenalliance.org](https://nationalsafehavenalliance.org)) estimates 4,707 infants have been surrendered in the U.S. through safe have site laws and programs. They also report that in 2021, 31 babies were placed in dumpsters, found in backpacks, or discarded in other unsafe locations. 22 of the infants found in these situations were deceased. They also cite 73 babies were saved by Safe Haven laws in 2021. In New Mexico in January of 2022, a case of infant abandonment in a dumpster was captured on camera and made public. The baby survived.

([https://www.nationalsafehavenalliance.org/files/ugd/da9676\\_0a728888db8f43cfa2de1ac24ce5eed9.pdf](https://www.nationalsafehavenalliance.org/files/ugd/da9676_0a728888db8f43cfa2de1ac24ce5eed9.pdf))

Safe Haven Baby Boxes, a non-profit organization, manufactures surrender safety devices detailed in the bill and have installed these devices in five sites in New Mexico: Española Main Fire Department, Belen Fire Department, Gerald Champion Regional Medical Center, Carlsbad Fire Department #1, and the Hobbs Fire Station. Throughout the U.S. Safe Haven Baby Boxes are part of Safe Haven Laws in Arizona, Arkansas, Indiana, Maine, Missouri, Mississippi, Ohio, Kentucky, Virginia, Tennessee, Texas, Iowa, Montana, Alabama, Oklahoma, Louisiana, West Virginia, Kansas, Wisconsin, and Pennsylvania. The Safe Haven Baby Boxes organization has a website, a toll-free number for parents in crisis, and map of where these safety devices are located.

(<https://www.shbb.org/>)

Surrendering an infant into an anonymous safety box may provide another useable safe option for parents who might be shamed or fearful at having to turn an infant over in person. Proponents indicate that their availability may reduce the incidence of infanticide.

(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1169313/>)

Other opponents to these safety devices share concerns about the root causes of infant abandonment not being addressed to reduce infant surrenders in the first place. If there were interventions to reduce poverty, increase access to affordable medical and mental health services, address social isolation and other socioeconomic issues, parents in crisis would not have to surrender their infants to state custody. (<https://www.governing.com/now/wildly-inconsistent-safe-haven-laws-put-surrendered-infants-parents-at-risk>)

Senate Bill 311, a bill almost identical to Senate Bill 91, was introduced during the 55<sup>th</sup> Legislative session and its status was API (action postponed indefinitely) by the Senate Judiciary Committee on February 6, 2023.

## 2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?  
 Yes  No
- Is this proposal related to the NMDOH Strategic Plan?  Yes  No  
 **Goal 1:** We expand equitable access to services for all New Mexicans

- Goal 2:** We ensure safety in New Mexico healthcare environments
- Goal 3:** We improve health status for all New Mexicans
- Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

According to the NMDOH Strategic Plan, one of the goals is, “Policies, practices and resources dedicated to assuring that everyone has a fair and just opportunity to be as healthy as possible.” This goal aligns with Senate Bill 91 by ensuring surrendered infants have access to healthcare and other services once they are in state custody.

### 3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?  
 Yes  No  N/A
- If there is an appropriation, is it included in the LFC Budget Request?  
 Yes  No  N/A
- Does this bill have a fiscal impact on NMDOH?  Yes  No

### 4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH?  Yes  No

This bill adds provisions for safe haven sites to install and maintain surrender safety devices and for the department to establish rules regulating the installation, inspection and monitoring of surrender safety devices. These provisions additionally require CYFD to develop a new area of expertise in order to promulgate and implement rules regarding the installation, inspection and monitoring of surrender safety devices; and to hire or train existing staff on determining whether surrender safety devices adequately provide for the safety of an infant if the infant is properly secured within the device for a period of at least three hours and the other requirements for a surrender safety device.

Additionally, the bill adds provisions for first responders to receive infants either through safe have sites or via a preplanned locations as arranged with the persons surrendering the infant. First responders receiving infants in this manner may need specialized training on navigating these situations away from safe haven sites.

### 5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

This is a near duplicate of 2023 Senate Bill 311 and 2023 House Bill 327.

**6. TECHNICAL ISSUES**

Are there technical issues with the bill?  Yes  No

**7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)**

- Will administrative rules need to be updated or new rules written?  Yes  No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)?  Yes  No
- Does this bill conflict with federal grant requirements or associated regulations?  
 Yes  No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs?  Yes  No

**8. DISPARITIES ISSUES**

This bill will allow infants to be surrendered by parents in crisis who may be facing several socioeconomic challenges to thrive. If the infant is surrendered to state custody they will be able to access care and other social services which may otherwise prove challenging to access by their family of origin. (<https://www.cyfd.nm.gov/protective-services/new-mexico-safe-haven-for-infants-act/>)

**9. HEALTH IMPACT(S)**

None

**10. ALTERNATIVES**

Providing families with economic stipends to support their ability to maintain healthcare, shelter, and food could prevent infant abandonment and allow families to thrive. (<https://www.cbpp.org/sites/default/files/5-11-22tanf.pdf>)

**11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

If Senate Bill 91, Infants in First Responder Safety Devices, is not enacted then the surrender of infants that might otherwise be abandoned by leaving them with first responders under certain conditions will not be allowed to happen as detailed in the bill. The Children, Youth and Families Department will not issue rules to implement the provisions of the Safe Haven for Children Act and there will be no funding appropriated to the Public Education Department to provide education about safe haven sites.

**12. AMENDMENTS**

None.