

LFC Requester:	LANCE CHILTON
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

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 **Amendment**
Correction **Substitute**

Date 19JAN2024

Bill No: SB 91

Sponsor: David Gallegos
Short Title: Surrender of Infants in First Responder Safety Devices

Agency Name and Code 790 Department of Public Safety
Number: _____
Person Writing KELLY MILLER
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI	N/A	N/A

(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	NFI	NFI	NFI	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

(NMLR Note: 01/09 Prefiled Bill was revised and Prefiled a Second Time on 01/12, changing the funding recipient from CYFD to PED) (Almost identical to 2023 SB311 and HB327; similar to 2022 SB168, HB157, 2020 HB190) amends the Safe Haven for Infants Act to permit persons to leave infants up to 90 days old with first responders or in safety devices attached to a safe haven site without criminal prosecution; provides procedures for surrender to a first responder; clarifies immunity for a person surrendering the infant; provides limited immunity for staff of the safe haven site; allows for installation and provides requirements for monitoring, operation and inspection of surrender safety devices; requires Children, Youth and Families Department rulemaking and Public Education Department collaboration. Appropriates \$500,000 (GF) to the Public Education Department for public education purposes. Repeals Sec. 24-22-1.1

In addition to existing provisions in law for surrender of an infant under 90 days of age to a safe haven site, a person may leave the infant with a first responder at a pre-arranged location, or in a surrender safety device attached to the safe haven site, without being subject to criminal prosecution for abandonment or abuse.

SURRENDER TO A FIRST RESPONDER BY TRANSFER AT AGREED LOCATION. A person may leave an infant with a first responder at an arranged location other than a safe haven site. The first responder shall meet at the arranged location, and may provide the person, to the extent practicable, with (1) information about adoption services; (2) brochures or phone numbers for adoption or counseling services; and (3) written information about whom to contact at CYFD if the parent decides to seek reunification. The first responder shall inquire if either of the infant’s parents are members of an Indian tribe or eligible for membership, but the person is not required to provide that information. Immediately after receiving the infant, the first responder must inform the safe haven site that the child has surrendered and transport it to a safe haven site. The site must provide CYFD with all available information about the infant and parents, their location and the infant’s medical records.

LEAVING AN INFANT IN A SURRENDER SAFETY DEVICE. As of July 1, 2024, a person may leave an infant inside a surrender safety device if (1) the device is attached to a safe haven site; conspicuously marked as a safe surrender location pursuant to rule; and not otherwise marked as unsafe for use; (2) if the person properly secures the infant inside the device following instructions at the site; and (3) if the infant is left in a condition that would not constitute abandonment or abuse pursuant to the Children’s Code.

REQUIREMENTS FOR SURRENDER SAFETY DEVICES. A safe haven site operator may install a surrender safety device by:

- Attaching it as a fixture to a site staffed by a medical provider at all times
- Attaching it so that staff inside the site may view and retrieve the infant through a transparent door
- Locating the device in an area that is always conspicuous and visible to staff inside
- Regularly visually and physically checking it at regular intervals pursuant to rule
- Posting on or near the device instructions for its use and for securing the infant and engaging the device's security alarm
- Keeping a warning conspicuously posted near the device with information required by rule, including a statement that an infant over 90 days old shall not be placed inside it
- Prior to operation, obtaining a "safe surrender location designation" from CYFD.

CONSENT FOR MEDICAL SERVICES. A safe haven site or first responder is deemed to have received consent for medical services provided to an infant left at the site.

SAFE HAVEN SITE PROCEDURES in the act (Sec. 24-22-4) are not changed except the direction to provide necessary medical service to the person surrendering the infant, as well as to the infant.

CYFD RESPONSIBILITIES in the act (Sec. 24-22-5) remain unchanged.

SURRENDER DEVICE INSTALLATION, REPAIR AND MAINTENANCE. Prior to installation of the device, CYFD shall determine that the proposed location is safe and so inform the operator. The operator must deliver written notice to CYFD at least 40 days prior to installation or repair. CYFD must inspect the device and affix a decal on finding that it meets statutory requirements including appropriate notices. If CYFD determines the device is not a safe for use, it shall notify the operator, securely seal the device and conspicuously mark it UNSAFE—DO NOT USE. CYFD must inspect safety devices monthly, and operators must test their functionality at regular intervals.

SAFE HAVEN SITE IMMUNITY. The site and its staff are immune from criminal and civil liability for accepting an infant or maintaining a surrender safety device in compliance with the law, but not for any subsequent negligent medical care of the infant.

CYFD must issue rules, and, in collaboration with the Public Education Department, it shall perform outreach functions to educate the public about the Safe Have for Infants Act, including developing literature about the act and the locations of surrender safety devices.

Makes conforming and technical changes throughout, including references to the Indian Family Protection Act.

DEFINITIONS include the following:

- "first responder" to mean a public safety employee whose duties include responding rapidly to an emergency and who is: (1) a law enforcement officer; (2) a firefighter or certified volunteer firefighter; and (3) an emergency medical services provider
- "surrender safety device" to mean 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

Appropriates \$500,000 (GF) to CYFD for use in FY 2025 through 2027 to educate the public about location of safe haven sites within each county.

REPEAL. Section 24-22-1.1 (Purpose) is repealed.

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

No significant issues to DPS.

PERFORMANCE IMPLICATIONS

No performance implications to DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.