



STATE STATUTES
CURRENT THROUGH SEPTEMBER 2021

Infant Safe Haven Laws

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Many State legislatures have enacted legislation to address infant abandonment and endangerment in response to reports of newborn infants abandoned in unsafe locations, such as public restrooms or trash receptacles. Beginning in Texas in 1999, "Baby Moses laws" or infant safe haven laws have been enacted as an incentive for mothers in crisis to safely relinquish their babies to designated locations where the babies are protected and provided with medical care until a permanent home is found. Safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and be shielded from criminal liability and prosecution for child endangerment, abandonment, or neglect in exchange for surrendering the baby to a safe haven.

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To date, all 50 States, the District of Columbia, Guam, and Puerto Rico have enacted safe haven legislation.¹ The focus of these laws is on protecting newborns from endangerment by providing parents with an alternative to criminal abandonment; therefore, the laws are generally limited to very young children. For example, in approximately seven States and Puerto Rico, only infants 72 hours old or younger may be relinquished to a designated safe haven.² Approximately 23 States and Guam accept infants up to 30 days old.³ Other States specify varying age limits in their statutes.⁴

WHO MAY LEAVE A BABY AT A SAFE HAVEN

In most States, either parent may surrender his or her baby to a safe haven. In four States, Guam, and Puerto Rico, only the mother may relinquish her infant.⁵ Idaho specifies that only a custodial parent may surrender an infant. In the District of Columbia, an infant may be relinquished only by a custodial parent who is a resident of the District. In approximately 11 States, an agent of the parent (someone with the parent's approval) may take a baby to a safe haven for a parent.⁶ In California, Kansas, and

New York, if the person relinquishing the infant is someone other than a parent, he or she must have legal custody of the child. Eight States do not specify the person who may relinquish an infant.⁷

SAFE HAVEN PROVIDERS

The purpose of safe haven laws is to ensure that relinquished infants are left with persons who can provide the immediate care needed for their safety and well-being. Approximately seven States require parents to relinquish their infants only to a hospital, emergency medical services provider, or health-care facility.⁸ In 32 States, Guam, and Puerto Rico, fire stations also are designated as safe haven providers.⁹ Personnel at police stations or other law enforcement agencies may accept infants in 27 States and Puerto Rico.¹⁰ In 10 States, emergency medical personnel responding to 911 calls may accept an infant.¹¹ In addition, five States and Puerto Rico allow churches to act as safe havens, but the relinquishing parent must first determine that church personnel are present at the time the infant is left.¹²

¹ American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands currently do not address the issue of abandoned newborns in legislation.

² The word "approximately" is used to stress the fact that States frequently amend their laws. This information is current only through September 2021. Alabama, California, Colorado, Hawaii, Michigan, Washington, and Wisconsin currently limit relinquishment to infants who are no more than 72 hours old.

³ Arizona, Arkansas, Connecticut, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Montana, Nebraska, Nevada, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, and West Virginia

⁴ Other limits include 7 days (Florida, Massachusetts, Minnesota, Mississippi, New Hampshire, North Carolina, and Oklahoma), 10 days (Maryland), 14 days (Delaware, Tennessee, Virginia, Wyoming, and the District of Columbia), 21 days (Alaska), 45 days (Missouri), 60 days (Kansas, Louisiana, South Carolina, South Dakota, and Texas), 90 days (New Mexico), and 1 year (North Dakota).

⁵ In Georgia, Maryland, Minnesota, and Tennessee, only the mother may relinquish her infant. Maryland and Minnesota do allow the mother to approve another person to deliver the infant on her behalf.

⁶ Arizona, Arkansas, Connecticut, Indiana, Iowa, Kentucky, New Jersey, North Dakota, Rhode Island, Utah, and Wyoming

⁷ Delaware, Hawaii, Illinois, Maine, Nebraska, New Mexico, South Carolina, and Vermont

⁸ Alabama, Connecticut, Delaware, Idaho, Nebraska, Utah, and Virginia

⁹ Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Washington, West Virginia, Wisconsin, and Wyoming

¹⁰ Alaska, Arkansas, Georgia, Hawaii, Illinois, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Wisconsin, and Wyoming

¹¹ Connecticut, Idaho, Illinois, Indiana, Iowa, Louisiana, Minnesota, New Hampshire, Vermont, and Wisconsin

¹² Arizona, Kentucky, New Hampshire, South Carolina, and Vermont

Laws in nine States¹³ allow a parent to voluntarily deliver the infant to a newborn safety device. A "newborn safety device," which is also sometimes referred to a "newborn safety incubator" or "baby box," is a medical device used to maintain an optimal environment for the care of a newborn infant. A newborn safety device must meet these requirements:

- It is physically located inside a safe haven site, which may include a hospital, law enforcement agency, or fire department, that is staffed 24 hours a day by a medical services provider.
- It is located in an area that is conspicuous and visible to the employees of the safe haven site.
- It must allow a child to be placed anonymously from outside the facility.
- It must lock after a child is placed in it so a person outside the facility cannot access the child.
- It must provide a controlled environment for the care and protection of the child.
- It must notify a centralized location in the facility within 30 seconds of a child being placed in the device.
- It must trigger a 911 call if staff at the facility do not respond within a reasonable amount of time after a child is placed in the device.

¹³ Arkansas, Indiana, Kentucky, Louisiana, Maine, Missouri, Ohio, Oklahoma, and Pennsylvania

¹⁴ Arizona, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan (when the infant needs medical care), Minnesota, Missouri, Montana, Nevada, New Jersey, Pennsylvania, South Carolina, West Virginia, and Wyoming

¹⁵ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming

¹⁶ Colorado, Hawaii, Idaho, Illinois, Kansas, Nevada, Pennsylvania, and Vermont

¹⁷ Alaska, California, Connecticut, Delaware, Hawaii, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Montana, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming

¹⁸ Connecticut, Delaware, Hawaii, Illinois, Kentucky, Louisiana, Michigan, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Washington, and Wisconsin

¹⁹ California, Connecticut, Delaware, and North Dakota

RESPONSIBILITIES OF SAFE HAVEN PROVIDERS

The safe haven provider is required to accept emergency protective custody of the infant and provide any immediate medical care that the infant may require. In 18 States, the District of Columbia, Guam, and Puerto Rico, when the safe haven receiving the baby is not a hospital, the baby must be transferred to a hospital as soon as possible.¹⁴ In 43 States,¹⁵ the District of Columbia, Guam, and Puerto Rico, statutes require the provider to notify the local child welfare department that an infant has been relinquished. In eight States¹⁶ and Guam, the local law enforcement agency must be notified.

In 24 States, the District of Columbia, and Guam, the provider is required to ask the parent for family and medical history information.¹⁷

In Montana and New Mexico, the provider must ask about the family's Tribal affiliation. In 17 States, the District of Columbia, and Guam, the provider is required to attempt to give the parent or parents information about the legal repercussions of leaving the infant and information about referral services.¹⁸ In four States and Guam, a copy of the infant's numbered identification bracelet may be offered to the parent as an aid to linking the parent to the child if reunification is sought at a later date.¹⁹

IMMUNITY FROM LIABILITY FOR PROVIDERS

In 45 States, the District of Columbia, and Guam, safe haven laws protect providers who accept custody of relinquished infants with immunity from civil liability for anything that might happen to the infant while in their care unless there is evidence of major negligence on the part of the provider.²⁰ In 35 States,²¹ the District of Columbia, and Guam, safe haven laws also protect providers with immunity from criminal liability.

PROTECTIONS FOR PARENTS

In approximately 17 States, the District of Columbia, and Guam, anonymity for the parent or agent of the parent is expressly guaranteed in statute.²² In 39 States, the District of Columbia, Guam, and Puerto Rico, the safe haven provider cannot compel the parent or agent of the parent to provide identifying information.²³ In addition, 17 States and Guam provide an assurance of confidentiality for any information that is voluntarily provided by the parent.²⁴

Besides the guarantee of anonymity, most States provide protection from criminal liability for parents who safely relinquish their infants. Approximately 34 States, the District of Columbia, and Puerto Rico do not prosecute a parent for child abandonment when a baby is relinquished to a safe haven.²⁵ In 14 States, safe relinquishment of the infant is an affirmative defense in any prosecution of the parent or his/her agent for any crime against the child, such as abandonment, neglect, or child endangerment.²⁶

The privileges of anonymity and immunity are forfeited in most States if there is evidence of child abuse or neglect.

CONSEQUENCES OF RELINQUISHMENT

Once the safe haven provider has notified the local child welfare department that an infant has been relinquished, the department assumes custody of the infant as an abandoned child. The department is responsible for placing the infant, usually in a preadoptive home, and petitioning the

²⁰ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana (limited to use of newborn safety devices), Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming

²¹ Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, Montana, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming

²² Arizona, Delaware, Florida, Illinois, Indiana, Kansas, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, South Carolina, Texas, Utah, West Virginia, Wisconsin, and Wyoming

²³ Alaska, Arizona, California, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming

²⁴ Arkansas, California, Connecticut, Delaware, Idaho, Iowa, Maine, Michigan, Mississippi, Missouri, Montana, Rhode Island, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin

²⁵ Alaska, Arizona, California, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri (for a child younger than 45 days old), Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Washington, and Wisconsin

²⁶ In a State with an affirmative defense provision, a parent or agent of the parent can be charged and prosecuted, but the act of leaving the baby safely at a safe haven can be a defense to such charges. The States with an affirmative defense provision include Alabama, Arkansas, Colorado, Delaware, Indiana, Maine, Michigan, Mississippi, New Jersey, New York, Oregon, Utah, Virginia, and Wyoming.

court for termination of the birth parents' parental rights. Before the baby is placed in a preadoptive home, 18 States, the District of Columbia, and Guam require the department to request the local law enforcement agency to determine whether the baby has been reported as a missing child.²⁷ In addition, six States require the department to check the putative father registry before a termination of parental rights petition can be filed.²⁸ In Montana, New Mexico, and South Dakota, the appropriate Tribe must be notified if there is reason to believe that the infant is a Native American child.

Approximately 21 States, the District of Columbia, and Guam have procedures in place for a parent to reclaim the infant, usually within a specified time period and before any petition to terminate parental rights has been granted.²⁹ Five States and the District of Columbia also have provisions for a nonrelinquishing parent to petition for custody of the child.³⁰ In 19 States, the District of Columbia, Guam, and Puerto Rico, the act of surrendering an infant to a safe haven is presumed to be a relinquishment of parental rights to the child, and no further parental consent is required for the child's adoption.³¹

²⁷ Arkansas, California, Delaware, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Montana, Nevada, New Hampshire, New Jersey, Oklahoma, South Carolina, Texas, Utah, and Wyoming

²⁸ Illinois, Iowa, Kansas, Missouri, Utah, and Wyoming

²⁹ California, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Tennessee, Wisconsin, and Wyoming

³⁰ Iowa, Missouri, Montana, South Dakota, and Tennessee

³¹ Alaska, Delaware, Florida, Idaho, Illinois, Kansas, Kentucky, Michigan, Mississippi, Missouri, Montana, Nevada, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, West Virginia, and Wisconsin

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

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