

Legislative Analysis



NEWBORN SAFETY DEVICES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4067 as introduced
Sponsor: Rep. William Bruck

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4069 as introduced
Sponsor: Rep. Jennifer Wortz

House Bill 4368 as introduced
Sponsor: Rep. Jason Woolford

Committee: Families and Veterans
Complete to 8-12-25

SUMMARY:

House Bill 4067 would amend the Safe Delivery of Newborns Law (Chapter XII of the Probate Code) to define and regulate newborn safety devices and outline procedures and operating policies for the surrender of newborns using the devices. House Bills 4069 and 4368 would amend the Public Health Code and the Michigan Penal Code to make complementary changes.

The Safe Delivery of Newborns Law was enacted in 2000 to allow the parental surrender of a newborn to an emergency service provider (a uniformed employee of a fire department, hospital, or police station) and prescribe procedures to be followed in those circumstances. Among other things, the law provides that surrendering a newborn under its provisions is an affirmative defense to a charge of child abandonment, provides for the emergency service provider to take temporary protective custody and transfer the newborn to a hospital, provides that the family division of circuit court has jurisdiction over a newborn surrendered to an emergency service provider, and prescribes procedures to be followed by a child placing agency in placing the newborn for adoption if certain conditions are met.

House Bill 4067 would generally add the surrender of a newborn to a newborn safety device to provisions and procedures that now apply to surrender of a newborn directly to an emergency service provider.¹ The bill would specifically allow a parent to voluntarily deliver their newborn to a newborn safety device provided by an *emergency service provider*.

As currently, *emergency service provider* means a uniformed or otherwise identified employee or contractor of a fire department, hospital, or police station when inside the premises and on duty, and also includes a paramedic or emergency medical technician when responding to a 9-1-1 emergency call.

Newborn safety devices

A newborn safety device would have to meet the following requirements:

- Allow a newborn to be placed anonymously from the outside of an emergency service provider building that is always staffed (24 hours a day, seven days a week).
- Have a sign placed on or near it that identifies it as a newborn safety device.

¹ For a current policies and procedures, see <https://www.michigan.gov/mdhhs/safety-injury-prev/safe-delivery>

- Provide a controlled environment for the care and protection of the newborn.
- Lock after a newborn is placed in it so an individual outside the building cannot access the newborn.
- Trigger a call to the emergency service provider on duty and provide notification to a centralized location in the building within 30 seconds after a newborn is placed in it.
- Have a transparent interior wall so the inside of the device is visible to staff inside the building.
- Be installed in a location where its interior is in a safe and secure location that is visible to the staff. Alternatively, the emergency service provider could install, at the security desk, a video and audio feed that captures the device while protecting the anonymity of the parent delivering the newborn.
- Be locked and inaccessible to anyone except the staff responsible for monitoring it whenever there is no staff member present in the building or the device has a malfunction. An emergency service provider that does not so lock a newborn safety device would be liable for any damages for personal injury, including death, resulting from the use of the unlocked device.

Duties regarding a device

An emergency service provider that has a building offering a newborn safety device would have to receive and adopt operating policies, supervision, and maintenance requirements for the device from the manufacturer. The manufacturer would be liable for damages for personal injury, including death, resulting from the malfunction or manufacturer's defect of the device.

An emergency service provider would have to inspect and test a newborn safety device, at least once a month, to ensure that it is functioning properly according to the manufacturer's guidance. The staff member who inspects and tests the device would have to initial a form to confirm that the inspection and testing have been done and make and keep a record of the inspection on the premises.

An emergency service provider also would have to do all of the following:

- Publicly post information regarding the newborn safety device, including its purpose.
- Provide notice of the device's address to DHHS (which would have to post the address on its website regarding the safe delivery program).
- Create and provide an accessible form that allows a surrendering parent to input the following, along with a notice that this information is not published publicly but is accessible to a child placing agency:
 - The known date and time of the newborn's surrender.
 - The address where the newborn was surrendered.
 - The parent's name and contact information.
 - The parent's family medical information.
 - Whether the information may be shared with the child and prospective adoptive parent.

Notice to nonsurrendering parent

As under the safe delivery law currently, an emergency service provider that is not a hospital would have to transfer a newborn surrendered through a newborn safety device to a hospital. The hospital would have to take the newborn into temporary protective custody, have the newborn examined by a physician, and notify a child placing agency that it has taken the newborn into temporary protective custody. Currently, when a child placing agency receives

notice of a surrendered newborn, it must make reasonable efforts to identify, find, and provide notice of the surrender to the nonsurrendering parent. If it cannot determine the identity and address of the nonsurrendering parent, it must publish a notice of the surrender in a newspaper of general circulation in the county where the newborn was surrendered. The bill would retain these provisions, but would further require notice to be published in the county where the agency is located and provide that the newspaper notices must be made both in print and online, if available, and be published for 28 days. The bill would additionally require the agency, in cases where the nonsurrendering parent cannot be identified, to notify the applicable court, applicable county, and DHHS of the surrender, including the date, time, and place of the surrender. Upon receiving such a notice from a child placing agency, the court would have to publish a notice on its website with that information.

Safe Delivery Program

The bill would require the Safe Delivery Program established by DHHS under the law to include data that is annually compiled and published on the DHHS website regarding the program that includes all of the following information but does not include identifying information:

- The date, time, and location where the newborn was surrendered.
- The hospital where the newborn was taken after surrender.
- The physical condition of the newborn at the time of surrender.
- Whether the newborn was surrendered to an emergency service provider or a newborn safety device.

Finally, upon notice from a child placing agency that a newborn was surrendered, DHHS would have to post on its Safe Delivery Program website the date, time, and location where the newborn was surrendered and maintain this notice for 28 days.

MCL 712.1 et seq. and proposed MCL 712.3a

House Bill 4069 would amend section 135 of the Michigan Penal Code, regarding child abandonment. Under current law, except for a situation involving child abuse or neglect, having surrendered a newborn under the Safe Delivery of Newborns Law is an affirmative defense to a charge of child abandonment. The bill would amend these provisions to include the ability to surrender a newborn to a newborn safety device under House Bill 4067.

MCL 750.165

House Bill 4368 would amend section 2843 of the Public Health Code, regarding death records and related reporting requirements. Currently under the law, the death of an infant who was born alive following an attempted abortion and died after being surrendered to an emergency service provider under the Safe Delivery of Newborns Law must be reported in the same manner as for any other death, except that the infant's name must be listed as "Baby Doe" and no information that would identify the deceased infant or the deceased infant's parents may be reported. The bill would amend these provisions to include the ability to surrender a newborn to a newborn safety device under House Bill 4067.

MCL 333.3843

Each bill would take effect 90 days after being enacted. House Bills 4069 and 4368 cannot take effect unless House Bill 4067 is also enacted.

BACKGROUND:

The bill package is similar—but not identical—to House Bills 4523 to 4526 of the 2019-20 legislative session and to House Bills 5750, 5751, 5953, and 5954 of the 2017-18 legislative session. The 2017-18 bill package passed both houses of the legislature and was enrolled, but the bills were vetoed by the governor on December 27, 2018. In his veto message, Governor Snyder wrote, “Michigan’s safe haven law has been an important and valuable policy to ensure unwanted newborn babies are not abandoned or harmed by allowing parents to surrender a child to emergency service providers. However, I do not believe it is appropriate to allow for parents to surrender a baby by simply depositing the baby into a device, rather than physically handing the baby to a uniformed police, fire, or hospital employee.”

FISCAL IMPACT:

House Bill 4067 would increase state expenditures for the Department of Health and Human Services and have no fiscal impact on local units of government. Under the provisions of the bill, DHHS would be required to gather and publish location and date specific data about the Safe Delivery Program. The department currently publishes the number of voluntary surrenders and aggregates what emergency service agency received voluntary surrendered children. The fiscal impact of the bill would be dependent on the cost of collecting the specific data and making it available on the DHHS website.

House Bill 4069 would not have a significant fiscal impact on state expenditures to DHHS or local units of government.

House Bill 4368 would not have a significant fiscal impact on state expenditures to DHHS or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.