

Testimony
Engrossed House Bill 1285 - Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman

March 13, 2019

Chairman Lee and members of the Senate Human Services Committee, I am Marlys Baker, Child Protection Services Administrator for the Department of Human Services (Department). I appear today to provide information related to Engrossed House Bill 1285.

Since enactment of the current “safe haven” law in 2001, it has been the Department’s belief that a hospital is the most appropriate location for relinquishment of an infant by a desperate parent. Hospitals are uniquely suited to conduct immediate medical assessment of an infant to determine whether an infant is unharmed, to provide the parent, or agent of the parent, an identifying bracelet and to serve as a safe place where citizens are accustomed to seeking help. There has not been an indication that the current statute is ineffective.

Reviews of infant deaths by the Child Fatality Review Panel over the past 21 years have not revealed instances where an infant was abandoned and died or any case where it was felt a baby could have been saved by expanding available locations where an infant could be relinquished. There have been 6 child abuse or neglect deaths of infants from calendar year 2012 through calendar year 2017. Of these six deaths, four were determined to be homicides. These infant deaths were due to child physical abuse, which research confirms is the most common form of filicide, or the killing of one’s own children. One of the six deaths was from positional asphyxia and one was due to in-utero substance exposure.

Reviews of infant deaths by the Child Fatality Review Panel indicate that most of the infant deaths that occur shortly after birth have been to women who have given birth at home whose thought processes were so confused that they likely would not have

been organized enough to determine, nor travel to, an approved location to release the infant - even if they have access to transportation. A solution that sends immediate help to a desperate parent in need would seem to be a better option.

There are only two instances under the current safe haven law that have anecdotally come to the attention of the Department since the inception of the current law, which involved a person taking an infant to a hospital to be relinquished; one in 2005 and one in 2017. In the 2005 case a father had been working with a social service agency in his home county, but had traveled to Fargo, became overwhelmed trying to care for his infant and called his social services caseworker. The case worker instructed the father to surrender the infant at a hospital, but when he followed the instruction, he was met with alarm by hospital staff, a call was made to law enforcement and the county's State's Attorney charged the father with abandonment. It was only after the episode was publicized in the media and public outcry ensued to call attention to statute that the charges were dropped. There was no anonymity for the father who tried to do the right thing. In the 2017 case, a woman presented to a hospital to abandon an infant. Again, law enforcement was called and the State's Attorney notified. I received a panicked call from the county social worker. She knew there was a law that allowed an infant to be abandoned at a hospital but had been unable to find it. The social worker, then armed with a copy of the law, placed herself between the woman and the authorities and insisted that the woman be allowed to leave the hospital without further questioning. The child was taken into custody by county social services and was ultimately adopted.

There was one additional infant left outside a fire station in 2009, which would not have been within the provisions of the current law. The Department does not keep data on safe haven infants, since they don't enter the child protection system when they are voluntarily surrendered under the current statute. The data Department does have indicates only a reason for entry into the foster care system, not the circumstances of foster care entry.

State foster care data indicates that 51 infants were placed in foster care between 2014 and 2018 for a reason of abandonment. This, however, does not indicate that the infants were abandoned under the “safe haven law”. In consultation with county social service offices, the most common scenario under which infants enter foster care for abandonment include infants born in a hospital, where the mother leaves the hospital without the infant. A reading of the current statute indicates that infants abandoned under the “safe haven” law are brought to a hospital after birth rather than born in the facility, given the language in the law that addresses anonymity, the provision of bracelets to the infant and parent or agent by the hospital and the prohibition of attempts to identify the person surrendering the infant or any follow up unless an infant has been harmed. When an infant is born in a hospital, the facility already possesses identifying information, medical history, insurance or Medicaid information, and so forth. The second most common scenario is when a parent arranges with a friend or family member to care for an infant for a short time, but the parent doesn’t return for days or weeks and the substitute caregiver can no longer care for the infant. Again, it is not a parent nor agent of the parent requesting to surrender the infant permanently and would not fall within the parameters of the current statute. Neither of these scenarios would be impacted by expanding “approved locations” for abandoning an infant. Both scenarios are currently reported the county social service agencies and are assessed by child protection services.

This concludes my testimony, and I am happy to answer any questions you may have.