

Floor Amendment to HB 1607

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Legislative Findings. The general court finds that:

4 I. The New Hampshire safe haven legislation was signed into law 20 years ago and needs to
5 be updated.

6 II. Advances since our law was implemented has allowed for development of safe haven
7 infant safety devices that allow for anonymous surrender of babies. Similar devices have been
8 installed in states around the United States. Hundreds of babies have been saved by these devices
9 and no such device has ever harmed a child in any way.

10 III. Other New England states have passed legislation to update the age for which babies
11 can be surrendered, leaving New Hampshire as the most restrictive state and the most dangerous
12 state for at-risk babies.

13 IV. Although our current law allows a safe haven to keep parents' identities anonymous,
14 some hospitals and law enforcement agencies have not honored the intent of the law. Instead, some
15 hospitals have chosen to report parents' identities to police, while law enforcement have launched
16 extensive statewide manhunts for mothers who had wished to remain anonymous.

17 V. There have been cases in New Hampshire in which a mother surrendering her baby at a
18 safe haven location has been charged with crimes based on evidence obtained as a direct result of her
19 surrendering the infant, causing a chilling effect for all mothers in crisis who consider surrendering
20 their baby at a safe haven location – an effect which will almost certainly lead to further harm of the
21 baby or even its death.

22 VI. The safe haven law was never intended as a law enforcement tool to lure and catch
23 criminals who surrender their baby. On the contrary, it was meant to give parents every incentive
24 to safely surrender an at-risk infant. Mothers in crisis surrendering their babies should not be
25 prosecuted based on evidence gained from the baby's surrender but this fact should not prevent
26 prosecutions based upon evidence not obtained by the surrender at a safe haven.

27 VII. These findings demonstrate that New Hampshire's safe haven law is in need of updates
28 in line with other states, and which include protections for parents from prosecution solely based
29 upon evidence obtained by the baby's surrender, but not a complete freedom from prosecution. The
30 general court places the interest of the baby's life as the paramount priority.

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1 2 New Paragraph; Safe Haven Infant Safety Device. Amend RSA 132-A:1 by inserting after
2 paragraph III the following new paragraph:

3 IV. "Safe haven infant safety device" means a device or container to safely accept delivery of
4 a child 61 days of age or younger that is:

5 (a) Voluntarily installed by a hospital, law enforcement agency, or fire department;

6 (b) Physically located inside a hospital, law enforcement facility, or fire department
7 facility that is staffed 24 hours a day;

8 (c) Located in an area that is conspicuous and visible to the employees of the hospital,
9 law enforcement agency, or fire department; and

10 (d) Equipped with an alarm that notifies the hospital, law enforcement agency, or fire
11 department where the device or container is located.

12 3 Temporary Care and Control of Children at a Hospital or Safe Haven. Amend RSA 132-A:2, I
13 to read as follows:

14 I. A hospital or safe haven, without a court order, shall take temporary care and control of a
15 child who is not more than [7] **61** days old, provided that the child is handed to a person at the
16 hospital or safe haven, ***or is placed in a safe haven infant safety device***, by the child's parent or
17 parents, and the parent or parents did not express an intent to return for the child. The child's
18 parent or parents shall not be required to reveal personally identifiable information.

19 4 Safe Haven; Notice to Department. Amend RSA 132-A:3, III to read as follows:

20 III. Within 24 hours of receiving a report under this paragraph, the department shall
21 request law enforcement officials to investigate the incident [~~using all resources available~~], including
22 ***by using*** the National Crime Information Center database, to determine if the child is a missing
23 child.

24 5 Temporary Care and Control of Children at a Hospital or Safehaven; Liability. Amend RSA
25 132-A:4 to read as follows:

26 132-A:4 Liability.

27 I. No person or entity subject to the provisions of this chapter shall be liable for any claim at
28 law or in equity as a result of action taken pursuant to the requirements of this chapter.

29 ***II. Evidence of a parent's crime or wrongdoing obtained as a direct consequence of***
30 ***the parent acting pursuant to this chapter shall be subject to an exclusionary rule and,***
31 ***notwithstanding any contrary rule of evidence or law, shall be inadmissible in a criminal***
32 ***or civil trial against the parent.***

33 6 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill allows a parent to surrender their child by placing the child in a safe haven infant safety device up to 61 days after the child's birth and provides protection from legal action to the parent.