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“Safe Haven” Legislation Allowing Parents of Newborns to Relinquish Their Babies Without Prosecution Passes Initial Committee Stage

Bolques-sponsored bill offers anonymity and legal safeguards for parents in emotional distress surrendering newborns

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Janeke Simon **December 08, 2023**

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Legislation to provide a “safe haven” for newborns who are unwanted by their parents is making its way through the legislative process, having passed through the Committee on Health, Hospitals and Human Services on Wednesday.

Bill 35-0173 is sponsored by Senator Angel Bolques Jr., who said the measure seeks to “safeguard newborn infants from abandonment, which can lead to serious injury or even death.” The draft legislation, which allows for parents relinquishing their newborns to remain anonymous if they

choose, would also “protect parents from potential civil and criminal liability in situations of extreme emotional distress,” according to Mr. Bolques.

“This is a critical but often overlooked issue,” the lawmaker told his colleagues, for which the Safe Haven Newborn Protection Act “provides a compassionate and pragmatic solution.”

The bill not only provides a mechanism for newborns to be safely relinquished but also makes provisions to educate parents about their rights, about custody, and “preserving their potential pathway to reclaim their child,” Mr. Bolques said. If passed, the proposed legislation would reportedly bring the territory in line with child protective services across the rest of the country.

Department of Human Services Commissioner Nominee, Averil George, wrote in support of the proposal, saying in her correspondence that the legislation would help to “reduce incidents where children are kept in unsafe situations by parents who wish to avoid civil or criminal penalties.”

However despite her support, Ms. George suggested several amendments to the draft bill, including the removal of a requirement for a 24-hour hotline. She wrote that the scope of the issue did not support the establishment of such a hotline. Instead, DHS would disseminate information via its already-existing public information platforms, including their website, social media, and podcasts, as well as through traditional media outlets.

Representatives of the National Safe Haven Alliance disagreed, arguing that the hotline was part of established best practices, while Senator Donna Frett-Gregory pushed back, saying that 911 might be a better option. “We do not have enough data to substantiate us establishing a whole hotline for a program like this,” the lawmaker noted.

Fire and Emergency Services and the V.I. Police Department also came out in support of the legislation. VIFEMS Acting Director Antonio Stevens told lawmakers that the cadre receives training on HIPAA, a national law that protects the sensitive health information of individuals, and thus are well-suited to maintain confidentiality of parents in a situation where they must relinquish their newborns.

“The designation of fire stations as safe havens ensures that our parents, regardless of where they reside, are afforded the opportunity to take advantage of the law if they so choose,” Mr. Stevens said, recommending signage be placed at each of the territory’s 11 fire stations to inform parents that they must hand their baby to an employee of the safe haven provider. “It should be made clear that a parent cannot leave their baby at a facility if there are no personnel present.”

Other suggestions for amendments came from Tina Commissiong, CEO of the Schneider Regional Medical Center. While she counted herself among those in full support of the legislation, she wanted clarity in the language regarding who was ultimately responsible for the relinquished infants. “We suggest that this legislation specifies that the Department of Human Services is granted temporary guardianship status over the newborn infant while the petition for official guardianship is in process and awaiting the final court order.”

Ms. Commissiong also suggested a stipulation that DHS be obligated to pick up the infant within six hours of notice of discharge from the hospital or clinic. If the infant requires off-island medical care, Ms. Commissiong also wanted DHS to be responsible for footing that bill, as well as for assigning an adult caretaker to accompany the child if necessary.

Senator Kenneth Gittens wondered whether DHS would be able to fulfill the mandates of the legislation, noting that the department was already struggling with its huge responsibilities.

“We’re seeing that shortfall with our nursing homes,” he noted, saying that he had been prompted to submit legislation that would remove responsibility for those facilities from DHS. Mr. Gittens also suggested extending the definition of “newborn” to encompass babies up to 60 days old, to which several testifiers agreed.

Meanwhile, Senator Milton Potter highlighted a “weak counseling component” as one shortfall of Safe Haven laws in other jurisdictions. He suggested that such counseling could be exactly the support required by “maybe a vulnerable young 18-year-old who just delivered this child and who may be overwhelmed.” Heather Burner, director of the National Safe Haven Alliance, said that this is why the organization supports the 24-hour hotline.

Just prior to a favorable vote on the measure, committee chair Senator Ray Fonseca praised his colleague for the initiative. “These are the kinds of measures that make me proud of Senator Bolques,” Mr. Fonseca opined. “He’s really working hard for the people.”