

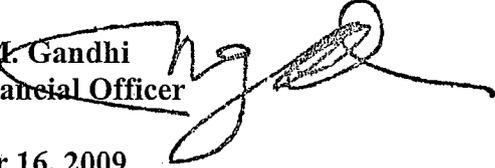
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: December 16, 2009

SUBJECT: Fiscal Impact Statement – “Newborn Safe Haven Act of 2009”

REFERENCE: Bill Number 18-180, Committee Print shared with OCFO on
December 11, 2009

This revised Fiscal Impact Statement reflects the changes made in the Committee Print, and it replaces the Fiscal Impact Statement issued by the OCFO on May 28, 2009.

Conclusion

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation.

Background

The proposed legislation would allow a parent who is not guilty or suspected of abuse or neglect to surrender his or her newborn child¹ to an Authorized Receiving Facility (“Facility”)² without being charged with abuse, neglect or abandonment of said newborn.

The proposed legislation would require that the Facility personnel receiving the newborn file a written statement with the Child and Family Services Agency (CFSA) and transport the newborn to the nearest hospital, if the Facility itself is not a hospital. It would also provide that the act of surrender would constitute implied consent for the hospital to provide care for the newborn³ and arrange placement with CFSA. Lastly, it would provide the Facility and the personnel of the

¹ A newborn is considered an infant seven days old or less.

² An Authorized Receiving Facility is defined in the Act as “a hospital, or other place authorized by the Mayor, by rule, to accept a newborn for surrender pursuant to this act.”

³ This care is assumed to be a check-up to make sure the newborn is healthy.

Facility with immunity from civil or criminal liability for carrying out the responsibilities imposed under this Act.

The proposed legislation would require CFSA to take physical custody of the child within 23 hours of surrender; file a relinquishment of parental rights with the Family Court of the Superior Court for the District of Columbia; provide a genetic test to surrendering parents who wanted to revoke their relinquishment of parental rights; and attempt to identify and notify the non-surrendering parent by performing a missing-child search and publishing notice of the surrender of the newborn. The bill would also give CFSA immediate custody of the surrendered newborn by stating that parental rights would be relinquished upon surrender.⁴

The proposed legislation would require the Mayor to develop and post uniform signage on the exterior of each Facility, which states that a newborn may be surrendered at the facility and provides a toll-free number to call for further information; to submit a yearly status report on newborns who have been surrendered under this Act; and to promulgate rules to implement this Act and submit them to the Council for approval.

An emergency (Bill Number 18-218) and a temporary (Bill Number 18-219) version of this bill were enacted in April 2009 and May 2009, respectively. In addition, all 50 states have some sort of Safe Haven law, which allows parents to surrender their child to certain locations without facing penalty for doing so.⁵ The language and intent of this law is consistent with such laws.

Financial Plan Impact

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation.

Since it is not possible to determine the number of newborns who would be surrendered under this Act, it is not possible to reliably estimate the cost of this legislation. However, data on cases of abandonment in the District of Columbia and from states that have Safe Haven Laws provide some insight and allow for a discussion of the magnitude of the potential costs.

According to testimony by Roque R. Gerald, Acting Director of CFSA,⁶ between 2006 and 2008, there were 8 children less than 1 year old with substantiated cases of abandonment in the District

⁴ Under current law (Section 6(b) of An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 193; D.C. Official Code § 4-1406(b)), no relinquishment of parental rights can be made within the first 72 hours after birth. Under the proposed legislation, no such 72 hour period would exist.

⁵ States began enacting these laws in 1999. In early 2008, Nebraska and Alaska were the last two states to pass Safe Haven provisions.

⁶ Testimony was provided at the public hearing held by the Committee on Human Services on Bill 18-180 on May 8, 2009.

of Columbia. Similarly, the Children's National Medical Center in D.C. reported seeing only one to two cases of child abandonment per year.⁷

For those states with Safe Haven Laws, approximately two to fifteen newborns have been abandoned per year, depending on the state.⁸ To put this in perspective, this is roughly one newborn out of every million people per year in Alabama, one newborn out of every 1.25 million people in Florida and Minnesota, and one newborn out of every 2 million people in Iowa and New Jersey. If D.C. were to continue its current trend, this would equate to a slightly higher rate of one newborn out every 300,000 people.

Given these low numbers of abandonment both before and with Safe Haven Laws, it is unlikely that the District would see more than 3 cases per year and subsequently, that the costs associated with this Act would be substantial. Moreover, a portion of these costs would be covered by federal funds, and those that would not could be absorbed within CFSA's current budget.

The two major costs associated with child abandonment are hospital care and foster care. The average cost of providing one day of hospital care to a newborn is approximately \$1,000.⁹ This would be covered by Medicaid and as a result, between 70 and 79.29 percent (or \$700 and \$792.90) would be paid for by federal funds.^{10,11} D.C.'s foster care payments for an infant are \$30.66 per day.¹² The District would have to cover all of these costs, as it could not use federal foster care funding in these cases.¹³ Thus, an estimated total cost to the District for a surrendered

⁷ A spokesman for the Children's National Medical Center said the hospital sees one or two cases a year of child abandonment (<http://www.washingtonexaminer.com/local/Last-US-holdout-DC-ponders-safe-haven-law-41443962.html>).

⁸ For example: 23 newborns were surrendered in Alabama from 2000 to 2006 (<http://www.governorpress.state.al.us/pr/pr-2006-09-20-01-safe-haven-photo.asp>); 6 in Connecticut from 2000 to 2007 (<http://www.ct.gov/governorrell/cwp/view.asp?A=2791&Q=3310380>); 117 in Florida from 2000 to 2008 (<http://www.northcountrygazette.org/2008/10/29/safe-haven-for-newborns-law-expanded/>); 13 in Iowa from 2001 to 2009 (<http://www.ketv.com/newsarchive/19178759/detail.html>); 22 in Illinois from 2001 to 2004; (<http://www.il.gov/pressreleases/ShowPressRelease.cfm?RecNum=3235&SubjectID=17>); 12 in Minnesota from 2001 to 2004 (<http://www.startribune.com/local/stpaul/15293861.html>); and 33 in New Jersey from 2000 to 2007 (<http://www.njsafehaven.org/faq.html>).

⁹ In Maryland, the average statewide cost of care was \$737/day between July 1, 2006 and June 30, 2007 (Maryland Hospital Pricing Guide, Prepared by Maryland Health Services Cost Review Commission, May 2008.) In Virginia, the average statewide per day cost for a normal newborn was \$923 from January 2007 through September 2007. For Northern Virginia, the average cost was \$1,162. (Source: Virginia Hospital & Healthcare Association PricePoint System <http://www.vapricepoint.org/>).

¹⁰ The child would be Medicaid eligible because he or she would have no income and would be a ward of the District.

¹¹ The American Recovery and Reinvestment Act of 2009 increased D.C.'s FMAP to 79.29 percent from October 1, 2008 through December 31, 2010. D.C.'s usual FMAP is 70 percent.

¹² Effective January 1, 2009. These are the rates for children under ages 11 and under that do not need any special care.

¹³ Title IV-E is the part of the federal Social Security Act that authorized the Federal Foster Care. This program provides federal reimbursement to states for the costs of children placed in foster homes or other types of out-of-home care under a court order or voluntary placement agreement. Title IV-E benefits are an individual entitlement for qualified children who have been removed from their homes. For D.C., there is generally a 70/30 match for Title

newborn who was in the hospital for one day and foster care for six months would be approximately \$5,281 (if the hospital costs were incurred before 2011) or \$5,911 (if they were incurred afterwards).¹⁴ Given this, a large number of newborns would have to be surrendered in order for this to become a significant spending pressure.

Other potential costs associated with this bill are those related to the toll-free number, the signage and the additional responsibilities imposed by this legislation on CFSA. According to the Committee on Human Services, the toll-free number to be provided on the signs would be that of an existing toll-free government line, such as 311. If 311 were to be used, the Office of Unified Communications (OUC) confirmed that there would be no additional costs to train operators to transfer the calls to CFSA. CFSA could also field these calls using existing resources. Again, this is all based on the assumptions that the volume of calls¹⁵ would be very low and the number of newborns surrendered would be very small. If the volume and/or number of surrendered newborns were much higher than anticipated, this could create a spending pressure for OUC and CFSA and additional funds may have to be appropriated.

Sign costs are expected to be approximately \$3,000 in FY 2010. This is based on an average sign cost of \$200¹⁶ and the assumption that in the first year all hospitals in the District would be Authorized Receiving Facilities. CFSA could absorb this cost using existing resources. However, this cost could increase dramatically if the Mayor were to authorize other locations, such as police and fire stations, to accept newborns for surrender. If this were to happen, this could create a spending pressure for CFSA.¹⁷

Under this bill, CFSA would also be responsible for filing documents with the Family Court of the Superior Court for the District of Columbia, attempting to identify and notify the non-surrendering parent, and providing a genetic test to surrendering parents who wanted to revoke their relinquishment of parental rights.¹⁸ CFSA could absorb the costs associated with carrying out these tasks using existing resources. However, if the number of surrendered newborns were much higher than anticipated, this could create a spending pressure for CFSA and additional funds may have to be appropriated.

IV-E maintenance; under the stimulus D.C. is able to claim 76 percent. However, these funds could not be used towards newborns that have been surrendered because they are not victims of abuse or neglect.

¹⁴ This variance is caused by the District's FMAP returning to 70 percent due to the sunset of the pertinent American Recovery and Reinvestment Act of 2009 provision.

¹⁵ For instance, if the number of newborns surrendered each year is 5, then the volume of calls is not expected to be more than 50.

¹⁶ Sign costs were provided by the Department of Transportation.

¹⁷ The Department of Health also confirmed that if they were the agency responsible for implementing the signs, they could do so using existing resources.

¹⁸ The cost per genetic test is estimated to be \$500.