



2023-2024 General Assembly

# SENATE BILL 20: Care for Women, Children, and Families Act - Part VI, Child Permanency, Safe Surrender of Infants, Foster Care, Adoption, and Support for New Mothers

**Committee:**  
**Introduced by:**  
**Analysis of:** S.L. 2023-14

**Date:** November 17, 2023  
**Prepared by:** Jason Moran-Bates  
Staff Attorney

**OVERVIEW:** *Part VI of S.L. 2023-14 amends the current law for the safe surrender of an infant by identifying specific individuals to whom an infant can be surrendered and outlining the duties, immunity, confidentiality, and notice related to a safely surrendered infant. It also appropriates funds to the State Maternity Home Fund, prevents racial discrimination in adopting or placing a child for foster care, increases the kinship care and foster care rates, appropriates funds to cover a loss in federal receipts from the Family First Prevention Services Act, and appropriates funds to the NC Finish Line Grants Program.*

*This bill was vetoed by the Governor on May 14, 2023. The veto was overridden by the General Assembly on May 16, 2023. The safe surrender provisions of this Part of the act became effective October 1, 2023, and apply to infants surrendered on or after that date. The remaining provisions of this Part became effective July 1, 2023.*

## BILL ANALYSIS:

Section 6.1 of Part VI of S.L. 2023-14 appropriates \$700,000 in recurring funds for each year of the 2023-25 fiscal biennium to the State Maternity Home Fund.

Section 6.2 of Part VI of S.L. 2023-14 establishes provisions for the safe surrender of infants. An infant can be surrendered to a healthcare provider, first responder, or social services worker if the infant is less than 30 days old, not neglected or abused, and is surrendered by a parent who is not intending to return for the infant.

The individual who takes an infant into temporary custody must protect the physical health and well-being of the infant and immediately notify the Department of Health and Human Services, Division of Social Services (DSS) in the county where the infant is surrendered. The individual can inquire about parent identities, date of birth, etc. but the parent is not required to provide the information. If practical, the surrendering parent must be provided certain written information. The individual to whom an infant is surrendered is immune from civil or criminal liability if the individual acted in good faith.

Unless a parent consents to release, information regarding the surrendering parent's identity is confidential. However, an individual who takes an infant into temporary custody must provide to the DSS director any information known about the infant, the infant's parents, including their identity, any medical history, and the circumstances of surrender to the DSS director. Information received by DSS about the surrendering parent's identity can be disclosed for the following reasons: provide notice to local law enforcement, contact with the non-surrendering parent, or by court order. Information received by DSS pertaining to the infant's safe surrender and condition must be held in confidence except the director can share necessary

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or relevant information with a health care provider, placement provider, guardian ad litem, or a district or superior court judge presiding over a criminal or delinquency matter. The confidentiality section does not apply if DSS determines the juvenile is not a safely surrendered infant or is the victim of a crime.

A DSS director, by virtue of the surrender, has the surrendering parent's rights to legal and physical custody of the infant without obtaining a court order. After meeting the notice by publication requirements, DSS can apply ex parte to the district court for an order finding the infant has been safely surrendered and confirming DSS has the surrendering parent's right to legal custody to obtain the child's birth certificate, social security number, or federal and State benefits.

If a non-surrendering parent is identified, contacted, and located, the director must place custody of the infant with the non-surrendering parent and DSS custodial rights terminate when the following apply: there is rebuttable presumption the non-surrendering parent is the infant's parent, the non-surrendering parent asserts parental rights, and the director does not suspect the infant is an abused, neglected, or dependent juvenile. This section also outlines the process if the identity of the non-surrendering parent is known by the DSS director and the director has cause to suspect the infant may be an abused, neglected, or dependent juvenile.

Within 14 days from the date of the safe surrender, the director must place a notice in a publication that an infant has been surrendered and taken into custody by DSS. The notice must be published in the county in which the surrender was made, and any other county the director has reason to believe either parent may be residing. The notice must be published once a week for three successive weeks and must provide the following information: the infant was surrendered by the mother or father with no expressed intent to return, the date of surrender, profession of the person to whom the infant was surrendered and the location of the facility; physical characteristics of the infant; current custody; right to request the infant's return; efforts to identify, locate, and contact the non-surrendering parent; parental right to contact DSS; proposed termination of parental rights in 60 days; and contact information for DSS.

Prior to filing a termination of parental rights, a surrendering parent has the right to regain custody of the infant. The safe surrender does not preclude the parent from executing a relinquishment of their parental rights for adoption with the local DSS. A parent surrendering an infant is immune from civil liability or criminal prosecution if they acted in good faith. DSS is required to create printable and downloadable information on infant safe surrender which must be translated into commonly spoken and read languages in this State, written in a user-friendly manner, posted on the Division website, and available for distribution.

Within 10 days from the date of filing a petition to terminate parental rights of a surrendering or non-surrendering parent of a safely surrendered infant, or the next term of court if there is no court in the county in that 10-day period, the court must conduct a preliminary hearing to address the infant's safe surrender. The purpose of the hearing is to ascertain the identity and location of either parent and to establish notice regarding termination of parental rights. The court is required to determine whether any diligent efforts are required to identify or locate the surrendering parent while considering the need to protect confidentiality and must determine whether the surrendering parent should be served. If the identity of the non-surrendering parent is known, the court must order service. If the identity is not known, the service must be by publication. No summons is required for a parent who is served by publication. The court must issue the order required within 30 days from the date of the preliminary hearing unless the court determines more time is needed.

This section became effective October 1, 2023, and applies to infants surrendered on or after that date.

Section 6.3 of Part VI of S.L. 2023-14 directs the Legislative Research Commission to study and report on streamlining adoption and foster care law.

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Section 6.4 of Part VI of S.L. 2023-14 makes conforming changes required by the Safe Surrender provisions of this Part.

Section 6.5 of Part VI of S.L. 2023-14 prohibits denying the right to adopt or become a foster parent on the basis of race, color, or national origin.

Section 6.6 of Part VI of S.L. 2023-14 directs the Department of Health and Human Services to implement a policy to allow relatives who are providing foster care to get reimbursed for that care without first having to get licensed. Funds are appropriated for this purpose.

Section 6.7 of Part VI of S.L. 2023-14 increases the maximum rates for participation in the foster care assistance program and appropriate \$10 million in recurring funds for each year of the 2023-25 fiscal biennium to implement the rate increases.

Section 6.8 of Part VI of S.L. 2023-14 appropriates \$1,725,531 in recurring funds for each year of the 2023-2025 fiscal biennium to provide the State portion of the total cost of care to implement an increase to the administrative rate for foster care and adoption assistance.

Section 6.9 of Part VI of S.L. 2023-14 appropriates \$11.8 million in nonrecurring funds for the 2023-2024 fiscal year to provide additional funding to cover a loss in federal receipts from the Family First Prevention Services Act regarding congregate care for foster care.

Section 6.10 of Part VI of S.L. 2023-14 appropriates \$1.5 million in recurring funds for each year of the 2023-2025 fiscal biennium to the North Carolina Community College System for allocation to the NC Finish Line Grants Program.

**EFFECTIVE DATE:** This bill was vetoed by the Governor on May 14, 2023. The veto was overridden by the General Assembly on May 16, 2023. The safe surrender provisions of this Part of the act became effective October 1, 2023, and apply to infants surrendered on or after that date. The remaining provisions of this Part of the act became effective July 1, 2023.