

2009 SENATE HUMAN SERVICES

SB 2400

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-09-09

Recorder Job Number: 8994, 9009

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee opened the hearing on SB 2400 relating to the locations at which an infant may be abandoned.

Senator Mac Schneider (District #42) introduced SB 2400 as prime sponsor. Attachment #1.

Senator J. Lee asked how a person knows if the fire station is the right one.

Sen. Schneider replied that as fire stations are defined under the bill only those that are open and operating 24 hours staffed with full time paid firefighters. The volunteer firefighter probably wouldn't fall into that. According to child welfare advocates the most important thing you can do with safe haven laws is publicize them.

Senator Dever said it would seem to him that law enforcement centers would fit into this.

Sen. Schneider said there are a variety of states that do that as well. There is some concern that individuals abandoning their infants would be reluctant to do that at law enforcement centers because there are cops around.

Senator Dever asked if the age of an infant is defined in the bill.

Sen. Schneider said it is 1 year as it is under ND law. It doesn't change it.

Senator Dever asked if by the act of abandonment the parents give up their parental rights.

Representative Bette Grande (District #41) testified in support of SB 2400. She referred to the abandonment portion of the bill (Section 4) to answer the question posed by **Senator Dever**. She addressed areas that needed to be amended to include fire stations after hospital. She supports this bill because of the need for safe havens for infants.

Senator J. Lee – this really is a complicated issue because we want those infants to be safe but we would like to have some medical history. The abandoning mother might need continuing medical care as well.

Rick Graba (Trustee for the Professional Firefighters of ND) provided testimony in support of SB 2400 for **Edward Grossbauer** (President of the Professional Firefighters of ND) who was not able to be present. Attachment #2

Stacey Pfliiger (ND Right to Life) spoke in support of SB 2400 in its current form. She said it is important that the fire stations are the 24/7.

Senator J. Lee asked if someone brought a baby to a place other than those identified in the law would they end up being subject to prosecution if they aren't going to the designated safe haven spots.

The answer given was that they probably would not be charged but they could be charged.

Senator J. Lee asked if that was the reason to be considering the inclusion of other spots.

Ms. Pfliiger said yes.

There was no opposing testimony.

Arnold Thomas (NDHA) presented testimony in a neutral position to SB 2400 with a proposed amendment. Attachment #3. The objective was having the fire stations separate and distinctly recognized in the code from hospitals.

Senator J. Lee asked if he had reviewed his amendments with those favoring the idea of including other entities.

Mr. Thomas said he had not. He did communicate with the bill's sponsor that they had concerns with respect to the "appropriate person" designation and that they had no position relative to extending safe haven to fire stations. They were trying to figure out an appropriate way to achieve some common goals.

Senator Dever asked if someone wants to leave their child at a hospital, do they need to leave it with an individual.

Mr. Thomas said the current code does not require contact with an individual.

There was some brief discussion on the use of bracelets on the abandoned child and Mr. Thomas explained that a parent may silently abandon an infant in a hospital and walk out without giving any information. There was one formal reported abandoned infant in a hospital since this law was enacted in 2001.

Rep. Bette Grande said the sponsors feel this would be friendly amendments.

Joel Boespflug (Bismarck Fire Chief) provided information for the committee to ponder as they make their decision. He was neither in support nor in opposition. He shared concerns of other fire chiefs around the state. (1) "Continually" – fire stations are seldom continually staffed. (2) "Appropriate persons" – sometimes the person in the station might not be a registered EMT. (3) "Steps that shall be taken" – this is all new for the firefighters and they hope that if given this responsibility they can the expectations.

Steve Nardello (Mandan Fire Chief) spoke in a neutral position. Traditionally, the fire departments have always wanted to provide as much public service as possible. This would add to their duties. But they are concerned another problem isn't created. It will be a matter of education. They won't know which ones are volunteer and which ones are full time. Mandan has two stations – one is staffed 24 hours and one is not. What happens if an emergency arises while an infant is being dropped off or there isn't anybody there?

Tara Muhlhauser (Dept. of Human Services) said the language in this bill creates some concerns. (1) Who the appropriate person would be and how that would be identified.
(2) Prosecution for abandoning a child and not handing over to an "appropriate person".
(3) Hard to message out to parents which fire stations are 24/7.

She struggled with whether this bill provides more protection or riskier protection for kids.

In answer to an earlier question by **Senator Dever** concerning whether parents lose any rights in this process, she said technically and legally no they don't. However, it does put an intervening step in because once the child is received the hospital has the basis to hold the child if they believe there is a protective concern.

Christopher Dodson (ND Catholic Conference) said they do favor the bill but addressed the amendments. He said they need to focus on the purpose of the bill which was page 1, lines 18-19. The question that has to be asked is what circumstances are we willing to not pursue prosecution for the sake of the child. What was the intent of the person dropping the child off?

The hearing of SB 2400 was closed.

Job #9009

Senator J. Lee threw out the idea of skilled nursing centers being safe havens.

There was discussion about the fire stations and how only a limited number would be staffed 24/7 – law enforcement agencies in rural areas aren't always staffed all the time either. Skilled nursing facilities are in areas that don't necessarily have hospitals.

Prosecution and penalties for abandoning a child were talked about.

The topic of bracelet usage was discussed.

There was some inclination to just leave it at the hospital like it is now.

Senator J. Lee offered to check with the Attorney General's office and the Dept. of Human Services to see if they had any information they wanted to add.

More discussion indicated that they would want to get the child to a place where the first consideration would be the health of the child and there would be people present to administer the needed care.

Committee work was adjourned for the day.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-10-09

Recorder Job Number: 9127

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee opened SB 2400 for discussion and reported that she had a conversation with Tom Trenbeath from the Attorney General's office who thought maybe it best to leave the law the way it is.

Advertising places of safe haven was discussed.

Senator Pomeroy pointed out that by putting up signs and trying to get the word out could be counterproductive.

Senator J. Lee offered an amendment to include skilled nursing care facilities. Attachment #4 Penalties were discussed and it was pointed out that when people do this they aren't thinking of the penalty. There haven't been many cases – one in two years and the outcome was as the law was intended.

Senator J. Lee felt inclined to leave the law as is.

Senator Dever preferred to wait to act on this until he had a chance to speak again to one of the sponsors, Rep. Grande.

Senator J. Lee adjourned committee work for the day.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 2-16-09

Recorder Job Number: 9522, 9524

Committee Clerk Signature

Mary K. Monson

Minutes:

Senator J. Lee opened SB 2400 for committee work. She reported that she wanted to hear back from the Attorney General's office and her fire chief on this issue.

A general discussion took place. It was the Grand Forks fire chief that brought this up but Grand Forks has a full time fire department.

Senator J. Lee respected the good intentions of this bill but wasn't quite sure this is the way to do it.

Other states have similar laws to what is being proposed.

Senator J. Lee recessed the committee for a short break.

Job # 9524

Senator J. Lee reconvened the committee to discuss SB 2400.

Senator Heckaman pointed out that people need to be notified of a safe haven. In ND it makes it difficult for fire stations, in general. How do people know if they are staffed 24/7?

Discussion: This was a worry for the committee. Even if they are 24/7 they aren't always there 24/7. They are accessible by pager or whatever. The fire truck is more like their

headquarters than the station. Will somebody dropping off a baby actually make sure someone is available to take the child?

There are a lot of variations in other states laws.

Senator J. Lee said what she was hearing, even though this is extremely well intentioned, was perhaps they should leave it as it is.

Senator Erbele made a point that the fire station is problematic.

Senator Pomeroy moved a **Do Not Pass**.

Seconded by **Senator Erbele**.

Roll call vote 6-0-0. **Motion carried.**

Carrier is **Senator J. Lee**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2400

Page 1, after line 14, insert:

"d. "Skilled nursing care facility" means a licensed health care facility that is primarily engaged in providing room and board accommodations and skilled nursing care under the supervision of a physician."

Page 1, line 16, after "hospital" insert ", skilled nursing care facility,"

Page 1, line 17, after "hospital" insert ", skilled nursing care facility,"

Page 1, line 20, after "hospital" insert ", skilled nursing care facility,"

Page 1, line 21, after "hospital" insert ", skilled nursing care facility,"

Page 1, line 22, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 1, after "hospital's" insert ", skilled nursing care facility's,"

Page 2, line 3, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 12, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 18, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 19, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 20, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 22, after "hospital" insert ", skilled nursing care facility,"

Page 2, line 23, after "hospital" insert ", skilled nursing care facility,"

Renumber accordingly

Date: 2-16-09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2400

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Rerefer to Appropriations
☐ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Pomeroy Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator J. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2400: Human Services Committee (Sen. J. Lee, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2400 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2400

*Testimony of Sen. Mac Schneider
Senate Bill 2400 – February 7, 2009*

Madam Chair, members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I'm the prime sponsor of Senate Bill 2400 – legislation that would amend North Dakota's "safe haven" law to designate 24-hour fire stations as locations where an infant may be abandoned without fear of prosecution. While I believe this expansion would discourage unsafe abandonment, it is my hope that the protections provided under this legislation are never needed.

Background

On the morning of January 17th of this year, an unknown individual approached the Columbia Road Fire Station in Grand Forks with a cardboard box in hand. This person placed the box on top of an electrical transformer outside of the fire station, and then made just enough noise to draw the attention of a firefighter who was outside shoveling snow. The individual then left the scene.

When the firefighter inspected the cardboard box, he found inside a newborn baby girl wrapped only in a towel. Thankfully and somewhat surprisingly given the below-freezing temperatures that day, the baby was completely unharmed. In fact, she wasn't even crying. After rushing the baby inside and administering expert preliminary care, firefighters turned her over to an ambulance crew that took her to Altru Hospital within minutes of her being discovered. Privacy considerations have prevented the public from knowing her current status, but every indication is that she is on her way towards a normal, healthy childhood.

Although this story has a happy ending, it raises concerns about the effectiveness of North Dakota's safe haven law, which currently designates only hospitals as locations at which infants may be lawfully abandoned.

How other states have approached safe haven laws

States are decisively split when it comes to their approach to safe haven laws, but few states' statutes are as narrow as North Dakota's. According to the National Safe Haven Alliance, only 13 states join North Dakota in limiting safe haven locations exclusively to hospitals or medical facilities. In contrast, laws in 27 states permit individuals to safely abandon infants at fire stations or with other emergency medical service personnel. Some states' laws are even broader in this regard. New York, for example, provides immunity from prosecution so long as a newborn is left with any responsible person.

This patchwork of varying laws has no doubt created confusion as to where infants may

safely be abandoned. Individuals under extreme stress – as those contemplating the abandonment of a child surely are – can not be expected to delve deeply into the Century Code under such circumstances.

After speaking with child welfare advocates in Grand Forks and firefighters from across the state, I believe there is wisdom in widening North Dakota's safe haven law to include fire stations that are staffed around the clock by individuals trained in emergency medical response. Such a change would bring North Dakota into line with the majority of states on this matter.

Proposed changes to North Dakota's safe haven law

Senate bill 2400 makes two key changes to North Dakota's safe haven statute. First and most obviously, it designates 24-hour fire stations as locations at which infants may be safely abandoned. The definition of fire station – which was inspired by similar language codified under Wyoming law – makes clear that only those stations staffed full-time by professional firefighters trained in emergency medical response qualify as safe havens.

Second, the bill would require that an infant be left with an "appropriate person" at a hospital or a fire station. This language was taken from statutes on this subject in Massachusetts. Though firefighters have been adamant that individuals be required to physically deliver an infant to someone at a fire station, I have had conversations with members of the health care community who would rather leave the law as-is regarding hospitals. I think there is some merit in changing the legislation to accommodate both groups' wishes.

Closing

In closing Madam Chair, I would like to recognize the North Dakota firefighters who I approached about introducing this legislation so that they could more effectively save lives. They are humble, soft-spoken, everyday heroes, and I'm grateful for the opportunity I've had to work with them on this bill.

Thank you and I would be happy to try to answer any questions.

**Testimony of Professional Firefighters of North Dakota
President Edward Grossbauer
Senate Bill 2400
February 9, 2009**

Madam Chair and members of the committee, my name is Edward Grossbauer and I am the President of the Professional Firefighters of North Dakota (PFFND). I am here to represent almost 300 of the paid, professional firefighters that protect approximately 40% of the total population of the great State of North Dakota. We are here in support of Senate Bill 2400.

Senator Schneider has done exemplary work on this bill. The PFFND is thoroughly impressed with the background and fact finding that has been done as it mirrors the research that we did in reviewing safe haven laws across the country. I will not repeat the facts that Sen. Schneider just shared with the committee. I would like to highlight a few items. First, the bill requires that the child be given directly to an appropriate person. The PFFND requested that this be part of the language because of the harsh weather which we experience here. Second, the bill recognized the difference between a fire station that is operating twenty-four hours a day, seven days a week and one that is not. It is possible that we would be away from the station doing one of the many tasks and training that we undertake, but we feel that requiring that the child be handed to one of us lessens the concern. We would much rather that the fire stations become a safe choice rather than having the threat of prosecution for making such a life altering decision.

The PFFND would like to thank Sen. Schneider and the co-sponsors of Senate Bill 2400 for the thought that was used in crafting this legislation.

Madam Chair and members of the committee, this concludes my testimony. The PFFND ask the committee to recommend a "do pass" on SB2400.

**Vision**

The North Dakota Healthcare Association will take an active leadership role in major healthcare issues.

Mission

The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.

Testimony SB 2400
Senate Human Services Committee
February 9, 2009

Chairman Lee, Members of the Senate Human Services Committee. I am Arnold Thomas, President of the North Dakota Healthcare Association; here today in a neutral position with respect to extending safe haven for an abandoned infant to fire stations.

Attached is a proposed amendment to SB 2400. The amendment is in four parts.

- Part 1 repeats the definitions in SB 2400.
- Part 2 applies to fire stations as safe havens.
- Part 3 applies to hospitals as safe havens.
- Part 4 is a restructuring of language in section 9 of SB 2400 addressing abandoned infant contacts with department.

Part 1 contains the same definitions as in SB 2400.

Part 2 contains all the requirements in SB 2400 for a fire station to be a safe haven.

Part 3 is a restatement of current law applied to safe haven hospitals by deleting the requirement that a parent or agent leave an abandoned infant in a hospital with an appropriate person. There are no such requirement in the current law. We think such a restriction on safe haven hospitals increases risk for the infant if a parent or agent does not wish personal contact. We are also unsure how hospitals would implement the "appropriate person" requirement.

Part 4 is a formatting change of the language regarding abandoned infant contacts with the department.

Madame Chair, members of the committee, we ask that the current law for safe haven hospitals not be changed. Should you favor extending safe haven to fire stations, we ask the provisions for safe haven hospitals be specifically identified and separate from other safe haven entities.

I would entertain any questions Madame Chair, you or the committee may have.

Vision

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SB 2400 Proposed Amendment
Offered by the North Dakota Healthcare Association
Senate Human Services Committee
February 9, 2009

1. As used in this section:

- a. "Abandoned infant" means an abandoned infant as defined in section 27-20-02 and which has been left at a hospital in an unharmed condition.
- b. "Fire Station" means a fire station that is open and operating twenty-four hours a day seven days a week and that is continually staffed with full-time, paid firefighters who are licensed as emergency medical services professionals under chapter 23-27.
- c. "Hospital" means a facility licensed under chapter 23-16.

2. Fire Station

- a. A parent of an infant may abandon the infant by leaving the infant with an appropriate person at any fire station. An agent of the parent may leave an abandoned infant with an appropriate person at a fire station with the parents consent. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving the abandoned infant at a fire station.
- b. A fire station shall accept an infant abandoned or left under this section. The fire station may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope, with the fire stations return address. Neither the parent nor the agent is required to provide any information.
- c. The fire station shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the abandoned infant. Possession of an identification

bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a fire station under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.

- d. The fire station may provide the parent or the agent with any relevant information, including:
 - i. Information about the safe place for abandoned infant programs;
 - ii. Information about adoption and counseling services; and
 - iii. Information about whom to contact if reunification is sought.
- e. Within twenty-four hours of receiving an abandoned infant under this section, the fire station shall report to the department, as required by section 5-25.1-03, that an abandoned infant has been left at the fire station. The report may not be made before the parent or agent leaves the fire station.
- f. The fire station and its employees and agents are immune from any criminal or civil liability for accepting an abandoned infant under this section.
- g. Upon receiving a report of an abandoned infant left at a fire station under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or agent. If it appears the abandoned infant was harmed, the department shall initiate an assessment of the matter as required by law.

3. Hospital

- a. A parent of an infant may abandon the infant at any hospital. An agent of the parent may leave an abandoned infant at a hospital with the parents consent. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving the abandoned infant at a hospital.
- b. A hospital shall accept an infant abandoned or left under this section. The hospital may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope with the hospitals return address. Neither the parent nor the agent is required to provide any information.
- c. The hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the abandoned infant. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.
- d. The hospital may provide the parent or the agent with any relevant information, including:
 - i. Information about the safe place for abandoned infant programs;
 - ii. Information about adoption and counseling services; and
 - iii. Information about whom to contact if reunification is sought.
- e. Within twenty-four hours of receiving an abandoned infant under this section, the hospital shall report to the department, as required by section 5-25.1-03, that an abandoned infant has

been left at the hospital. The report may not be made before the parent or agent leaves the hospital.

- f. The hospital and its employees and agents are immune from any criminal or civil liability for accepting an abandoned infant under this section.
- g. Upon receiving a report of an abandoned infant left at a hospital under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or agent. If it appears the abandoned infant was harmed, the department shall initiate an assessment of the matter as required by law.

4. Department Contact:

- a. Request For Infant Reunification By A Parent Or Agent.

If an individual claiming to be the parent or the agent contacts the department and requests to be reunited with the abandoned infant, the department may identify or contact the individual as required under this chapter and all other applicable laws.

- b. Request For Infant Information Only.

If an individual contacts the department seeking information only, the department may attempt to obtain information regarding the identify and medical history of the parents and may provide information regarding the procedures in an abandoned infant case. The individual is under no obligation to respond to the request for information, and the department may not attempt to compel response to investigate the identity or background of the individual.