

---

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA**



**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

---

Senate Bill 1052 (Substitute S-3 as reported)  
Senate Bill 1053 (Substitute S-3 as reported by the Committee of the Whole)  
Sponsor: Senator Shirley Johnson (Senate Bill 1052)  
          Senator Joanne G. Emmons (Senate Bill 1053)  
Committee: Judiciary

## **CONTENT**

Senate Bill 1052 (S-3) would add the “Safe Delivery of Newborns Law” to the Probate Code and amend the juvenile code to govern parental surrender of a “newborn” to an “emergency service provider”. (“Newborn” would mean a child whom a physician reasonably believed to be not more than 72 hours old. “Emergency service provider” would mean a uniformed or otherwise identified employee or contractor of a fire department, hospital, or police station when that individual was inside the premises and on duty).

If a parent surrendered a newborn, the emergency service provider would have to take him or her into temporary protective custody. The provider would have to make a reasonable effort to protect the newborn’s physical health and safety; inform the parent that he or she would be releasing the newborn to be placed for adoption; and inform the parent that he or she would have 28 days to petition to regain custody. The emergency service provider also would have to give the surrendering parent basic information about child surrender and custody issues; encourage the parent to provide family or medical information; inform the parent of the affirmative defense under Senate Bill 1053; ask the parent to identify himself or herself; and inform the parent that the State would try to identify the other parent.

A hospital would have to have the newborn examined by a physician. If the physician suspected child abuse or neglect, or that the child was not a newborn, he or she would have to report to the Family Independence Agency (FIA) as required under the Child Protection Law. If not required to report to the FIA, the hospital would have to notify a child placing agency.

A child placing agency would have to assume temporary protective custody; immediately meet with the parent, if a parent were known and willing; place the newborn with a prospective adoptive parent; seek assistance from law enforcement officials as to whether the newborn was a missing child; petition the family court to place the newborn, within 48 hours after a transfer of physical custody; and make reasonable efforts to identify and locate the other parent.

If a biological parent wanted custody of a surrendered newborn, the parent would have to file for custody within 28 days after the surrender. The family court would have to determine custody based on the newborn’s best interest. The court would have to consider, evaluate, and make findings on specific factors identified in the bill with the goal of achieving permanence at the earliest possible date. A parent who surrendered a newborn and did not file for custody within 28 days would be presumed to have released his or her parental rights to the newborn. A parent’s surrender of a child and failure to petition the family court within 28 days would constitute desertion of the child for purposes of court authority to terminate parental rights.

The bill would not apply to a proceeding that arose before the bill's effective date, and is tie-barred to Senate Bills 1053 and 1187 and to House Bill 5543.

Senate Bill 1053 (S-3) would amend the Michigan Penal Code to specify that it would be an affirmative defense to a child abandonment charge that the child was surrendered under Senate Bill 1052. Under the Code, it is a felony punishable by up to 10 years' imprisonment, for a father or mother of a child under six years old, or any other person, to expose a child with the intent to injure or wholly abandon the child. Under the bill, except for a situation involving child abuse or neglect, it would be an affirmative defense that the child was not more than 72 hours old and was surrendered to an emergency service provider pursuant to Senate Bill 1052.

In addition, the bill would prohibit the initiation of a criminal investigation solely on the basis of a newborn's being surrendered to an emergency service provider pursuant to Senate Bill 1052.

The bill would not apply to a violation committed before its effective date, and is tie-barred to Senate Bill 1052.

MCL 712A.19b et al. (S.B. 1052)  
750.135 (S.B. 1053)

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

Senate Bill 1052 (S-3) would have an indeterminate fiscal impact on the Family Independence Agency. Currently, legal personnel and court time are budgeted for abandonment child protective cases. It is not certain if the bill would require additional hearings or other case administration resulting in increased FIA costs. The bill also would have a minimal fiscal impact on State and local law enforcement agencies.

Senate Bill 1053 (S-3) would have an indeterminate fiscal impact on State and local government. In 1998, there were no convictions for child exposure. In 1997, however, two people were convicted of child exposure with intent to injure or abandon. One offender was given probation and the other was sentenced to jail. A local unit of government would have incurred the expense of incarceration and the State would have provided supervision for probation with an average annualized per diem of \$4.38 in FY 1998-99. There are no data to indicate if the inclusion of a permissible defense would have affected the outcome of these cases.

Date Completed: 5-23-00

Fiscal Analyst: C. Cole  
B. Baker  
K. Firestone

Floor\sb1052

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.