



Bastard Nation

The Adoptee Rights Organization

SUBMITTED TESTIMONY IN OPPOSITION TO SB 116 :
An act to amend Sec. 1255.7 of the Health and Safety Code,
To amend Section. 271.5 of the Penal Code, and
to amend Section. 14005.24 of,
and to amend and repeal Sections 300 and 361.5 of
the Welfare and Institutions Code,
relating to the abandonment of newborns

REPEAL OF SUNSET PROVISION OF
THE SAFELY SURRENDERED BABY ACT

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Introduction and Recommendations

Bastard Nation: the Adoptee Rights Organization opposes SB 116, which would repeal the January 1, 2006 sunset of SB 1368 (2000 session) the California Safely Surrendered Baby Act aka the Safe Haven law, and make the law permanent. The law permits parents to anonymously leave infants 72 hours old or less at Safe Haven centers: hospitals and police and fire stations.

Although the California legislature overwhelmingly supported the Safe Haven concept, it also understood that the law was untested and highly controversial, especially amongst adoption and child welfare advocates and adoptee civil rights activists, including Bastard Nation. In their wisdom lawmakers attached a sunset clause, suggested by Bastard Nation, which afforded the California Department of Social Services and the legislature, time to assess the law's outcomes and usefulness, and would assist the legislature in making a responsible and informed decision about the program's continuance when the sunset came due.

SB 1368 Section 14005.24 (a) Section 6.15 (a-g) requires CDSS to submit to the Legislature on or before January 1, 2003, January 1, 2004 and January 1, 2005 reports found on (a) the number of children found abandoned, dead or alive, in the state for each year in which reporting is required under the act; (b) the number of infants surrendered pursuant to the act with their approximate age; (c) the number of medical history questionnaires completed in those cases; (d) the number of instances in which a parent or other person having lawful custody seeks to reclaim custody of the surrendered child; (e) whether a person seeking to reclaim custody is the individual who surrendered the child; (f) the number of children relinquished pursuant to this act who show signs of neglect or

abuse and the disposition of those cases; and (g) the number of parents or legal guardians eventually located and contacted by social workers..

Bastard Nation has searched for these reports on the CDSS, RADR (Research Data Report), and Legislative Council websites, but has not been able to locate them. There is one report not available online that represents 2002 cases, but it appears no report has been filed for 2003 or 2004 as mandated by SB 1368. Thus, CDSS is out of compliance with SB 1368 and is in violation of California's sunset statute.

Affirmation of the Safely Surrendered Baby Act should be based on facts, not emotions. In other words, does the law work? With CDSS apparently out of compliance with the data collection mandate there is no mechanism by which to document the law's effectiveness and success. We fail to see how any educated and informed decision can be made by the legislature on the efficacy and outcome of SB 1368 without that information at hand.

Due to the gross lack of documentation on SSBA outcomes Bastard Nation recommends:

- The legislature to vote NO on the SB 116 repeal attempt, and let SB 1368 stand with its sunset—in affect killing the Safely Surrendered Baby Act. By rejecting SSBA and its archaic child welfare and adoption procedures and policies, the California legislature would lead the way in progressive adoption reform and free itself to develop genuine programs, based in best practice standards, to prevent newborn abandonment and neonaticide—programs that value the life and well-being of the baby and her or his family—not a social-experimenting bromide that serves no one's best interest.
- If the legislature chooses to not follow that recommendation we offer an alternative: extend the January 1, 2006 sunset to January 1, 2008. During this additional 2 years CDSS should be ordered to comply with the collection mandate of SB 1368 and establish, transparent methodologies and procedures to collect and analyze accurate and complete data on neonaticide and newborn abandonment from January 1, 2001 onward, and to submit a written detailed report and evaluation of the Safely Surrendered Act's outcomes. This report should be distributed not only to the legislature, but also to the press and general public and should be available electronically on the CDSS/SSBA and Legislative Council web pages.
- We also remind the legislature of its option to put over the bill or to grant reconsideration in the 2006 session.

What's Wrong with Safe Havens?

Safe Haven laws create a parallel child welfare system in which the state encourages and facilitates the universally condemned practice of anonymous infant abandonment. These laws run counter to established child welfare practice, statutes and initiatives and create a separate identity-stripping system that has never existed before, even in closed adoption

practice. Safe Havens, initiated and supported by the most reactionary elements within the contemporary adoption industry are a direct attack on adoptees' right to identity and the successful open records movement—a fact admitted openly by those organizations and individuals. Safe Havens, with their no-questions-asked “relinquishment” provisions and emphasis on shame and secrecy are anti-child, anti-woman, anti-family, and anti-adoption.

Safe haven laws:

- Codify anonymous birth and abandonment where no such “legal right” existed before.
- Deny the right of identity to infants abandoned “legally” and strips infants of all genetic, medical and social history.
- Permit anyone claiming to be a parent, with no proof demanded, to drop-off a baby.
- Deny the non-custodial parent—usually the father—of due process and parental rights. A putative fathers registry is useless in Safe Haven cases since registries are checked by the name of the mother.
- Contravene sections of the federal Indian Child Welfare Act ((ICWA) which give tribes first custody rights in relinquishment proceedings.
- Contravene family reunification guidelines set by the federal Adoption and Safe Families Act.
- Discourage women from seeking pre-natal and post-natal medical care and counseling, endangering the health, well-being, and even life of the mother and baby.
- Creates a legislative band-aid instead of a genuine plan to address the root causes of neonaticide and abandonment: shame, denial, poverty, substance abuse, physical abuse and untreated mental illness.
- Deter adoption through traditional legal channels and replaces best practice standards with what Safe Haven advocates call “non-bureaucratic placement” for those parents who find ethical relinquishment and adoption practices inconvenient.
- Treats child relinquishment as just another consumer option without consequences to child and parents.

Opposition to Safe Haven Laws is Mainstream

Bastard Nation was the first organization in the US to oppose Safe Haven legislation. What was considered a radical position in 2000 is now mainstream adoption policy amongst

adoption reform advocates nationwide. Organizations currently opposed to Safe Havens include the American Adoption Congress, Concerned Untied Birth Parents, Ethica: A Voice of Ethical Adoption, the Green Ribbon Campaign for Open Records, the National Congress of Fathers and Children, the Virginia Department of Health, the Virginia League of Social Service Executives, and the Massachusetts Society for the Prevention of Cruelty to Children, the oldest child welfare organization in the Untied States. Notably, the prestigious adoption agency Spence-Chapin Services for Family and Children oppose Safe Havens as does Holt International, the pioneer in the placement of abandoned children internationally. In California, Bay Area Birthmothers, PACER (Post Adoption Center for Education and Research), and Open California oppose. The well-regarded think tank, The Evan B. Donaldson Adoption Institute, based in New York City has issued a report condemning Safe Havens: Unintended Consequences: “Safe Haven” Laws Are Causing Problems Not Solving Them.” Prominent names in the field of adoption that oppose include Howard Davidson, ABA Center on Children and the Law; the country’s premiere adoption law scholar, Prof. Joan Hollinger, UC-Berkeley; Hawaii Governor Linda Lingle; Lynn Paltow, Executive. Director, Advocates for Pregnant Women; Wall Street Journal editor, columnist, and adoptive father Al Hunt; and Theresa Wagner, former policy analyst for the Family Research Council.

Lack of Clear and Accurate Data

As far as we know, California did not collect separately, the numbers of discarded infants found dead or alive, prior to the passage of the Safely Surrendered Baby Act, so it is impossible to gauge the law’s success or failure in terms of past incidences. Furthermore, due to the extreme secrecy of Safe Haven policy and procedure, the lack of uniform data collection and processing, the failure of CDSS to file mandated annual reports, along with the accompanying lack of government transparency, the public is barred from accessing police, social service, and health department files regarding the workings of the program. It is clear, though from data gathered through media reports that in the years the law been in effect, the number of discarded infants has remained steady. While the use of Safe Havens may increase over the years, there is no reason to believe that those babies anonymously transferred to the state were in harm’s way. There is enough anecdotal evidence to suggest that Safe Haven parents saw the program as a simplified child relinquishment program: what some Save Haven activists call non-bureaucratic placement.

Confusing and contradictory numbers have appeared in the press since 2001, usually sourced by CDSS either by spokesperson or implication. Below is a chart showing contradictory reporting numbers from October 3, 2002-October 17, 2003:

Contradictions in SSB/Safe Haven Numbers

Date	#	Source	Reference
10/3/02	20	Rita Saenz (?)	Sacramento Bee
11/7/02	11*	unknown	Sacramento Bee
1/29/03	20	Blanca Castro	Sacramento Bee
2/15/03	19	Blanca Castro	Sacramento Bee
6/19/03	26	“officials”	Pasadena Star-News
6/25/03	22	Blanca Castro	Contra Costa Times
7/9/03	28	Blanca Castro	Sacramento Bee
10/17/03	35	Andrew Roth	Stockton Record

*According to CDSS the decrease in number was made after CDSS learned that boarder baby numbers had been folded in with SSBA numbers. Boarder babies are defined as those infants born in hospitals who are left there by parents after the discharge date. They are mostly HIV infected, drug or alcohol addicted, or disabled—and they do not fall under SSBA definitions.

Contradictions in Live Discarded Baby Numbers

Date	#	Source	Reference
10/3/02	38	Rita Saenz (?)	Sacramento Bee
11/7/02	--	unknown	Sacramento Bee
1/29/03	21	Blanca Castro	Sacramento Bee
2/15/03	66	Blanca Castro	Sacramento Bee
6/19/03	68	“officials”	Pasadena Star-News
6/25/03	70	Blanca Castro	Contra Costa Times
7/9/03	“about 60”	Blanca Castro	Sacramento Bee
10/17/02	108	Andrew Roth	Stockton Record

Contradictions in Dead Discarded Newborn Numbers

Date	#	Source	Reference
10/3/002	17	Rita Saenz (?)	Sacramento Bee
11/7/02	--	unknown	Sacramento Bee
1/29/03	17	Blanca Castro	Sacramento Bee
2/15/03	20	Blanca Castro	Sacramento Bee
6/19/03	23	“officials”	Pasadena Star-News
6/25/03	23	Blanca Castro	Contra Costa Times
7/9/03	20	Blanca Castro	Sacramento Bee
10/17/03	23	Andrew Roth	Stockton Record

As if this confusion were not bad enough, more troubling misinformation appeared in Marjie Lundstrom’s January 1, 2004 column in the Bee “It’s a Year-End Wrap,” in which she cited figures given to her by CDSS claiming that the number of known neonaticides had plummeted from 11 each in 2001 and 2002 to 1 in 2003 proving that SSBA was working.

The writer of this testimony, who has been tracking newborn abandonment since 2001 through her independent publication Baby Dump News: A Weekly E-chronicle of Newborn Abandonment, Neonaticide, Safe Haven Legislation and Related Issues had in fact identified 8 neonaticides for the year, some of them highly publicized in the California press, but apparently gone unnoticed by whatever reporting method the state uses. She contacted Ms. Lundstrom

who not only followed-through with her own Dow-Jones Internet search and verified the initial 8 deaths, but found three others for a total of 11. The neonaticide rate, which is the standard by which SSBA should be judged, had not declined.

Lundstrom, an outspoken Safe Haven advocate, took the state to task for its inability to keep an accurate accounting of the law. “Statistically, California can count the number of megawatts consumed each day on its electrical grid,” she wrote. “We can count the number of housing foreclosures, divorces, gallons of gas sold, and licensed pheasant clubs. Surely we can count our dead babies.” (Sacramento Bee, January 17, 2004).

Currently it is impossible to have a full and accurate count of newborn abandonments, deaths and Safe Havens. According to the February 11, 2005 edition of OneBakersfield.com, CDSS claims 71 Safe Havens, 111 live discarded infants, and apparently forgetting the botched 2003 figures, 25 deaths. Without any known standards of or definitions for data gathering, no submitted documentation, and no written reports for the legislature and the public to study, it is difficult to accept these figures at face value. According to Baby Dump News, the number of documented neonaticides has remained steady since SSBA went into effect:

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>TOTAL</u>
Deaths	8	13	11	12	1	45

Baby Dump News also questions the number of live discarded infants that CDSS reports since the reporting mandate, such as it is, includes infants up to the age of 1 year—not the 72 hour timeframe of SSBA. Although we believe the number of live abandonments is probably is little higher, BDN has documented a total of 30 since 2001, noting that except for 2002, this rate has also remained steady.

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>TOTAL</u>
Live Abandonment	6	12	5	6	1	30

Safe Haven Abuse

Bastard Nation is particularly concerned about SSBA abuse in California. Though there are many potentials for fraud and misuse within the program we list two of them below:

- The SSBA states clearly that babies are to be handed over in-person to Safe Haven personnel. Yet, the Pomona Valley Hospital Medical Center has a baby “depository” on the premises, sponsored by Garden of Angels baby cemetery complete with the GOA logo, where parents can anonymously slip the baby into a shelf with no human interaction whatsoever, and “deposit” her like the night receipts from a bar. Called “The Door of Hope, the depository is clearly out of compliance with SSBA yet continues to operate. A baby was left in the depository in June 2003. (Riverside Press-Enterprise, March 5, 2002; Inland Daily Bulletin, June 25, 2003)
- Third-person abandonment, now legal in the state, presents potential for baby theft and black-marketing. Last year in Los Angeles a woman agreed to be a “designated dumper” in a third-party abandonment, and then decided to keep the baby for herself.

without telling the mother. She was caught only when friends called authorities when she showed up suddenly with a baby and they knew she had not been pregnant. (KNBC, September 16, 2004).

Who Uses Safe Havens?

Safe Havens are marketed as an easy solution for “desperate mothers” portrayed as so desperate and dangerous that unless they can anonymously and legally abandon their newborns, they would purposefully neglect or kill them. Yet, from what we know anecdotally of women who have utilized Save Havens or have been afforded Safe Haven “protection” in non-compliant cases (those in which state or local authorities stretch the law to fit their personal and subjective definition of “compliance” yet which are clearly outside of the law’s parameters), nothing could be farther from the truth. Safe Havens, in fact, are used throughout the country by women who appear to be no danger to their babies, and would with assistance keep their babies or seek out traditional adoption plans. Some, in fact, are actually in adoption plans. Unfortunately, Safe Haven users have been convinced by proponents, and self-proclaimed cottage industry “experts” with advertising budgets that women in multi-vectoried pregnancies have two options only: the Dumpster or the Safe Haven. With the enthusiastic mantra of “no blame, no shame, no name” Safe Haven promotion fails to mention normal alternatives such as counseling, public assistance, ethical child placement—or even family communication. As a consequence, girls and women, attracted by simplistic ad campagins, are tempted to act irresponsibility towards themselves and their babies.

The mothers who have ill advisedly used Safe Havens are neither abstract socially engineered profiles nor monster mothers conjured up by Safe Haven advocates. They are flesh and blood individuals like us all. Their babies have fathers, grandparents, and perhaps siblings who will never have the privilege of knowing them due to the Safe Haven final solution.

While CDSS has done a bad job of documenting SSBA use, The Inter-Agency Council on Child Abuse and Neglect (ICAN) published a full length report on its utilization in LA County: Safely Surrendered and Abandoned Infants in Los Angeles County—2002. The “desperate and dangerous” mothers who chose the Safe Haven over the Dumpster include:

- A mother who stated she couldn’t care for a 6th child (p13)
- A mother and father who indicated they were too overwhelmed caring for 4 other children, financially strapped and incapable of providing for another child. (p13)
- A father who reported that he and the mother had 3 other children, were homeless and could not provide for another one. (p 13)

Newspaper accounts of other cases include

- An “immaculate, well-cared baby” left at Kaiser Permanente South Sacramento Medical Center--came with stroller, stuffed animal and new baby blanket. (Sacramento Bee, February 15, 2003)

- Baby wrapped in Christmas stocking dropped off at Lakeside fire station on Christmas day; mother and grandmother later reclaimed him. (San Diego Union Tribune, March 22, 2003).
- Mother of “Baby Florence” completes medical information form; had good prenatal care. (Riverside Press-Enterprise, May 8, 2004).

What we see are not desperate dangerous women, but mothers (and sometimes fathers) who are disempowered, and disenfranchised-- ignorant of the real options afforded them to keep their babies through state or private assistance, temporary foster care, or relinquishment through ethical adoption. And they are kept ignorant through advertising campaigns that treat them as potential killers, fail to mention ethical alternatives, and then praise them for not killing their babies—something they would never have dreamed of doing anyway. These girls and women are isolated and confused, without networks of family support. They are often young and/or poor. In some cases, such as in Rockford, it appears that they aren't even anonymous. Drops for some women can be simply a matter of convenience to fast-track through a “non-bureaucratic placement”—unhindered by counseling, fathers rights, and paper signing.

No matter what their situation, these mothers have been convinced to make a permanent solution for a temporary problem. Outside of extraordinary circumstances, they will never see their children again.

Safe Haven Laws Can Kill.

By tempting women with the promise of Safe Haven anonymity with no consequences, the state tells them that a secret pregnancy and unattended birth in a bathtub or a motel or a bedroom or over a toilet—where they can bleed to death or a baby can die—is OK, since “nobody will ever have to know.”

- Babies born with no prenatal care are often premature, Due to prematurity and lack of prenatal care they can be subject to numerous health problems: cerebral palsy, mental retardation and delay, blindness, diabetes, and hyperlipidemia, They can have shorter life spans. Legally anonymously abandoned babies may never be able, if needed, to secure compatible organ or bone marrow donors.
- Women who forgo prenatal care and post-natal treatment can suffer from numerous, often life-threatening disabilities including infection, breech birth, placenta previa/acceta (which can require a C-section delivery), preelampsia, toxemia, pregnancy induced hypertension, hyperemesis. post-partum depression, and even psychosis.

Dead Babies

Women who use Safe Havens are overwhelming women who would otherwise keep their babies or relinquish them through traditional means if given the proper assistance. Conversely, women who would normally abandon or kill their newborns continue to do so despite the Safe Haven message simply because the vast majority of them refuse to

acknowledge their pregnancy or the birth of their child to start with; Some suffer from untreated mental illness. .

Work done by Dr. Margaret Spinelli at Columbia University (Infanticide: Psychosocial and Legal Perspectives in Mothers Who Kill, 2003); Professors Michelle Oberman at DePauw University and Cheryl Meyer at Wright State University, (Mothers Who Kill Their Children: Understanding the Acts of Moms from Susan Smith to the “Prom Mom,” 2001) Dr. Lynn Ponton at the University of California, and Debbe Magnusen, director of the baby-saving organization Project Cuddle, all indicate that unlike the women who utilize Safe Havens, women who dangerously discard or kill their newborns are often in deep denial of their pregnancy and the birth—which often happens prematurely and suddenly. Invariably these mothers report not knowing they were pregnant until labor began or until the baby was actually born, and in some cases continue to deny it even after the birth. Although on some level they may actually know they are pregnant, they are in such deep in denial that their bodies continue to work as usual, with no symptoms of pregnancy. Since they don’t “know” they are pregnant they have no need of pre-natal care, abortion services, or pre-meditated Safe Haven abandonment programs. The birth throws them into a dissociated state. . The baby, consequently, is regarded not as a baby or a human being but some strange “thing”—something to be gotten rid off. The neonaticide syndrome defense, while not recognized by PDA, has been used fairly successfully in two Ohio cases recently.

It is not unusual to find accounts of women in such a dissociated state or suffering from other forms of mental illness or substance abuse who give birth home alone, neglect or kill the infant, and an hour later go to work or school, read email, or go out drinking with friends. Sometimes, they just go to sleep.

- Saundra Hester, 39, Meadowview: refused treatment for bi-polar disorder as well as pre-natal care gave birth in her uncle’s bathroom; baby had cocaine in system and died shortly afterwards from lack of care when Hester failed to get out of bed. . (Sacramento Bee, December 29, 2001; February 26, 2002)
- Julie Ann Knight, 22 Palmdale: after secret pregnancy slits wrists during bathtub delivery; passed out, and hid baby when she came to. (Los Angeles Daily News, February 28, 2002)
- Meth addict Lori Hurd, 27, Glendora: daughter of community activist, gave birth to twin girls in bathroom and then stuffed babies into large detergent box. Convicted of 2 counts of 2nd degree murder and 5 other charges. Had several previous secret pregnancies and put at least one other child up for adoption.. (San Gabriel Tribune, November 4, 2002; April 8, 2003; April 9, 2003; April 14, 2003; April 18, 2003; May 22, 2004.
- Kimberly Gatson, 17, Moreno Valley: give secret birth at home and put baby on roof where it died. (Riverside Press-Enterprise, April 4, 2003)

- Kristin Machado, 35, Modesto: charged with killing newborn. Had 3 other children, 2 of which had been adopted. Machado denied request by one set of adoptive parent to adopt baby she allegedly killed. Trial pending. (Modesto Bee, January 25, 2003; February 1, 2003; August 3, 2003).

Special Concern: Undocumented Workers

Of special concern in California are undocumented and migrant workers isolated without social, language or financial resources. Often sexually exploited, and afraid of the INS, they cannot or will not seek assistance. Some of the most heart-breaking cases of child abandonment have occurred with them.

- Anna Maria Aguilar, 28, Seaside: left 3 children in Oaxaca to work in the fields after her husband in the US stopped sending money home. She became pregnant after having sex for money with a field hand. After she gave birth in the hospital she walked around town bleeding and carrying the baby in a car seat looking for her cousin's home. Exhausted, she left the baby on the steps of a house where she heard Spanish spoken. (Monterey County Herald, May 31, 2002; July 6, 2004).
- 17-year old unnamed farm worker, Soledad: Mixtec from Oaxaca came to the US in March and began picking lettuce in April. Family had no idea she was pregnant or who the father was; received no prenatal care. Went into premature labor and delivered in portable toilet where she left the baby who suffered serious brain damage as the result of exposure to chemicals. Mother eventually ruled incompetent to stand trial and may be deported to Mexico. The baby's aunt, also, also undocumented, wants to adopt baby but due to immigration status probably will not be allowed to. The baby is currently in foster care. (Salinas Californian, June 18, 2004; June 19, 2004; June 22, 2004; December 17, 2004)

Conclusion

Safe Havens dehumanize and socially obliterate the very children they purport to help, making the abandoned infant little more than an ahistorical commodity to be chopped up into indiscernible parts and repacked like a can of Spam. Mothers, children, and the consequences of simple-minded bad social policy cloaked in consumer language are swept under the rug--the detritus of social experimentation affording no solution other than state-sanctioned anonymous child abandonment that encourages family crisis and dysfunction and creates undocumented babies.

.Relinquishment and adoption are life-changing and life-long events for both parent and child and should be done with the utmost care and concern, not at the prompting of a Safe Haven poster in a high school bathroom or a commercial on the radio. The babies and the future people they will grow into as well as their parents deserve better. They deserve the same right to identity, care, protection, and family as the rest of us. Legislators should ask themselves if they would want their daughters, granddaughters, wives or friends to use it?

Don't we owe our children more than Safe Havens? Isn't there a better way?

About Bastard Nation

Bastard Nation is the largest adoptee civil rights organization in North America. Our membership includes adopted adults, birth parents, and adoptive parents. Bastard Nation is dedicated to the recognition of the full human and civil rights of adult adoptees. We advocate the opening to adopted persons, upon request at age of majority, those government documents which pertain to the adoptee's historical, genetic, and legal identity, including the unaltered original birth certificate and adoption decree. We believe that it is the right of people everywhere to have their official original birth records unaltered and free from falsification and that the adoptive status of any person should not prohibit her or him from choosing to exercise that right. In 1998, Bastard Nation was behind Ballot Measure 58 in Oregon, which restored the right of record access to adults adopted in that state and in 1999 legislation in Alabama, which likewise restored that right. In 2004 we were instrumental in the restoration to the right of records and identity in New Hampshire, and we continue to work in other states to restore equality to all adopted persons. The national media including the three major networks, CNN, MSNBC, Fox News, Self, Time, Newsweek, and Rolling Stone has covered our work. Adoption Politics: Bastard Nation & Ballot Initiative 58 by historian E. Wayne Carp, published by the University Press of Kansas details our work in Oregon.