

Since its establishment in 1996, the Evan B. Donaldson Adoption Institute has been a pre-eminent, independent voice for improving adoption for everyone it touches – particularly children – through innovative programs, educational initiatives, research and analysis, and advocacy for better practices, policies and laws.

Unintended Consequences:





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New Study Raises Serious Concerns about Legalized Infant Abandonment

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tive policies to address the problem, they have not adequately considered what causes women to desert their children.

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the group it's targeted at,"

while noting the laws have “a lot of pitfalls” and do not “even try to address the root causes of the problem.”³³

- The National Conference of State Legislatures questions “whether the mother would have tried to go through an adoption agency to legally relinquish the baby, or if this is a person who would have left the baby by the road side.”³⁴
- Howard Davidson, Director of the American Bar Association Center on Children and the Law, advises that “If we’re to effectively face the newborn abandonment problem, rushing to pass ‘Baby Moses’ laws, or creating new ‘baskets for babies’ drop-off locations, do not provide the answer.”³⁵
- The Child Welfare League of America also has reservations about whether the at-risk population uses safe havens or whether they are utilized, instead, by expectant mothers who may have made an adoption plan or raised their children themselves.³⁶
- The Family Research Council states that safe haven laws’ “chances for efficacy are doubtful.”³⁷
- Neonaticide experts say that because women who kill their infants are typically confused and panicked, “it seems somewhat unlikely” that safe havens “will be a viable alternative for many young women.”

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Some states do not designate places that are acceptable “safe havens” but permit people to abandon infants with any “responsible adult,” “an appropriate person or in a suitable location,” or “any adult” without further definition.⁴³ All of the states limit the age of babies who can be legally abandoned, generally from 3 to 30 days old, though South Dakota and Texas allow the abandonment of infants up to two months old, New Mexico up to three months old, and North Dakota up to

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a year old.

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law; they took the child to a hospital that happened to be a designated site.⁵⁸

- Since the California law went into effect in January 2001, estimates of legally abandoned babies range from 19 to 20; of illegally abandoned babies, 38 to 86; and of babies found dead, 17 to 20.⁵⁹
- New York State, which does not systematically track abandonments, reported 10 illegal ones in New York City in the 18 months after its law was enacted. The city's first reported "safe haven baby" in 2001 (one of two) was born in a hospital.⁶⁰
- Since the law's enactment in Florida in 2001, an estimated 11 babies have been legally abandoned and 14 babies have been illegally abandoned, 5 of whom were found dead.⁶¹

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allows newborns to be placed with biological relatives or adoptive parents after birth, infants abandoned at safe havens typ-

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Safe haven laws represent a relatively easy and quick, but superficial, answer to the questions surrounding unintended, concealed pregnancies and the welfare of the resulting newborns. Not only is it unclear that these policies work, but they also address the problem at the last possible opportunity, after birth. Public policy should prevent unintended pregnancies, protect infants at risk of abandonment, and assist mothers in making informed decisions that serve both their children's interests and their own. In order for that to happen, new and existing resources must be directed toward the target population: women who deny and conceal their pregnancies.

Other time-tested interventions developed to address similar problems have proved successful. The objective of the federal Abandoned Infants Assistance Act, created in response to the growing number of children abandoned in hospitals by drug-addicted and HIV-infected mothers, is "to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment."⁷⁹ The program, pregnancy promotes informed decision-making for mothers before they give birth alone and unattended in a non-clinical setting. Activities enabling mothers to parent their children, provide stable and secure environments for infants from birth, thereby preventing abandonments, safe or unsafe. Indeed, child welfare intervention after legal abandonment resulted in the mother deciding to parent her child in the case of Texas' first "safe haven" baby (in Austin), and the father assuming custody in the case of Houston's first "safe haven" infant.

⁸³ Safe haven laws' anonymity provisions undermine the possibilities for biological mothers to change their minds about parenting or making an adoption plan, for family members to care for the children, or for birth fathers to assert custody. Permanency planning, on the other hand, allows for these options.

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served for their children; maintain the potential for future contact, and explore the possibility of other biological relatives parenting their newborns.

Experts conclude that “[a] strong sense of connection with others, in addition to the belief that one can make life-impacting decisions appropriately, are factors [that] could help alter national rates of neonaticide,”⁹⁰ decision (so ite cllowscan ma alneclnewbwalte52 -139.477 T ex(as,Utah, W)37.1(ashington, W)18.1(est V)18.1(irginia, and

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⁹ Mary Overpeck, Epidemiology of Infanticide 23, in *Infanticide: Psychosocial and Legal Perspectives on Mothers Who Kill*, ed. Margaret Spinelli, American Psychiatric Publishing, Inc. (2003)

¹⁰ Mary Overpeck, et al., Risk Factors for Infant Homicide in the United States, *The New England Journal of Medicine*, Vol. 339:1211-1216, Oct. 22, 1998. The authors acknowledge the number may be higher since some births may have been hidden.

¹¹ These hospital abandonments are of infants under 12 months who remain in the hospital beyond medical discharge or have not been medically discharged but are unlikely to leave the hospital in the custody of their parents.

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²⁵ Wendy Grossman, *Rock-A-Baby Bye-Bye*, Houston Press, Apr. 25, 2002.

²⁶ Spinelli at 107-111.

²⁷ Oberman at 53.

²⁸ Oberman at 71-73.

²⁹ Oberman at 73.

³⁰ Tanya Amber Gee, *South Carolina's Safe Haven for Abandoned Infants Act: A "Band-Aid" Remedy for the Baby-Dumping "Epidemic,"* 53 S.C. L. Rev. 151, 160 (Fall, 2001).

³¹ Candice Critchfield, *Adoption Law Encourages Abandonment*, *Orlando Sentinel*, September 20, 2002.

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⁴⁹ Delaware, Florida, Illinois, Iowa, Missouri, Montana, Nevada, South Carolina, Tennessee, and Utah provide for some type of search and/or notice.

⁵⁰ Alabama, Arizona, Arkansas, Colorado, Georgia, Indiana, Kansas, Maine, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Texas, and Washington do not.

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Oregon, Rhode Island, South Carolina, Tennessee, and Washington require some kind of public education about safe havens. Kentucky provides that outreach is subject to available funding.

⁶³Children & Youth Funding Report, at 10 (July 3, 2002).

⁶⁴ Nearly all of the calls were from people inquiring about adopting abandoned infants. Wendy Grossman, *Rock-A-Baby Bye-Bye*, Houston Press, Apr. 25, 2002.

⁶⁵ Michelle Rester, *Safe Hquire for TJ4h*

