



ELLEN SCHUTT

STATE REPRESENTATIVE • 31ST ASSEMBLY DISTRICT

November 1, 2023

Testimony on Assembly Bill 369

Thank you Chairman Snyder and committee members for hearing Assembly Bill 369. This bill would allow municipalities to install a newborn infant safety device, also known as a baby box, at a hospital, fire station, or law enforcement agency building that is staffed 24/7.

Under the current safe haven law, a parent may anonymously relinquish a newborn infant believed to be under 72 hours old to a designated law enforcement officer, emergency medical services practitioner, or hospital staff member. However, the law does not explicitly address or permit the use of "newborn infant safety devices," limiting relinquishment to in-person exchanges only.

There is a stigma associated with the current safe haven law, and we know that some parents are not utilizing the safe haven law because they are afraid that other people will find out that they are giving up their child, especially in small tight-knit communities.

This issue hits close to home for me. In March of 2023, a newborn baby was left to die in a farm field in Whitewater.

According to the criminal complaint, the mother admitted to leaving the baby because of fear of losing her other children due to the nature of her pregnancy. The heart-wrenching story driven by fear and desperation highlights the urgent need for solutions that can prevent such heartbreaking outcomes. After tragic events like this, some municipalities and citizens have expressed a desire to install baby boxes in their own communities.

This bill authorizes the installation of newborn infant safety devices in hospitals, fire stations, and law enforcement agency buildings and allows a parent to relinquish a child under the age of 72 hours in such a device under the safe haven law.

Safe haven baby boxes, with their potential to provide a safe and anonymous option for parents in distress, will save lives.

This senate companion bill has been passed unanimously on the floor of the State Senate. Thank you for your consideration of Assembly Bill 369 and I am happy to answer any questions you may have.



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Testimony for the Assembly Committee on Children and Families
300 NE
Assembly Bill 369
November 1, 2023

Thank you, Chairman Snyder and Committee Members.

Being a parent in ideal circumstances is tough. For some in rough situations, it can feel impossible. If a parent finds themselves in a hopeless situation with nowhere to turn, the child could be in danger.

After a baby was left in a field in Whitewater, I was approached by doctors from Door County Medical Center, where I serve on the board. They asked me to support a bill that will hopefully prevent the death of another unwanted child.

I was glad to coauthor Assembly Bill 369 and Senate Bill 369 with Representative Ellen Schutt. Our bills will allow Wisconsin to join 14 other states and have an anonymous 24-hour, 7-day-a-week drop-off site for newborns.

Under Wisconsin's "safe haven" law, a parent may drop off a newborn to a law enforcement officer, EMT, or hospital staff member anonymously, with no questions asked. However, having to do this in person may discourage someone from using this option. In small towns, there can be a fear that someone will find out.

Fourteen states, including Iowa and Indiana, allow what is essentially a drop box for newborns. The baby boxes are attached to a hospital or fire department and have a silent alarm to alert medical professionals when a child is placed inside. The box is temperature-controlled and provides a 24-7 safe place for the child until help arrives.

If a baby box saves one child, it's worth the investment. The Senate already passed the bill with unanimous support. It's my hope that we can put this bipartisan bill on the governor's desk as soon as possible.

Thank you for your time and I hope you consider supporting Assembly Bill 369. I am happy to answer any questions you might have.



JOAN BALLWEG

STATE SENATOR · 14TH SENATE DISTRICT

**Assembly Bill 369: Newborn Infant Safety Devices Under the
Safe Haven Law
Assembly Committee on Children and Families
Testimony of Senator Joan Ballweg
November 1, 2023**

Good afternoon, Chair Snyder and members of the committee. Thank you for hearing this important legislation to provide another lifesaving option under the state's safe haven law.

Under Wisconsin's current safe haven law, which was originally established in 2001, a parent may anonymously relinquish a newborn infant believed to be under 72 hours old to a designated law enforcement officer, emergency medical services practitioner, or hospital staff member. According to the National Safe Haven Alliance, 4,425 babies have been successfully surrendered and given a new chance at life since the first safe haven law in the country was passed in 1999. Over the years, Wisconsin has continuously improved the law, and we have another opportunity to do that through AB 369.

Wisconsin's current safe haven law neither expressly allows nor contemplates use of a "newborn safety device" also known as a "Baby Box". Therefore, an in-person exchange is the only method of relinquishment that is allowed. AB 369 provides municipalities with the option to install a Baby Box at a hospital, fire station, or law enforcement agency building so someone can utilize the safe haven law with complete anonymity.

To ensure the safety of the infant, there is criteria that must be met to install a Baby Box. This includes that the device is temperature controlled and ventilated, equipped with a dual alarm system that automatically triggers when an infant is placed in the device, a surveillance system that allows the inside of the device to be monitored 24 hours per day and that the facility is staffed 24 hours per day.

Since 2016, 13 states have adopted policies to allow for the use of Baby Boxes. The organization, Safe Haven Baby Boxes, that advocates for this option reports that they have seen 35 babies surrendered in Baby Boxes. Unfortunately, we have all heard of terrible examples of individuals abandoning newborn babies, ultimately leaving them to die. I believe that we should provide every option possible to encourage someone to make the right decision to preserve life.

The Senate companion, SB 369, passed the full senate on a voice vote in October. This bill is supported by Pro-Life Wisconsin, Wisconsin Catholic Conference, Wisconsin Family Action, Wisconsin Nurses Association, and Wisconsin Right to Life. Thank you for your consideration.

November 1, 2023

Honorable Members of the Committee on Mental Health, Substance Abuse Prevention, and Children and Families

RE: Senate Bill 369 relating to newborn infant safety devices under the safe haven law

Thank you for the opportunity to submit this letter of support in favor of Senate Bill 369 relating to newborn infant safety devices under the safe haven law. This topic is one of particular interest to me, both personally and professionally.

I am the Division Chief of EMS for Edgerton Fire Protection District. We serve 11 municipalities in three counties in south central Wisconsin, Dane, Jefferson, and Rock. We serve a resident population of 25,000+, and a tourist population that surges to over 15,000 during the year.

Being in this line of work you see the entire spectrum of people's lives. The good, the bad, the ugly, and everything in between. We are called to serve our communities day and night, Holidays, weekends, and all other types of days 24/7.

I have been in EMS since 2010, although I consider myself as "early on" in my career. I have been able to experience quite a bit...

I have cared for the oldest patients in my career, some that are 100 years old and the youngest and tiniest of patients - including assisting childbirths in the field.

To be honest, being present for someone's first moments is truly a blessing. Holding a tiny baby in their first few minutes of life I consider a career achievement. It is something that we don't come across every day.

We have seen over the last few years the horrific consequences that have resulted in baby abandonment; and tragically one of our municipalities has been the location of a child abandonment earlier this year where the infant did not survive.

Safe Haven baby boxes are a way to help a parent who may be in a crisis with an opportunity to safely surrender the child. There could be so many reasons for their crisis. We are a state that currently has adopted Save Haven Laws. And there are still newborn deaths.

Our department has the support of our eleven municipalities to install Safe Haven baby boxes if Senate Bill 369 passes; and further, we have community support to help fund placing these boxes at our fire stations. The want and need is in the communities but the laws need updating to allow for a baby box device to be installed and made available as a safe place to surrender a newborn.

Once the decision has been made to surrender a baby two things matter:

The parent or parents can be gently guided to a resource and place that can assist them if in crisis and secondly, that the baby is safe and that care is provided for them.

Understanding the tragic consequences of not offering a way for a parent to surrender a newborn, I encourage the Committee to support the use of a Safe Haven baby box. This allows for that surrender to be anonymous, and private. It doesn't require a face-to-face interaction- but the systems are in place to help make the surrender easier and still offer resources to assist the parent/s.

I am not only a paramedic, but I am also a mother of two beautiful girls. I know that as a parent, my husband and I do everything possible to give them every opportunity in this world and to try and provide for them. I would give them the moon and the stars if I could.

Every baby deserves the opportunity and the chance. Sometimes a baby's start at life may not be this way. The decision to surrender cannot be easy - I respect anyone that has had to make that decision. as I believe it must be one of the hardest decisions that one can make.

I was given that chance. I wasn't alone - I also have a twin brother. Immediately after our birth, for whatever the reasons may be - we were given a chance and we were immediately put up for adoption. I am forever and will always be grateful for this.

Today I am here as a 1st responder, a mother, and as an adopted individual. I am here to say that the decision to surrender a newborn baby cannot be an easy one. AND IF there is anything that could help make the process of doing so easier- then we should take the steps to do so. By allowing a baby box device to be a safe place to surrender a baby, this tool can help save the lives of both a parent in crisis and their newborn child. Thank you for your time.

Respectfully,

Juliana Linssen – Division Chief of EMS
Lakeside Fire & Rescue
An Entity of the Edgerton Fire Protection District

Michelle Shilts

W4809 Overlook Dr.

Elkhorn, WI 53121

262-725-0244 shiltsfamily@gmail.com

Good afternoon, Chairman Snyder, and Members of the Committee

My name is Michelle Shilts. I am a lifelong Wisconsin resident, currently residing in Elkhorn. I am writing to ask for your support of AB369, a bill intended to amend Wisconsin's Safe Haven statute 48.195 to allow for "baby boxes" in addition to face-to-face relinquishment of infants. Several things motivated me to come before you: my faith and commitment to making this world an incrementally better place, the Dobbs decision, and the death earlier this year of a baby boy a mere few miles from my home in nearby Whitewater.

I am working with a group of concerned citizens and within my Church, our goal is to eliminate infant fatalities due to abandonment in Wisconsin. We have groups eager to fund this project; my church is ready and willing to pay all ongoing costs required. We have lined up a mason (admittedly, my husband) and an electrical contractor committed to installation. We have begun brainstorming and building a community education network with local schools and businesses. We aim to get information about Safe Haven alternatives to those needing it at work, school, and within the community. The next piece is you, our legislature; we need these boxes to be legal before any suitable location - a fire station, police station, or a hospital in Walworth County will commit to hosting the device, and before any funds can be requested.

I am fully aware that baby boxes are not a perfect solution. In an ideal world, every expectant parent would have the will, the means, and the ongoing support they need for every baby to be safe, loved, and raised by their birth family. In a perfect world, adoptees would have access to all the information about their birth family's medical history and an avenue to find peace in their birth parents' choices, and no one would feel the pain of abandonment. Baby boxes do not pretend to solve any of those problems. Baby boxes DO provide a hotline for parents considering using this alternative and route them to traditional adoption whenever possible. Baby boxes provide printed materials about postpartum care, and the Safe Haven Law. After relinquishment, that hotline still picks up the phone to discuss and educate about all these things and to help keep the parents safe.

Safe Haven baby boxes remove a significant hurdle from infant relinquishment. A person hiding a pregnancy has lived in the shadows for nine months out of fear or shame; a baby box allows them to remain in the shadows and not have that face-to-face contact that they have feared. A Safe Haven baby box might have saved the baby boy in Whitewater from dying in a garbage bag, shoved under the sink, dumped in a cardboard box, and discarded in a field in our cold Wisconsin winter.

Our current law is a lifeline for these infants, but you can give folks in crisis who choose to give birth one last resort option to do the right thing and get that baby into the arms of someone ready and capable of caring for that child. Wisconsin can follow Indiana's lead, a state where baby boxes have saved dozens of babies and where there has not been a single infant death by abandonment since baby boxes were legalized and installed in 2016.

Please support AB369, move this out of committee, and encourage your colleagues to vote to enact this bill as soon as possible. Thank you for your time. Mconnor.hartje@legis.wi.gov Michelle Shilts



WISCONSIN CATHOLIC CONFERENCE

TO: Representative Patrick Snyder, Chair
Members, Assembly Committee on Children & Families

FROM: Tia Izzia, Associate Director for Human Life & Social Concerns

DATE: November 1, 2023

RE: Support for AB-336 Adoption Grants and AB-369 Newborn Infant Safety Devices

The Wisconsin Catholic Conference (WCC), the public policy voice of the Catholic bishops of Wisconsin, urges you to support Assembly Bill 336, creating a grant program for financial assistance for adoption, and Assembly Bill 369, authorizing newborn infant safety devices under the safe haven law.

AB-336 Adoption Grants

As a society, every effort should be made to keep families united and to offer parents the resources needed to support their children. However, when extraordinary needs or circumstances persist, adoption can provide a needed avenue for parents to place their children in a stable and loving home. If a woman chooses to place her child for adoption, there should be no doubt in her mind that there is a family that can welcome and raise her child.

However, for the many families willing and eager to adopt, the cost of adoption is often a steep barrier. For this reason, SB-346 creates an Adoption Financial Assistance Grant Program to make adoption a more affordable option for all Wisconsin families. Awards are limited to \$10,000 per family and may only be awarded to or on behalf of families in this state who are adopting children in this state. One does not have to be affluent to be a good parent. Grants such as these can make the process far more affordable and humane. In the words of Pope Francis, “How many children in the world are waiting for someone to take care of them! And how many married couples want to be fathers and mothers but are unable to do so for biological reasons; or, although they already have children, they want to share their family’s affection with those who do not have it. We should not be afraid to choose the path of adoption, to take the ‘risk’ of welcoming children.”

AB-369 Newborn Infant Safety Devices

While as a society, we must always work to ensure that women and their children can remain united and receive the help they need to flourish, we know that there are women in complex circumstances who will decide to relinquish their child after giving birth. This has always been the case throughout history. Today, these circumstances might include an unsafe home environment, drug use, domestic abuse, fear of entanglement with law enforcement, and other difficult situations. SB-369 provides women with a last resort and anonymous option to ensure their own safety and that of their child. Additionally, newborn infant safety devices keep vulnerable infants safe because they are cared for immediately by trained professionals. This bill is in keeping with the bipartisan 2001 safe haven law, which came out of

the Speaker's Task Force on Abandoned Babies. The Wisconsin Catholic Conference, along with Planned Parenthood, and many others supported this much-needed service.

These two bills are part and parcel of embracing both mother and child. They save the lives of children and give them a chance to flourish. They give birth mothers the security of knowing that their children will find love and stability.

Even as we strongly support these bills, the WCC will continue to push for proposals that ensure that mothers can remain united with their children and that both can thrive. There are many more proposals that get us closer to this goal: expanding postpartum care, reducing costs for birth, eliminating racial disparities in maternal and infant mortality, supporting birth mothers after adoption, removing sales tax on feminine hygiene products and baby supplies, increasing the tax exemption for dependents, funding for pregnancy resource centers, and more.

Together, we can and must build an economy and society in Wisconsin where women and children can flourish. For all these reasons, we urge you to pass Assembly Bills 336 and 369.



TO: Members, Assembly Committee on Children and Families

FROM: Gracie Skogman, Legislative Director, Wisconsin Right to Life

DATE: Wednesday, November 1st, 2023

RE: AB369, Re: newborn infant safety devices under the safe haven law.

Thank you, Chairman Snyder and members of the committee, for your time today. My name is Gracie Skogman, and I am the Legislative Director of Wisconsin Right to Life, testifying in favor of AB 369.

Safe haven laws have saved over 4,000 lives nationwide, by ensuring that safe and secure relinquishment of an infant is possible. This legislation further assists in this goal, by allowing for anonymous relinquishment, and removing concerns over the stigma from the decision to relinquish an infant. This year, a Florida firefighter and his wife adopted a baby who was placed in the states safe haven baby box during his shift.

Similar legislation has been passed in 13 states and has been lifesaving! Thirty-Five babies have been surrendered in safe haven baby boxes, including three babies that were surrendered directly to firefighters at Safe Haven Baby Box locations. Every life is worthy of protection, and expectant mothers in Wisconsin must know that they have options and support when facing a challenging or unexpected pregnancy.

Wisconsin Right to Life urges support of this legislation, to further create a culture of life and support for both preborn children and mothers in our state.

Thank you very much for your time,
Gracie Skogman

October 30, 2023

Dear Chairman Snyder and Members of the Assembly Committee on Children and Families:

Thank you for this Committee Hearing on Assembly Bill 369 regarding the newborn infant safety devices. I am a resident of Clinton, Wisconsin, and very concerned about the rights and the lives of all children.

In October of 2022, I attended a conference on the Sanctity of Human Life and learned about "Safe Haven Baby Boxes". I learned that in some states, they have been used by parents who found themselves in desperate circumstances. These parents sought anonymity because of those circumstances and did not want to be exposed publicly. The boxes are designed to protect the health and life of these babies.

At the time, I thought, What a good service that could be for our own state of Wisconsin, but I did nothing with the information. And then came the tragic event, just a couple of months later, in the nearby Whitewater community – the body of an abandoned baby was found in a field. News reports followed with details of a mother with many difficulties and emotional needs, which resulted in her trying to get rid of the baby and be anonymous at the same time. Perhaps, I thought with great sadness, such a Baby Box may have saved that child's life.

Then followed several random news reports, most notably out of Indiana, of babies that were safely deposited in a "Safe Haven Baby Box".

All of this prompted me to do what I should have done sooner, contact my Assembly representative, Ellen Schutt. I encouraged her to work on legislation that would allow communities to establish such a service, and I am thankful to her and also for colleagues that worked with her to propose this legislation.

We should all be supportive of children and parents in our own neighborhoods. We also should support services broadly throughout our state and communities that provide for the safety and health and well-being of children whose parents are in need, so that the parents do not succumb to hopelessness. However, because there are children who are unknown to us, whose parent(s) are in dire circumstances, and there have been children who have died because there appeared to be no other hope or option for the parents at a critical time except abandonment, and because devices such as "Safe Haven Baby Boxes" have been known to protect the lives of these children, it is good and right to permit communities to establish them.

I thereby urge you to support newborn infant safety devices under the safe haven law and move the bill forward for passage.

Sincerely,

Elaine C. Uffenbeck
709 High St.
Clinton, WI 53525



ProLife
LOVE. FOR LIFE. WI.

Testimony in Support of Assembly Bill 369: newborn infant safety devices under the safe haven law

Assembly Committee on Children and Families

By Matt Sande, Director of Legislation, Pro-Life Wisconsin

November 1, 2023

Good afternoon, Chairman Snyder and Committee members. My name is Matt Sande and I serve as director of legislation for Pro-Life Wisconsin. Thank you for this opportunity to express our strong support for Assembly Bill (AB) 369, legislation permitting the installation of newborn infant safety devices under Wisconsin's safe haven law.

Pro-Life Wisconsin supports efforts to prevent the illegal abandonment of newborn infants, often resulting in their tragic demise, by offering ways to hand over newborns lawfully and safely to proper authorities. Enacted in 2001, Wisconsin's current safe haven law, s.48.195, allows in-person, anonymous relinquishment of newborn infants 72 hours old or younger to law enforcement officers, emergency medical services practitioners, or hospital staff members.

Assembly Bill 369 would enhance Wisconsin's safe haven law by increasing the anonymity of the parent relinquishing his or child. It would do so by authorizing the installation of newborn infant safety devices, also known as "safe haven baby boxes," in hospitals, fire stations, and law enforcement agency buildings and allowing a parent to relinquish a child under 72 hours of age in such a device. This option avoids the visible, face-to-face contact that might dissuade an otherwise willing parent from safely relinquishing his or her newborn child. The bill's safety criteria governing the baby box itself, where it is installed, and under what conditions is extensive.

Fourteen states allow both face-to-face and baby box relinquishment: Arizona, New Mexico, Oklahoma, Arkansas, Mississippi, Florida, North Carolina, Tennessee, Kentucky, Pennsylvania, Ohio, Indiana, Missouri, and Iowa. Safe Haven Baby Boxes of Woodburn, IN has had over 140 legal safe haven surrenders, with thirty-six babies having been surrendered in their baby boxes. Let's give Wisconsin localities and new parents in crisis the option of safe haven baby boxes. We know they will save lives.

In my home county of Jefferson, WI, a newborn infant was left for dead last March in a field near a Whitewater trailer park. Perhaps if the mother had known of a baby box nearby in which to place her baby boy silently and anonymously, he would be alive today and she would not be facing charges in Jefferson County Circuit Court. We must do all we can to avoid such preventable tragedies.

Pro-Life Wisconsin urges Committee members to recommend AB 369 for passage in the full Assembly. Thank you for your consideration, and I am happy to answer any questions committee members may have for me.



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**TESTIMONY IN SUPPORT OF ASSEMBLY BILL 369
ASSEMBLY COMMITTEE ON CHILDREN AND FAMILIES
WEDNESDAY, NOVEMBER 1, 2023
JULAINE K. APPLING, PRESIDENT**

Thank you, Chairman Snyder and committee members, for the opportunity to testify on Assembly Bill 369. I am Julaine Appling, president of Wisconsin Family Action. Wisconsin Family Action supports Assembly Bill 369.

Organizationally, we are well acquainted with “crisis pregnancies” because of our support of and involvement with Wisconsin’s incredible pregnancy care centers. We know these are situations where women who are facing an unplanned or unwanted pregnancy feel they have no means of support to carry their child to term and parent that child.

Pregnancy care centers provide an invaluable service to these women who, while expecting a child, are torn over what to do about their pregnancy. Many of these women do not want to abort their child but feel tremendous pressure from family, or from their economic situation. They see no way out. The pregnancy care centers come alongside these women and provide them the resources to become a successful parent or to help them choose adoption for their child. However, too many women are unaware of these centers and the help and hope they offer. Sadly, data show that many young pregnant women get to full term and the delivery of their child still not knowing what to do. As a result, some of these newborn children, tragically end up in dumpsters or public toilets.

Nearly 25 years ago, police medic Tim Jaccard was outside a New York courthouse when he received a call for an emergency inside the building. “Baby not breathing,” the call said. Jaccard bolted inside, but it was too late: The baby girl, her placenta still attached, had been drowned in a toilet bowl in a bathroom.

It wasn't long afterward that Jaccard found a baby girl who had been suffocated and stashed in a plastic bag near an office building. Within the next five weeks, he came across two deceased baby boys, one discarded in a recycling bin and the other buried in a backyard and unearthed by a dog.

That's when Officer Jaccard wrote the Abandoned Infant Protection Act, and by 2008, all 50 states, including Wisconsin, as well as the District of Columbia, passed similar laws. Wisconsin enacted its “safe haven” law in 2001 (Ch. 48.195). Our law allows an infant who is no more than 72-hours old to be “relinquished” to a law enforcement officer, emergency medical technician, or hospital staff member. Over the past 21 years we have had this “safe haven” law, as many as 20 infants have been “relinquished,” many of whom would have likely been aborted.

Our “safe haven” law has helped greatly in providing a way for new mothers who felt they could not care for their newborn infants to anonymously relinquish their child at a local police or fire station. However, our current law does require in-person interaction as a part of relinquishing an infant. That is a deterrent for some parents who want complete anonymity.

In 2016, in Indiana, Monica Kelsey, a retired firefighter and medic, became a champion of the safe haven movement after learning at age 37 that she was abandoned two hours after her birth. She began to install “Safe Haven Baby Boxes” outside hospitals, police stations and fire departments. Since that time, 14 states have passed legislation that provides for safe haven baby boxes. At least 130 newborns have been saved because of the Safe Haven baby boxes, and the number is growing as more locations are installing these boxes.

We believe Wisconsin should do everything we can to save newborn babies from the tragedy of abandonment that typically results in death because their mothers were desperate. This legislation will improve our current “safe haven” law by allowing baby boxes to be installed at hospitals, fire stations, and law enforcement agency buildings. Women who have given birth and who feel they cannot care for the child will have a safe place where they can leave their child anonymously and without having to interact in-person with someone. The bill stipulates regarding placement, security, ventilation, notification system, and frequency of checking in order to ensure an infant is secure when placed in a safe haven box and will be rescued in a timely way.

Adding safe haven baby boxes is another way the state of Wisconsin can save precious newborns. We support Assembly Bill 369 and urge its passage.



**Ho-Chunk Nation Comments
Information Only**

**Committee on Children and Families
November 1, 2023
AB 369**

Pertaining to AB 369, the Hoocak (Ho-Chunk) Nation prefaces its informational only comments today with the fact that the Nation takes the safety of children extremely seriously. The Nation is deeply committed to our children and our families. A commitment that should be universal. Our commitment is to care for and love all of our relatives. While it can be extremely difficult to balance our priorities with the amount of economic resources we have—we will always hold ourselves to the responsibility of caring for our people.

Congress itself found that “there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children.”¹ As such, we recognize the thoughtfulness that went into the creation of the newborn infant safety devices, and the desire to initiate their usage in the state. We value ingenuity when it comes to protecting children, but we also must request that the State Legislature remain cognizant of Wisconsin’s Safe Haven Law as a whole being in direct conflict with federal law.

One of the paramount purposes of the Indian Child Welfare Act (hereinafter ICWA) is to ensure “the placement of [] children in foster or adoptive homes or institutions which will reflect the unique values of the Indian culture.”² The ICWA’s mandate that an adoptive placement is preferred to be with members of the child’s extended family, other members of the same tribe, or other Indian families is “[t]he most important substantive requirement imposed on the state.”³ Further, the ICWA permits Tribes that desire to have a different, more culturally appropriate order of preferences to adopt such preferences to take the place of the standard placement scheme found in the ICWA.⁴

Some might question, why would this still be important of a newborn child that would not “know” they are even Indian? It is very important. Not only to the Tribes fighting to maintain existence in the 21st Century and beyond, but to the children affected by removal from their communities. In fact, children adopted out of their tribal communities are highly affected by this removal- invoking trauma long after the adoption is finalized.

In a study of Indian adoptees, startling information was discovered. Information that shows just how deep the trauma can be for these children as they reach adolescence and adulthood. Dr. Carol Locust, of the Native American Research and Training Center at the University of Arizona

¹ 25 U.S.C. § 1901(3).

² H.R. Rep. No. 95-608, 95th Cong. 2nd Sess. 8 (1978); *see also* 25 U.S.C. § 1902.

³ *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 36 (1989).

⁴ 25 U.S.C. § 1915(c).

College of Medicine, performed in-depth research on the disorder known as “Split Feather Syndrome.” What is that exactly?

[Dr. Locust] identified unique factors of Indian children placed in non-Indian homes that created damaging effects in these children’s lives. Locust found that: Native children placed in non-Native homes were at great risk for experiencing psychological trauma leading to long-term emotional and psychological problems as adults; that the same clusters of long-term psychological problems experienced by naive adult adoptees were recognizable as a syndrome; and ‘split feather’ syndrome appears to be related to a reciprocal-possessive form of belongingness unique to survivors of cultures subjected to annihilation.⁵

These children grow up, looking in the mirror, knowing that there is something “different” about them- something special. However, without their tribal community there to support them as they go through life, they are simply going through the motions. They lack the tribal connection and cultural leaders to guide them as they transition through these formative years. They lack the guidance as to how they are supposed to act as a male or female of their particular tribe. They lack the support in how to combat the feelings of loss and disconnectedness. A piece of them is missing. And a piece of the tribe is missing too.

Later, in 2017, a group of researchers proceeded with a quantitative study of the mental health differences found within American Indian adoptee populations versus Non-Indian adoptee populations. While no difference was found between non-Indian (Caucasian) adoptees and American Indian adoptees on self-assessed depression or diagnosed depression, meaning adoptees in general experience depression, there were significant differences with regards to other areas of mental health.⁶ American Indian adoptees were found to be more vulnerable to mental health problems within the whole adoption system generally.⁷ Specifically, American Indian adoptees were more likely to report alcohol addiction, alcohol recovery, drug addiction, drug recovery, self-assessed eating disorder, eating disorder diagnosis, self-injury, suicidal ideation, and suicide attempts.⁸ The study highlights that historical trauma is inherited through one’s ancestors, as such American Indian “adoptees experience trauma through their lived experiences of being separated from their families and culture, a phenomenon referred to as “blood memory.””⁹

⁵ *ICWA from the Inside Out: ‘Split Feather Syndrome,’* MINN. DEPT. OF HUMAN SERVS. (July 2005), available at http://www.dhs.state.mn.us/main/groups/children/documents/pub/dhs16_180049.pdf. See also Georgia Deoudes, Evan B. Donaldson Adoption Institute, *Unintended Consequences: ‘Safe Haven’ Laws are Causing Problems, Not Solving Them* available at <http://adoptioninstitute.org/publications/unintended-consequences-safe-haven-laws-are-causing-problems-not-solving-them> (finding this concept extends to all children, and not Indian alone):

Safe haven laws also ignore the psychosocial importance to adopted people, as children and later in life, of information about their origins, ethnicity and social backgrounds. The overwhelming majority of adoption practitioners and mental-health professionals today – including ones who do not necessarily embrace the rapidly growing practice of “open adoption” – agree about the benefits of having personal, as well as medical, information; moreover, they maintain that the lack of such information can undermine adoptive families, especially the children in them.

⁶ Ashley L. Landers, PhD et al., *American Indian and white Adoptees: Are there Mental Health Differences?* AMERICAN INDIAN AND ALASKA NATIVE MENTAL HEALTH RESEARCH (2017) at 69.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 70.

The Wisconsin Legislature took the necessary steps to prevent this from occurring when it chose to codify the federal ICWA into state statute. Throughout the codification process it would have been hard to ignore the Wisconsin specific data that came from the federal adoption of the ICWA. During the late 1970's Congress found that 25 to 35% of all Indian children in the country had been removed from their families at a rate five times greater than non-Indian children. Here in Wisconsin, the risk of Indian children being separated from their parents was 1,600% greater. This very state legislature unanimously declared that Wisconsin's policy is to "protect the best interests of Indian children and promote the stability and security of Indian tribes and families."¹⁰

Assembly Bill 369 – For Information Only

Relating to: newborn infant safety devices under the safe haven law.

Safe Haven is "singlehandedly destroying our clan culture and ways."
~ Ho-Chunk Nation Traditional Court

To reiterate our opening: the Ho-Chunk Nation takes the safety of children extremely seriously. The Ho-Chunk Nation is **not** inherently opposed to newborn infant safety devices. We value ingenuity when it comes to protecting children. We simply wish to take this opportunity to request that the State Legislature remain cognizant of Wisconsin's Safe Haven Law being in direct conflict with federal law.

Safe Haven is a back door approach to ICWA and WICWA avoidance. Without obtaining the necessary information to confirm a child's status as an Indian child – it will and has resulted in the tribes not receiving notice. Notice is one of the core elements of the ICWA and WICWA. It is the first step towards promoting the stability and security of Indian tribes and families. It is what gets the tribes in the door to take that child into custody and place with tribal families or for the tribes to at least intervene in the county court proceedings to advocate for their preferred tribal placement.

In 2020, the Centers for Disease Control and Prevention researched infant homicide and Safe Haven Laws from 2008 through 2017. There has been a 66.7% decline in infant homicide on the day of birth from the period of 1989-1998 to the period of 2008-2017.¹¹ A number of factors appear to lead to infant homicide – including poverty (inadequate resources for childcare, housing, and food), decreased education levels, lack of prenatal care, lack of parenting skills do to young age, and lack of supports due to being single parent. From a public health practice standpoint, it was the CDC's belief that focus needed to be paid towards those factors and addressed through prevention.

Although infants make up a small percentage of homicide victims, these deaths are preventable. Programs and policies that strengthen economic supports for families, provide quality and affordable childcare, develop parenting skills (e.g., through home visiting programs), assure safe, stable, nurturing relationships and

¹⁰ Wis. Stat. § 48.01(2)(b).

¹¹ Rebecca F. Wilson, PhD, et al., "Infant Homicides Within the Context of Safe Haven Laws – United States, 2008-2017," Vol. 69 CENTERS FOR DISEASE CONTROL AND PREVENTION MORBIDITY AND MORTALITY WEEKLY REPORT No. 39, p. 1389 (Oct. 2, 2020).

environments for all infants (10), and increase the public's awareness of Safe Haven Laws might contribute to preventing infant homicides.¹² Safe Haven alone is not the answer – there must be affordable childcare, parenting programs, education, job training, and other programs that help families grow stronger.

There is certainly an argument that the foundation of Safe Haven – anonymity – is what is needed to prevent infanticide. However, this is weak at best. And considerably weaker with the lack of any hard data to suggest that anonymity is indeed what is required to prevent infanticide. Most current literature instead speaks of how anonymity does not prevent infanticide- as people are still abandoning children- despite states having “Safe Haven Laws.” Instead, the literature illustrates the role anonymity has in being more of a detriment to the adoptees than assistive. And in fact, there is no place that this becomes a larger detriment than in the hospital setting.

These anonymity provisions are particularly vexing because a vast majority of abandoned newborns are abandoned at the hospital after birth even without any safe haven laws (citation omitted). These infants do not seem to have been at risk of harm or death since they were left at sheltered places with attendants and medical care, and there is no indication that need for anonymity or fear of criminal prosecution prevents mothers who give birth in the hospital from leaving their newborns there. Yet the statutes, nearly all of which designate hospitals as safe havens [citation omitted], may now permit these hospital abandonments to be classified as safe haven relinquishments with the attendant anonymity and barriers to obtaining family and medical information that may be useful to the child and adoptive parents and, in the case of Native American children, the tribe. Thus the statutes potentially have injected anonymity onto tens of thousands of babies born, and abandoned, at hospitals each year [citation omitted].¹³

It is fully understood the difference between anonymity and confidentiality. When the tribes proffer that they have stringent confidentiality to be able to deal with membership eligibility checks or transfers of cases, it is not a misconceived understanding of anonymity. Instead, it is to show that the intent of the Safe Haven Laws can still be achieved. Tribes can handle these actions in a manner that the parent(s) remain anonymous. And the federal government agrees with this sentiment. For example, the federal government included the following regulatory language for voluntary proceedings, which clearly sets forth its expectations for states and tribes when parents request anonymity:

In seeking verification of the child's status in a voluntary proceeding where a consenting parent evidences, by written request or statement in the record, a desire for anonymity, the court must keep relevant documents pertaining to the inquiry required under this section confidential and under seal. ***A request for anonymity does not relieve the court, agency, or other party from any duty of compliance with ICWA, including the obligation to verify whether the child is an “Indian child.”*** A Tribe receiving information related to this inquiry must keep documents and information confidential.¹⁴

¹² Id. at 1389-1390.

¹³ Annette R. Appell, *Safe Haven to Abandon Babies, Part III: The Effects*, ADOPTION QUARTERLY Vol. 6(2) 2002.

¹⁴ 25 C.F.R. § 23.107(d)(emphasis added).

Tribes need basic information to verify eligibility of membership. We are more than capable of protecting information during a relinquishment process to ensure a child is safe and healthy, while recognizing the desire of the parent(s) to be unknown among our tight knit tribal communities.

Whether these Safe Haven relinquishment actions are considered involuntary or voluntary makes no difference with regards to ICWA and WICWA noncompliance. If these are to be considered voluntary, those arrangements to sever one's parental ties to their Indian child must be recorded before a judge who can explain in detail the terms and consequences of the proposed action.¹⁵ Furthermore, any consent given under a voluntary proceeding is not valid if given prior to or within 10 days after the birth of an Indian child.¹⁶ Additionally, placement preferences of the Tribes are to be followed with regards to placing the infant.¹⁷ If they are to be instead treated as involuntary, as is suggested by the Wisconsin Children's Court Improvement Program in the past, then the Tribe shall receive notice and be permitted to intervene,¹⁸ among other federally and state provided rights like active efforts, qualified expert witness testimony, and a finding of beyond a reasonable doubt that continued custody by the parent will result in serious damage to the child in a termination of parental rights proceeding.

Again, we are **not** here in opposition to newborn infant safety devices. We are here for informational purposes to remind this body that no matter how one looks at it, the Safe Haven Law of Wisconsin is in direct conflict with federal law and regulations. As such, we continue to extend our invitation to work with the State Legislature towards amendments to bring this law into compliance with federal law.

There is nothing more important to a Tribe than its children. They are our future, and they will ultimately be the links to our past. It is likewise in their best interests to know and have the opportunity to learn about their Indian heritage and be connected with their tribal communities. We- Wisconsin and tribes- must work together to find a fix before the Nation loses any more of our tribal children and before our tribal children lose us. Great things happen when we work together- just look at WICWA. Thank you for your time.

¹⁵ 25 U.S.C. § 1913; Wis. Stat. § 48.028(5)(b).

¹⁶ *Id.*

¹⁷ Wis. Stat. § 48.028(7)(c)(finding that placement preferences of the tribes should be followed, absent good cause, for preadoptive placements).

¹⁸ 25 U.S.C. §§ 1911-12; Wis. Stat. § 48.028(3)(e); (4)(a).