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## Nebraska Safe Haven Snafu, Revisited

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## **Nebraska Safe Haven Snafu, Revisited**

You might recall the sad circumstances, reported in the news about a year ago, surrounding the Nebraska "safe haven" law. Safe haven laws, which exist in all or virtually all states, permit a parent to surrender an uninjured newborn or infant at a location such as a hospital with no questions asked and no risk of liability. (The details differ from state to state.) What made Nebraska unusual was that its statute did not specify an age limit but instead just used the word "child." As a result, people [drove to Nebraska](#) from all over the country to abandon children, including older children and teenagers. At the time, most of the coverage portrayed this as some kind of legislative oversight or scrivener's error (as in the article linked above, which quotes a state official as saying that the intent was to protect newborns). I decided I would discuss this incident briefly on the first day of my Legislation class.

As I dug around the state legislature's website to prepare for class, I found some things that revealed a rather different kind of legislative process failure.

To begin with, the [enacted statute](#) was only a couple lines long, which makes it hard to believe that nobody would have noticed the failure to specify an age. Digging into the enactment history a bit, one finds that the [bill as introduced](#) applied to children up to seventy-two hours old. In committee, the [bill was amended](#) in a number of ways, including by changing seventy-two hours to thirty days, and then reported to the floor. [On the floor](#), there were a bunch of amendments proposed, a couple adopted. The bill was becoming fairly complicated. Finally comes the amendment to strike out the whole bill and substitute the two sentences that were actually enacted.

In light of all this, it seems like this wasn't an oversight but was instead intentional - perhaps because different legislators disagreed on the proper cutoff and so left things intentionally ambiguous and hoped it would turn out OK. Indeed, with some further searching, one finds press reports such as [this one](#), which states:

"This was never the intent of the bill," says Republican state Sen. Arnie Struthman. He says he co-wrote it to protect newborns from abandonment, *but to get enough support for passage, it was changed to cover all children.*

(Italics mine.) Once the problems with the law became manifest, the legislature met in a special session to amend the law. Even then, there were still disputes over the proper time limit. They settled on thirty days.

It seems to me this incident still holds some lessons for Legislation students, just not the ones you might have initially thought.

If any Nebraska readers have other interesting insights or perspectives on how the legislative process operated in this case, feel free to chime in with comments.

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