



**TIM GRIFFIN**  
ATTORNEY GENERAL

Opinion No. 2025-075

November 3, 2025

The Honorable Jim Wooten  
State Representative  
Post Office Box 280  
Beebe, Arkansas 72012

Dear Representative Wooten:

I am writing in response to your request for an opinion on the legal implications of installing a Safe Haven Baby Box at a city fire station in Beebe, Arkansas. You state that the city, in partnership with a nonprofit organization, is considering whether to install such a device and is seeking to ensure that all legal and safety standards are met before moving forward with the project.

Against this background, you ask the following questions:

1. Under Arkansas law, more specifically the Arkansas Safe Haven Act, is the installation and operation of a Safe Haven Baby Box at a city-owned fire station legally permissible?

**Brief response:** Yes, the Arkansas Safe Haven Act expressly permits the installation and operation of a newborn safety device at a city-owned fire station, provided specific statutory conditions are met.

2. Under Arkansas law, are there any specific safety regulations, building or fire codes, or other compliance requirements—at the state or local level—that must be met to fully comply and lawfully operate a Safe Haven Baby Box?

**Brief response:** Yes, in addition to the Arkansas Safe Haven Act's requirements, the installation and operation of a newborn safety device must comply with the Arkansas Fire Prevention Code and the codes adopted by the City of Beebe.

3. Would the City assume any legal liability or risk by allowing the installation and operation of a Safe Haven Baby Box on municipal property, whether maintained by the City or in partnership with an outside organization?

BOB R. BROOKS JR. JUSTICE BUILDING  
101 WEST CAPITOL AVENUE  
LITTLE ROCK, ARKANSAS 72201

**Brief response:** Generally, a city is protected by statutory qualified immunity under A.C.A. § 21-9-301 for claims involving negligence, unless liability insurance applies. In addition, the Arkansas Safe Haven Act provides fire departments with civil and criminal immunity for good faith actions related to the installation and operation of a newborn safety device. But this immunity does not extend to intentional misconduct, nor does it apply to third-party organizations, such as non-profits or manufacturers, which may still face liability.

4. Are there any additional certifications or testing requirements, federal, state, or otherwise, required or applicable to the installation and operation of a Safe Haven Baby Box?

**Brief response:** At this time, there are no specific federal or state certifications required beyond those outlined in Arkansas law and applicable fire, building, and mechanical codes. The Arkansas Safe Haven Act requires regular testing and inspection of newborn safety devices, and those requirements should be strictly followed.

## DISCUSSION

*Question 1: Under Arkansas law, more specifically the Arkansas Safe Haven Act, is the installation and operation of a Safe Haven Baby Box at a city-owned fire station legally permissible?*

Yes, Arkansas law, including the Arkansas Safe Haven Act (the “Act”),<sup>1</sup> permits a city-owned fire station to install and operate a newborn safety device.<sup>2</sup> The Act allows parents to anonymously surrender a newborn (defined as 30 days or younger) without facing abandonment charges by leaving the child with authorized staff at designated locations (like fire stations) or by placing the child in a newborn safety device.<sup>3</sup>

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<sup>1</sup> A.C.A. § 9-34-201 et seq.

<sup>2</sup> The Act does not use the term “Safe Haven Baby Box.” Instead, it uses the term “newborn safety device.” See A.C.A. § 9-34-202(a)(2). Safe Haven Baby Boxes are patented devices for receiving a surrendered baby created by Safe Haven Baby Boxes, Inc. There are at least 35 such devices installed in Arkansas, according to their website. See Safe Haven: Baby Box Locators, PROJECT SAFE HAVEN BABY BOX, <https://project-safe-haven-babybox.vercel.app/> (last visited Sept. 2, 2025).

<sup>3</sup> However, abuse or neglect that was committed before a child was delivered to a medical provider, law enforcement agency, or fire department may still be investigated and charged. See A.C.A. § 9-34-202(b)(2)(B)(i)–(ii).

The Act defines a “newborn safety device” as one that is: (1) voluntarily installed by a medical provider, law enforcement agency, or fire department; (2) located on a structural wall of or inside such a facility; and (3) placed in an area that is conspicuous and visible to employees.<sup>4</sup>

Further, fire departments<sup>5</sup> must (1) ensure the device is connected to a dual alarm system that alerts the nearest available first responder if the device is used;<sup>6</sup> (2) conduct weekly tests of the alarm system, as well as a visual check twice weekly;<sup>7</sup> and (3) take any necessary action to protect the health and safety of a surrendered infant.<sup>8</sup> Additional requirements apply to volunteer fire departments.<sup>9</sup> Assuming compliance with these technical requirements, the Arkansas Safe Haven Act permits the installation and operation of a newborn safety device.

***Question 2: Under Arkansas law, are there any specific safety regulations, building, or fire codes, or other compliance requirements—at the state or local level—that must be met to fully comply and lawfully operate a Safe Haven Baby Box?***

There are likely safety, building, fire, and compliance requirements affecting the installation of a newborn safety device beyond those addressed in Question One. For a comprehensive answer, please address this question to local counsel, the City of Beebe’s Code Enforcement Office, and the local fire code official. Fire code issues can also be addressed with the State Fire Marshal. With that caveat, I can highlight some regulations that will likely be relevant.

Arkansas has adopted the 2021 editions of the International Fire Code (“IFC”), International Building Code (“IBC”), and International Residential Code (“IRC”) as its Arkansas Fire Prevention Code (“AFPC”). These form the core legal foundation for fire safety and building

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<sup>4</sup> A.C.A. § 9-34-202(a)(2)(A)–(C).

<sup>5</sup> *Id.* § 9-34-201(1)(A)(i)–(iv) (defining “fire department” as “any organization that: (A) Is established for the prevention or extinguishment of fires, including without limitation: (i) A fire department organized under a municipal or county ordinance; (ii) An improvement district; (iii) A membership fee-based private fire department; and (iv) A volunteer fire department”).

<sup>6</sup> *Id.* § 9-34-201(1)(B)(ii).

<sup>7</sup> *Id.* § 9-34-202(d)(1)(B)(i)–(ii).

<sup>8</sup> *Id.* § 9-34-202(b)(1).

<sup>9</sup> *Id.* § 9-34-202(d)(2)(A)–(C). This subdivision provides that a volunteer fire department may install a newborn safety device if it complies with A.C.A. § 9-34-202(d)(1); can respond to an infant’s placement in the device within the county’s established response time or within four minutes, whichever is shorter; and installs the device within one mile of a medical provider or law enforcement agency. The device must have an alert system that automatically contacts 911 when opened and a separate 24/7 video surveillance system always monitored by at least two firefighters.

compliance in the state. A local jurisdiction can adopt a local fire prevention code with provisions that are more stringent, but it cannot adopt less stringent standards.<sup>10</sup>

**2.1 Structural issues:** A building permit is likely required because the newborn safety device must be installed on an exterior wall.<sup>11</sup> When a newborn safety device is installed in an exterior wall, it creates an opening. Section 705 of the AFPC dictates the allowable area of openings in exterior walls based on the fire separation distance to adjacent buildings or property lines. The fire-resistance rating of the exterior wall must be maintained, and any penetration must be properly protected to prevent the spread of fire. The materials used to frame the opening for the device and to weatherproof it will need to comply with these requirements.<sup>12</sup> Likewise, the installation must include proper flashing and sealing to prevent water intrusion into the wall cavity, which could lead to moisture damage and mold.<sup>13</sup> The materials used for the installation, including any trim or finishing materials around the device, must be of approved materials that are suitable for exterior use and meet the durability requirements of the code.<sup>14</sup>

**2.2 Electrical issues:** Installing the alarm system will require electrical work that must comply with the requirements of Chapter 9 of the AFPC, the National Fire Prevention Association, and the National Electrical Code.<sup>15</sup> The same applies to any climate controls.<sup>16</sup> While climate controls are not mandatory for newborn safety devices, if installed, they must comply with the Arkansas Mechanical Code regarding climate control and ventilation.<sup>17</sup>

**2.3 Means of egress:** Chapter 10 of the AFPC requires that the means of egress of a fire station to be continuously free from all obstructions and impediments in case of fire or other emergency.

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<sup>10</sup> *Arkansas Fire Prevention Code (AFPC)* (2021 ed.), Vol. 1, § 104.3.2(b) (“Rules of the State Fire Marshal’s Office establishing minimum standards shall not prevent any district, city, or county from enacting more stringent regulations”).

<sup>11</sup> City of Beebe, Ark., Municipal Code, Ch. 11.32.01 (making it unlawful to undertake “site preparation, development, renovations, improvements, construction or relocation of a building or structure” within city limits unless a building permit has been issued).

<sup>12</sup> *AFPC*, Vol. 2, § 705.

<sup>13</sup> *Id.*, Vol. 2, § 1402.

<sup>14</sup> *Id.*, Vol. 2, § 1404.

<sup>15</sup> City of Beebe, Ark., Municipal Code, Ch. 11.12.01; *AFPC* Vol. 1, § 907.1.2 (adopting Nat’l Fire Prot. Ass’n, NFPA 72: National Fire Alarm and Signaling Code).

<sup>16</sup> Nothing in the Act or Arkansas law requires climate controls, but given that safety of the newborn is paramount, climate controls appear to be a standard feature of newborn safety devices.

<sup>17</sup> City of Beebe, Ark., Municipal Code, Ch. 11.28.01.

The location of the newborn safety device must be carefully considered to ensure it does not block any exit paths or create a hazard.

This is a non-exhaustive list of regulations that could be impacted by the installation and operation of a newborn safety device. As previously mentioned, please consult with legal counsel and local authorities in the City of Beebe for a comprehensive answer.

***Question 3: Would the City assume any legal liability or risk by allowing the installation and operation of a Safe Haven Baby Box on municipal property, whether maintained by the City or in partnership with an outside organization?***

In general, cities, as political subdivisions of the state, have statutory qualified immunity “from liability and from suit for damages except to the extent that they may be covered by liability insurance.”<sup>18</sup> This immunity extends to city officials and employees, but only for negligent acts.<sup>19</sup> This “reflects the policy that governments should be responsible for negligent acts, while being protected from excessive judgments that might cripple government services.”<sup>20</sup> In other words, a tort claim cannot survive in the absence of insurance. A local government is not required to maintain liability insurance, other than motor vehicle coverage.<sup>21</sup> Because this qualified immunity is an affirmative defense, a city, if sued, “has an affirmative duty to allege and prove the absence of liability insurance.”<sup>22</sup> Once that showing is made, the lawsuit against the city must be dismissed.

Regarding newborn safety devices specifically, the Arkansas Safe Haven Act provides an additional layer of protection. The Act grants medical providers, law enforcement agencies, and fire departments qualified civil and criminal immunity “for any good faith acts or omissions performed under this section,” as well as “an affirmative defense against any civil or criminal claim” arising out of such good faith acts or omissions.<sup>23</sup> This would include the installation and operation of newborn safety devices. Like the municipal qualified immunity under A.C.A. § 21-9-301, the Act’s affirmative defense requires the fire department to allege and prove that the actions or omissions for which it is being sued were undertaken in good faith.

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<sup>18</sup> A.C.A. § 21-9-301(a).

<sup>19</sup> *Smith v. Brt*, 363 Ark. 126, 130, 211 S.W.3d 485, 489 (2005); David Newbern et al., *Capacity and Immunity*, 2 *Arkansas Civil Prac. & Proc.* § 7:1 (5th ed.).

<sup>20</sup> Howard W. Brill & Christian H. Brill, *Tort Actions Against Political Subdivisions*, 1 *Arkansas Law of Damages* § 22:4.

<sup>21</sup> *Id.*; A.C.A. § 21-9-303.

<sup>22</sup> Howard W. Brill & Christian H. Brill, *Tort Actions Against Political Subdivisions*, 1 *Arkansas Law of Damages* § 22:4; *Vent v. Johnson*, 2009 Ark. 92, 14, 303 S.W.3d 46, 52 (2009).

<sup>23</sup> A.C.A. § 9-34-202(c)(1)–(2).

Taken together, these two statutory immunity provisions provide robust liability protection to a city considering the installation and operation of a newborn safety device. But this immunity is not absolute and does not extend to intentional torts.<sup>24</sup> Outside organizations, such as non-profits and device manufacturers, could bear liability if a defect or operational failure results in harm. This liability is typically addressed through contractual indemnity.

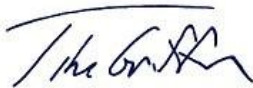
***Question 4: Are there any additional certifications or testing requirements, federal, state, or otherwise, required or applicable to the installation and operation of a Safe Haven Baby Box?***

I am not aware of any additional certifications or testing requirements at the state or federal level applicable to the installation and operation of a newborn safety device, other than those outlined above. As of the date of this opinion, there are no federal standards or certifications issued by agencies such as the United States Department of Health and Human Services or the Food and Drug Administration specific to newborn safety devices. Devices should conform to generally accepted standards for construction, child safety, and fire prevention.

Manufacturers may voluntarily submit their products for an Underwriters Laboratories (UL) listing, which indicates that a product has been tested and evaluated by UL for safety and compliance with specific standards. UL tests may cover electrical, safety, fire resistance, mechanical hazards, and other safety issues. UL approval is not mandated by state or federal law.

Assistant Attorney General Justin Hughes prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a stylized flourish at the end.

TIM GRIFFIN  
Attorney General

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<sup>24</sup> *Deitsch v. Tillery*, 309 Ark. 401, 407, 833 S.W.2d 760, 762 (1992).