To the extent that the Infant Safe Haven Law enables the mother of the surrendered child to terminate the father’s parental rights, is the statute efficient? Would assigning to the father a veto power over surrendering the child increase or decrease the social surplus?

- Mother’s WTA = $10,000 (no healthy children were surrendered to the state under the program until the state began offering $10,000 to mothers).
- Adoptive couples’ WTP = $40,000 (that is how much the statute charges the adoptive couples; this $40,000 can also be framed as the state’s WTA in exchange for the child).
- Hence “producer surplus” + “consumer surplus” = approx. $50,000 “social surplus” for each healthy child surrendered and then adopted.
- By contrast, fathers on average are WTP only $500 to block adoptions.
- Because the fathers’ WTP ($500) is so much less than the social surplus generated by surrender/adoption ($50,000), assigning a veto power to fathers is not efficient (it would decrease, not increase, the social surplus).

Questions about the above efficiency analysis of the father’s rights issue

1. Is the $500 WTP a good measure of the value that the fathers place on their parental rights/responsibilities? Is the father’s WTP a good proxy for his utility (happiness)? If not, why not?

2. Is the $50,000 estimated social surplus per surrender/adoption (or $49,500 net of the father’s $500 in harm) too low as an estimated value, because it does not include positive externalities that result from the surrenders/adoptions?

3. Is the $50,000 estimated social surplus per surrender/adoption (or $49,500 net of the father’s $500 in harm) too high as an estimated value, because it does not include negative externalities that result from the surrenders/adoptions?

4. Suppose that one general intent of the Infant Safe Haven Law is expressed by State Senator Amanda Jones (p. 554): “We are all better off if the poor can easily surrender their healthy babies to the state, for when these children are adopted and placed in decent middle class homes, the state will see a sizeable decrease in crime and social welfare costs.”

- In what sense, if any, of “better off,” is it true that “we are all better off”?
- Do any moral principles prohibit the exchanges that Sen. Jones describes as making the people of Gould “all better off”?
- If there are such principles, is it the case that the exchanges make “all better off”?
Triad of normative frameworks for normative reasoning
(See Collated Handouts 4, “Frameworks for lawyers’ normative reasoning,” pp. 7-9.)

Cost Benefit Analysis
Efficiency
(Maximize the social surplus)

Ex ante approaches

Utility maximization

Ex post approaches
(Existing rules, principles, and expectations create rights)