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SUBSTANCE-EXPOSED NEWBORNS: NEW FEDERAL LAW RAISES SOME OLD ISSUES

by Steve Christian *September 2004*

In the coming months and years, state legislators will be called upon to enact measures to comply with a new federal law that is intended to protect children who are affected by prenatal exposure to illegal drugs. State implementation of the law is likely to increase the number of children reported to child protective services (CPS) and raises important questions about the child welfare system's role and responsibility in such cases. Implementation also presents an opportunity for policymakers to examine their response to pregnant women who use drugs and alcohol, including prevention of substance-exposed births. This paper describes the new federal law, provides an overview of existing state reporting laws, discusses the role of child protective services and highlights the importance of prevention. An appendix contains the text of state laws that require reporting of substance-exposed newborns.

Background

In the wake of the crack epidemic of the 1980s, most states passed laws to address drug and alcohol use by pregnant women. A 2000 report by the Women's Law Project and National Advocates for Pregnant Women[1] identified the following categories of state laws in response to the this problem:

- Education and Awareness
- Identification, Testing and Reporting
- Treatment Improvement
- Priority Treatment for Pregnant Women
- Third-Party Liability (civil liability for furnishing drugs to pregnant women)
- Criminal Laws (penalties for furnishing drugs to pregnant women)
- Evaluation of Programs
- Funding
- Legislative Mandates, Findings, Declarations
- Oversight Committees, Task Forces, Research
- Civil Child Abuse Statutes
- Services to Children
- Prohibitions on Punitive Sanctions
- Guarantees of Confidentiality or Nondiscrimination
- Public Assistance

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- Adoption Statutes (information, training and support for adoptive parents of children exposed to substances in utero)
- Civil Commitment/Involuntary Detention
- Research

Notwithstanding these laws and a considerable investment of public funds, up to 221,000 children every year are exposed to illicit drugs during gestation, according to estimates by the National Institute on Drug Abuse. When alcohol and tobacco are included, that number climbs to 1.5 million children per year. The overwhelming majority of these newborns are never tested or reported to Child Protective Services.[2] Many of these children are affected by lifetime conditions that require a high level of public spending. Fetal alcohol exposure, for example, is the leading preventable cause of mental retardation, with a cost to society of $4 billion per year.

Keeping Children and Families Safe Act

A new federal law presents an opportunity for states to revisit their approach to this problem. The Keeping Children and Families Safe Act of 2003 added a number of new eligibility requirements for child welfare funding under the Child Abuse Prevention and Treatment Act (CAPTA).[3] Among these is a requirement that states have policies and procedures requiring health care providers to notify CPS of "infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure." States must also develop a "plan of safe care" for such infants.[4] The law does not require reporting of children prenatally exposed to legal substances such as alcohol and tobacco. Nothing in the law, however, prevents states from requiring such reporting.

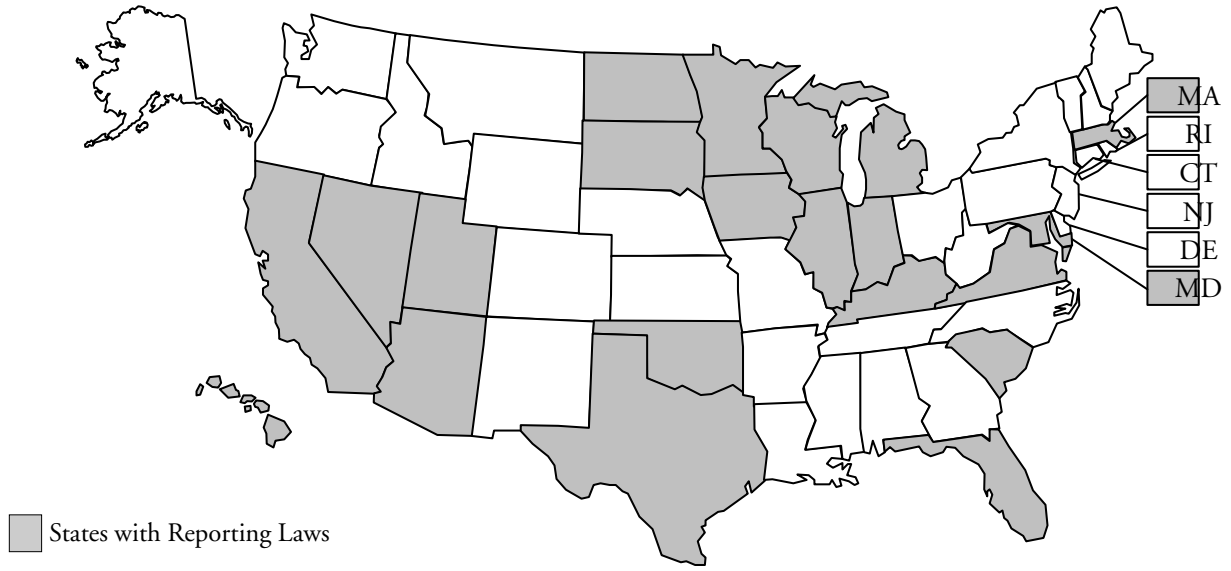
Because the health care system is independent of the child welfare system, implementation of the new CAPTA notification provision will likely require the enactment of legislation in many, if not most, states. A number of states already have statutory provisions that require reporting of substance-exposed newborns to CPS (see appendix). Fifteen states include some type of prenatal substance exposure in their statutory definitions of reportable child abuse and neglect. Some of these states also have requirements pertaining specifically to reporting of substance exposed babies. Another seven states require CPS notification under certain circumstances but do not refer to prenatal substance exposure in their definitions of child abuse and neglect. Two states, Hawaii and North Dakota, have enacted laws since passage of the CAPTA amendment.[5] Figure 1 illustrates the states with reporting laws.

Although the CAPTA amendment does not require states to amend their definitions of abuse and neglect, change their drug testing policies, or prosecute pregnant women who use drugs, it raises anew a number of issues regarding the public response to infants who are prenatally exposed to drugs and alcohol. The National Center on Substance Abuse and Child Welfare has identified four implementation issues for states:

- Identifying infants affected by illegal substance abuse or withdrawal symptoms;
- Implementing the requirement that health care providers involved in the delivery or care of such identified infants notify CPS;
- Addressing the needs of these infants; and
- Developing a plan of safe care.[6]

The first two issues primarily involve the health care system, whereas the last two involve a collaborative response by multiple systems, including CPS. The role of CPS is discussed below.

Figure 1. States with Statutory Provisions Requiring Reporting of Substance-Exposed Newborns to CPS



Source: National Clearinghouse on Child Abuse and Neglect Information, 2004; National Conference of State Legislatures, 2004.

The Role of CPS

Whether and how CPS should be involved in cases of prenatally exposed infants has been a subject of some debate. Some have argued that coercive intervention by CPS and/or the courts is inappropriate because drug addiction is a disease, not a crime, and that the threat of child removal and termination of parental rights will discourage pregnant women from seeking prenatal care. Others have argued for CPS involvement on the grounds that parents are unlikely to enter treatment without a court mandate.[7] As stated above, some states consider prenatal exposure to be child abuse *per se*, mandating a report to and response from CPS.

According to the committee report on H. 14, the House version of the Keeping Children and Families Safe Act, the new notification requirement is intended to "identify infants at risk of child abuse and neglect so appropriate services can be delivered to the infant and mother to provide for the safety of the child." Thus, the law sees the function of CPS as protecting a child who may be at increased risk of maltreatment in the future, regardless of whether the state has determined that such child already has been abused as a result of prenatal exposure to illegal drugs. A related provision in the federal law requires states to have procedures for referral of maltreated children from birth to age 3 to early intervention services under Part C of the Individuals with Disabilities Education Act, known as Early Intervention Programs for Infants and Toddlers with Disabilities.[8] Unlike the reporting requirement, however, this provision relates to children in cases of abuse or neglect that already have been substantiated by CPS.

Although the law's assumption—that children born exposed to illegal drugs in utero are at increased risk of later maltreatment—has been questioned by some observers,[9] maternal alcohol and drug use is clearly associated with numerous risk factors. These include chaotic and dangerous lifestyles, involvement in abusive relationships, and mental health problems that affect parenting.[10] In fact, all children under age 1 are at greater risk of maltreatment—primarily neglect—than any other age group. Such maltreatment can profoundly affect infants' overall development and well-being in addition to their physical safety. Neglect at a very young age, for example, places children at high risk of developmental delays and neurological impairment. Perinatal substance exposure, combined with postnatal risk factors such as unpredictable and inconsistent parenting, increases the risk of poor long-term outcomes, including behavioral problems and cognitive deficits.

The extent to which CPS actually becomes involved in these cases and the extent to which such involvement affects outcomes are unclear. Even though much has been written about the problem of babies born to substance-using women, we know relatively little about the CPS response (or lack thereof) to such babies and their families.[11] It may be that CPS is more likely to follow up on reports in states that have included substance exposure in utero in their definitions of child maltreatment. In other states, babies who are born exposed to drugs or alcohol may not meet the statutory criteria for maltreatment and so may receive less, if any, attention from CPS. A nationwide survey found that 21 percent of counties never file dependency petitions on behalf of substance-exposed newborns, while 46 percent reported filing petitions in at least 41 percent of such cases.[12]

Although little information is available about the CPS response to substance-exposed births, we do know that maltreated infants as a whole are considerably more likely to be placed in foster care than are older maltreated children.[13] Infants also tend to stay in foster care significantly longer than children age 1 and older and experience high rates of foster care re-entry after discharge. Because drug-exposed infants often have more health needs than non-drug-exposed infants, foster caregivers of such children tend to "burn out" more quickly and return the children in their care to CPS.[14] Foster placement itself poses risks to infants' healthy development and formation of healthy attachment relationships.[15]

At present, many child welfare agencies view foster care primarily as a means of protecting children's physical safety and only secondarily as a means of ensuring the healthy social and emotional development of very young children who are removed from home for reasons of abuse and neglect, including children who are prenatally exposed to drugs or alcohol. This attitude about out-of-home placement appears particularly applicable to unlicensed kinship care, which receives less support and is subject to less monitoring than licensed foster care. The limited perception of foster care may be changing because early brain research continues to affect policy and because states are held accountable for assessing and addressing the well-being needs of children under the federal Child and Family Service Reviews. Nevertheless, state performance on these well-being outcomes, particularly children's mental health, lags behind performance in the safety and permanency outcomes.

Questions to Consider Regarding the Role of CPS

Although the requirement to notify CPS of substance-exposed newborns could lead to identification of a greater number of children who are at risk of poor outcomes, the effect of the new law will depend upon a host of factors. One such factor is the capacity of an already

overburdened child welfare system—including foster care providers and dependency courts—to respond to a potentially significant increase in reports. Another is the ability of multiple systems to collaborate in assessing the needs of children and families and in addressing those needs with appropriate services, including developmentally appropriate physical and mental health care, quality early care and learning experiences, and substance abuse treatment and related support services for mothers.[16] Still another is whether the law will result in unintended and undesired consequences, such as an increase in the disproportionate reporting of African-American women for prenatal substance use[17] and overrepresentation of African-American children in foster care, or a chilling effect on the willingness of pregnant women to seek prenatal care or to give birth with the assistance of health care professionals.

In light of the foregoing factors, state legislators may want to ask whether and how their child welfare agencies will respond to reports of substance-exposed babies under the new law.

- Has the agency estimated the effect of the new law on the number of reports it receives?
- Does the agency have the capacity to respond to these new reports?
- How will infants' safety and well-being needs be assessed and addressed?
- What other agencies will be involved?
- Are there interagency protocols in place to ensure a coordinated response?
- What treatment and support services will be provided to the mother to enable her to safely care for her infant?
- If the baby is placed in foster care, what supports and services will be provided to the foster parent and the child?
- What efforts are being made to identify and refer to treatment pregnant women who use drugs or alcohol before they give birth?
- What can be done to ensure that the new reporting requirement does not deter women from involvement with the health care system?

Prevention

Although the new federal law does not address prevention, it may serve to renew a discussion about the efficacy of a state's efforts to reduce the number of substance-exposed births. At the very least, compliance with the new reporting requirement may give states a better idea of the extent of the problem. Many programs address substance abuse prevention, including general education and public awareness campaigns as well as school and community-based programs that target specific age groups.[18] Although few of these programs target pregnant or parenting women, many states require that women of childbearing age be given priority for drug and alcohol treatment. Family drug treatment courts show great promise in helping mothers enter and complete treatment, but only after a child is born and CPS has become involved in the family's life. Although nurse home visitation that begins prior to birth has shown some success in reducing pregnant women's use of tobacco and alcohol, the full potential of this strategy in preventing substance-exposed births has yet to be realized.[19]

Some researchers argue that programs such as drug courts and home visitation may be limited in their ability to reach the larger population of pregnant and parenting women who use drugs and alcohol, primarily because they tend to serve lower income families and often are isolated from the wider community. Substance use among pregnant women is not limited to the

poor.[20] These observers argue for broader community-based interventions that involve partnerships among obstetricians; CPS; the courts; and substance abuse treatment, mental health and other concerned local organizations.

An example of a community-based approach to prevention is the Screening, Assessment, Referral and Treatment (SART) program developed by Dr. Ira Chasnoff and his colleagues at the Children's Research Triangle in Chicago.[21] SART involves raising public awareness about the problem of substance use during pregnancy; creating a team composed of representatives from a variety of disciplines; developing an action plan; building public support; and implementing the core SART intervention, which includes motivating and assisting health care providers to screen pregnant women for substance use. The SART model, which is being implemented in at least 20 communities throughout the country, does not appear to have been rigorously evaluated. A similar community-based intervention program that targeted binge drinking, underage drinking and drunk driving, resulted in significant reductions in self-reported alcohol consumption, alcohol-related traffic accidents, and alcohol-related assault injuries.[22] This intervention involved the combined efforts of a wide array of community members, including the media, alcoholic beverage servers and retailers, law enforcement agencies and zoning authorities.

Why should legislators be interested in community-based prevention initiatives? In addition to enacting laws of statewide application, state legislators can play a leadership role in their districts, mobilizing the community to develop coordinated prevention initiatives. The authority and influence of legislators can help ensure that other participating governmental organizations—such as public health and CPS—are represented in meetings by high-level staff who have the authority to commit resources and shape policy.

Conclusion

State legislators who are called upon to enact legislation to comply with the new CAPTA notification requirement will have an opportunity to re-examine their states' response to drug and alcohol use by pregnant women, including efforts to identify and treat such women as soon as possible after conception and to provide appropriate services to children who are born exposed to substances in utero.

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Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services			
State/ Jurisdiction	**Citation**	**Circumstances Triggering Reporting Requirement**	**SEN Included in Abuse/Neglect Definition?**
Arizona	13-3620(E)	A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.	No
California	Penal Code 11165.13	For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Section 123605 of the Health and Safety Code. If other factors are present that indicate risk to a child, then a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse shall be made only to a county welfare or probation department, and not to a law enforcement agency.	No
Florida	39.01(30)	See definition of abuse/neglect.	"*Harm*" to a child's health or welfare can occur when any person: Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by: Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage.
Hawaii	SB 2165, Act 210 (2004)	In conformity to the Child Abuse Prevention and Treatment Act . . . as amended by the Keeping Children and Families Safe Act . . . the department of human services shall implement and operate a statewide program relating to child abuse and neglect that includes: (1) policies and procedures, including but not limited to appropriate referrals to child protective services systems and other appropriate services, to address the needs of infants born and identified as being affected by illegal substance abuse or	No

Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services (continued)

State/ Jurisdiction	Citation	Circumstances Triggering Reporting Requirement	SEN Included in Abuse/Neglect Definition?
Hawaii (continued)		withdrawal symptoms resulting from prenatal drug exposure, including a requirement that health care providers involved in the delivery or care of an affected infant notify child protective services of the occurrence of the condition in the infant; provided that the notification shall not be construed to require criminal prosecution for any illegal action."	
Illinois	325 ILCS 5/3	See definition of abuse/neglect.	"*Neglected child*" means any child who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant.
Indiana	31-34-1-10; 31-34-1-11	See definition of abuse/neglect.	Except as provided in sections 12 and 13 of this chapter, a child is a *child in need of services* if: (1) the child is born with: (A) fetal alcohol syndrome; or (B) any amount, including a trace amount, of a controlled substance or a legend drug in the child's body; and (2) the child needs care, treatment, or rehabilitation that: (A) the child is not receiving; or (B) is unlikely to be provided or accepted without the coercive intervention of the court. Except as provided in sections 12 and 13 of this chapter, a child is a *child in need of services* if: (1) the child: C) is at a substantial risk of a life threatening condition; that arises or is substantially aggravated because the child's mother used alcohol, a controlled substance, or a legend drug during pregnancy; and (2) the child needs care, treatment, or rehabilitation that the child: (A) is not receiving; or (B) is unlikely to be provided or accepted without the coercive intervention of the court.

Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services (continued)

State/ Jurisdiction	Citation	Circumstances Triggering Reporting Requirement	SEN Included in Abuse/Neglect Definition?
Iowa	232.77(2) 232.68(2)	If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.	*"Child abuse"* or *"abuse"* means: *f.* An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child.
Kentucky	214.160(3), (4)	A physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Health Services, if the attending person has reason to believe, based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy. The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for Health Services is necessary.	No

Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services (continued)			
State/ Jurisdiction	**Citation**	**Circumstances Triggering Reporting Requirement**	**SEN Included in Abuse/Neglect Definition?**
Maryland	Courts and Judicial Proceedings 3-818	See definition of abuse/neglect.	There is a presumption that a child is *not receiving proper care and attention* from the mother if the child was born exposed to cocaine, heroin, or a derivative of cocaine or heroin as evidenced by any appropriate tests of the mother or child, or upon admission to a hospital for delivery of the child, the mother tested positive for cocaine, heroin, or a derivative of cocaine or heroin as evidenced by any appropriate toxicology test; and drug treatment is made available to the mother and the mother refuses the recommended level of drug treatment, or does not successfully complete the recommended level of drug treatment.
Massachusetts	Ch. 119, sec. 51A	See definition of abuse/neglect.	*Injured, abused, or neglected child* includes a child who is determined to be physically dependent upon an addictive drug at birth.
Michigan	722.623a	In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.	No
Minnesota	626.5562,Subd.2 626.556, Subd. 2(c)	A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the test results are positive, the physician shall report the results as neglect under section 626.556.	*Neglect* means prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.

Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services (continued)

State/ Jurisdiction	Citation	Circumstances Triggering Reporting Requirement	SEN Included in Abuse/Neglect Definition?
Nevada	432B.330	See definition of abuse/neglect.	A child is in need of protection if: (b) He is suffering from congenital drug addiction or fetal alcohol syndrome because of the faults or habits of a person responsible for his welfare.
North Dakota	50-25.1-17 27-20-02(8)	If a physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the physician shall administer, without the consent of the child's parents or guardian, to the newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the physician shall report the results as neglect under section 50-25.1-03.	*Deprived child* means child who was subject to prenatal exposure to chronic and severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner.
Oklahoma	Title 10, sec. 7103(A)(2)	Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to the county office of the Department of Human Services in the county in which such birth occurred.	No
South Carolina	20-7-736(G)	See definition of abuse/neglect.	It is presumed that a newborn child is an *abused or neglected* child as defined in Section 20-7-490 and that the child cannot be protected from further harm without being removed from the custody of the mother upon proof that: (1) a blood or urine test of the child at birth or a blood or urine test of the mother at birth shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant or the infant, or (2) the child has a medical diagnosis of fetal alcohol syndrome; and (3) a blood or urine test of another child of the mother or a blood or urine test of the mother at the birth of another child showed the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite was the result of medical

Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services (continued)

State/ Jurisdiction	Citation	Circumstances Triggering Reporting Requirement	SEN Included in Abuse/Neglect Definition?
South Carolina (continued)			treatment administered to the mother of the infant or the infant, or (4) another child of the mother has the medical diagnosis of fetal alcohol syndrome.
South Dakota	26-8A-2(9)	See definition of abuse/neglect.	The term, *abused or neglected child*, means a child: Who was subject to prenatal exposure to abusive use of alcohol or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B.
Texas	Family Code, 261.001	See definition of abuse/neglect.	"*Born addicted to alcohol or a controlled substance*" means a child: (A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and (B) who, after birth as a result of the mother's use of the controlled substance or alcohol: experiences observable withdrawal from the alcohol or controlled substance; exhibits observable or harmful effects in the child's physical appearance or functioning; or exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.
Utah	62A-4a-404	A determination that a child has fetal alcohol syndrome or fetal drug dependency at the time of birth.	No
Virginia	63.2-1509 (A), (B)	Mandatory reporters must report whenever they have reason to suspect that a child is an abused or neglected child.	"*Reason to suspect that a child is abused or neglected*" shall include (i) a finding made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within forty-eight hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding by an attending physician made within forty-eight hours of a child's birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis by an attending physician made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was

Appendix. State Laws on Reporting Substance-Exposed Newborns (SEN) to Child Protective Services (continued)

State/ Jurisdiction	Citation	Circumstances Triggering Reporting Requirement	SEN Included in Abuse/Neglect Definition?
Virginia (continued)			not prescribed by a physician for the mother or the child; or (iv) a diagnosis by an attending physician made within seven days of a child's birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol
Wisconsin	48.02(1)	See definition of abuse/neglect.	*Abuse* includes physical harm to unborn child and risk of serious physical harm to child when born, caused by habitual lack of self-control of the expectant mother in the use of alcoholic beverages, controlled substances, exhibited to a severe degree.
District of Columbia	16-2301(9)	See definition of abuse/neglect.	The term "*neglected child*" means a child: (viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth; (ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian.

Sources: National Clearinghouse on Child Abuse and Neglect Information, 2004; National Conference of State Legislatures, 2004.

Notes

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2. Cathleen Otero, et al., "The Child Abuse Prevention and Treatment Act: Substance-Exposed Newborns," presentation at *Putting the Pieces Together: First National Conference on Substance Abuse, Child Welfare and the Dependency Court*, Baltimore, Md., July 14, 2004.

3. Keeping Children and Families Safe Act of 2003, P.L. 108-36.

4. Ibid., section 114.

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